

# Charges Dropped After Two Years



*Editor's Note: The following article was originally published in the Miami Herald on November 1, 1999, and is reprinted with permission. Stories like this one of course beg the question, how many cases of innocent defendants go undetected, even through to the point of execution? Had the witness in this story not amended his identification, it is entirely plausible that Mr. Therasias would have faced death row, or at least life without parole. Raising awareness regarding the existence of such cases improves our credibility as defense attorneys by reminding our opponents that procedural safeguards don't just protect the guilty.*

By  
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Faced with a photo lineup of six nearly identical bald men, Gregory Powell was asked to pinpoint the killer who shot his brother in cold blood.

"Look like the guy," Powell wrote next to the top center photo of a suspect nicknamed "Monkey Man." The next day, Powell's resolve grew stronger: "This is the guy," he scrawled next to Marc K. Therasias' mug shot.

He picked a man who, at six feet three inches and 200 pounds, was taller, much heavier and much darker than the suspect Powell first described to police. But detectives had what they needed: positive identification from the only eyewitness to the Feb. 26, 1998, murder of Harry Daniels.

Therasias was locked up and held without bond while he awaited trial. He faced Death Row.

"We're scratching our heads, thinking, 'He's not describing our man,'" said

G.P. Della Fera, one of Therasias' defense attorneys. "We take Powell's statement, and we're certain he is not describing our man. 'This isn't fitting. It doesn't jibe.'"

On Oct. 25—the eve of Therasias' trial—prosecutors learned the defense attorneys were right. At a pretrial meeting, Powell fingered someone else. After nearly two years in jail for a murder he says he did not commit, Therasias, 26, was freed. Today, the former ironworker plans to hit the street looking for a job.

"It was something I was waiting for, praying for, hoping for and wishing for for two years," Therasias said. "The Lord heard my prayers."

This tale of a drug deal double-cross begins Feb. 26, 1998, when two brothers, Powell, 25, and Daniels, 23, drove to Miami from Georgia to see a sister dying of AIDS. Witnesses said they had other plans as well: to buy a kilo of cocaine to take back to Willacoochee, Ga.

The brothers jumped in a Caprice with someone named Marc Dargensen. Dargensen, 24, said he had to stop at the Brownsville Tire Store at Northwest 32nd Avenue and 53rd Street. Dargensen left the two men outside in the car while he went inside.

## SHOT FOUR TIMES

Suddenly, a thin, light-complexioned black man described as six feet tall with gold teeth, a striped shirt, and a 9mm

firearm, approached the car demanding money. The brothers forked over their money, \$900 from Daniels and \$100 from Powell.

"The dude kept telling him, 'Just get out of the car. Just get out of the car. Don't make me kill you,'" Powell said in a sworn statement.

Daniels didn't listen. While Powell ran to get help, Daniels jumped back in the car as the robber drove it away. A few blocks later, Daniels was shot twice in the head and twice in the chest. The gunman—who picked up Dargensen on the way—dumped Daniels' body in a field at 58th Street and 30th Avenue.

When Powell couldn't find Dargensen back at the tire shop, he presumed he'd been set up. A tipster told police they could find Dargensen and Marc Therasias at the Hotel Seven on Northwest Seventh Avenue. Therasias, who has a past criminal record for burglary and threatening a public servant, went willingly to police headquarters, where he denied involvement.

"I had nothing to do with it, no knowledge of it," Therasias said last week. "But my word fell on deaf ears."

## EYEWITNESS EVIDENCE

Police took his picture and showed it to Powell. He said yes—this is the man who robbed me; this is the man who shot

SEE PAGE 34

