

Dear Julie,

Your commitment for truth and justice has put you in a special place in the hearts of those who are presently involved in this investigation. You can be assured of our ceaseless efforts to help you in any way that we can. I have met roadblock after roadblock and suffered seemingly endless disappointments and frustration but I, like you, will pursue the truth until justice triumphs.

Dr. Spitz's about-face was disappointing but after reflecting on the overall picture, I see it as simply another episode in my quest for truth and justice. It is important to remember that Dr. Spitz sent you a *notarized* letter dated September 5, 2010, stating his opinion based on documents that were provided to him before he rendered that opinion. Dr. Spitz carefully listed all the documents that he reviewed. You provided most of them, but I supplemented yours with the PowerPoint, my article on the topic Instantaneous Death, Bryan Burnett's detailed report to Chairman Duncan Hunter and Bryan Burnett's GSR article. Dr. Spitz specifically stated in his review that he studied, "X-ray image of decedent's head", " Report of Dr. Kent B. Remley, MD, Department of Radiology, University of Minnesota School of Medicine" and "Report of Dennis E. Nesbit, MD, Radiology Associates".

On October 1, 2010, I spoke with Dr. Spitz via telephone. He completely reversed his opinion and emphatically stated that death was by suicide. I inquired on what basis he reversed his September 5, 2010 decision. He emphasized that it was his review of the skull x-ray that Dr. Singhanian sent him. Dr. Spitz acknowledged that Dr. Singhanian sent photos of the skull (no actual x-rays). I asked him to explain a few other areas of evidence but soon realized that any further inquiries would be futile. Finally, he asked me whether he should return the autopsy photos to Julie Haney or to me. I told him that it was Julie Haney who sent him the photos and that he should return them to her.

On October 5, 2010, I called Dr. Spitz once more. I explained that I was interested in obtaining closure to this case and that I would like a follow-up report from him explaining what new evidence he relied on in his change of opinion. He told me that he would state only that there is no depressed skull fracture. I said that what I need is **why and on what basis** he changed his opinion, not merely the statement that the depressed skull fracture did not exist. Subsequent answers to questions about the 'new' x-ray were contradictory and misleading. I was aware that it was Julie Haney who sent the autopsy photos to Dr. Spitz and not anyone from the Orange County S/C or ME Departments yet he previously told me that it was Dr. Singhanian who sent them. He insisted that he was an expert on evaluating when a fracture was depressed or not but a few minutes later he said that, "After-all, I am not a radiologist". When I inquired how he could disagree with all the neurosurgeons and neuroradiologists, he replied, "They simply do not know what they're talking about in this case".

I indicated that in addition to the skull fracture, other evidence was also provided with regard to the cause and manner of death. For instance, if the manner of death was the suicide scenario placing the victim leaning over his torso, thighs and legs, how could there be virtually no blood on those areas? His reply was two-fold; first, you could only tell if there was blood by performing chemical analysis, and second, the blood arched over the gun and his body. Again, I requested that he put his opinion in a letter.

He refused to render a written opinion regarding the totality of the autopsy evidence, such as aspirated blood and absence of blood on the front of the body. In the autopsy photo, the clothes were devoid of blood except for the right shoulder, yet the photo of the left forearm (which, in the suicide scenario was “against the chest used to hold the gun in the mouth”) shows it covered with blood. Other autopsy evidence included the swelling and subcutaneous hemorrhage of the right ear when the left ear is completely normal, the undersurface of the reflected right scalp and temporalis muscle showing massive hemorrhage and trauma with the left side essentially normal, the localized right occipital swelling while the left occiput is without significant swelling, (keeping in mind that a right handed person directs the shot from *right to left*, which is exactly opposite in this case) and his insistence that the victim could have breathed after he was totally separated from his brain and upper spinal cord. He stated to me, “I’ve seen it”.

The principles of the brain control of breathing are based on hard science accepted and depended on by scientists and practicing physicians. All principles of physiology evolve from extensive mammalian laboratory experiments. This is followed by critical observation of human disease and trauma by highly trained professionals.

“I’ve seen it”, simply shows an ignorance of the issue and should never be in the vocabulary of a true professional. Any conclusion that is based on, “I’ve seen it”, and not supported by the most basic scientific principles is known as ‘*junk science*’. (Dr. Spitz did state that the decedent’s brain was *totally mush* but contended that even though the victim had absolutely no brain, brainstem and upper spinal cord, he could still have taken enough breaths to aspirate enough blood to double the weight of his right lung. (*This would be one-half quart of blood*).

I asked Dr. Spitz if could he show me any medical literature that could document his new opinion. His response was that I was, “a fraud, trying to impose fraudulent theories”.

I believe that Dr. Spitz’s changed opinion, which reversed 180° has clearly compromised his Hippocratic oath and cannot be taken seriously.

CRITICAL EVIDENCE

The majority of the autopsy photos bear little evidence either of the *cause of death* or the *manner of death*. The crucial medical-legal evidence that I believe is irrefutable is the following:

1. **Autopsy Report:** Emphasize the rt. lung filled with blood, incision into lung tissue showed alveoli (tiny air cells) filled with blood. This could not occur with gravity flow. Filling the lung tissue with blood, *not air*, requires forceful inhalation and aspirating a half-quart could not happen even if there could have occurred a few agonal gasps, which is contrary to known and accepted science. Skeletal muscle cannot contract without a cerebral (brain) input. Furthermore crime scene photos shows the victim's head hanging down to the ground. Any blood would flow out his mouth after he was shot and fell to the ground, not upward against gravity. (Show Dr. Feldman's report at this time in the discussion and also the NIS **Report of Investigation** that documents Dr. Singhanian's dictated description of these photos. She describes the "purplish-pink" discoloration of the lung tissue "*secondary to aspirated blood*".) In the very beginning of that report there is a comment of swelling of the back of the victim's head. I would produce Cheryl Baldwin's statement that there was swelling of the back of his head and if you were not at the autopsy it would have appeared that he was struck etc. Then I would show the NIS REPORT of Dr. Sing's description of the right side of the victim's scalp and temporalis muscle after the right side of the scalp was reflected from posterior to anterior and what she found.
2. **Skull x-rays:** Show the University of Minnesota, University of Colorado and Dr. Dennis Nesbitt's reports.
3. **PowerPoint**
4. **Crime scene photos:** Not all, but those that show the victim as he was found and the one of Bert Nakasone holding the victim's left forearm. The rest are of some interest but of little import as evidence. I would show the Emergency Medical Staff Report here because of the estimated EBL of 50cc knowing that an intraoral shotgun wound is the most destructive wound that a body can sustain. The victim and the surroundings including the patio chair should have been covered with blood. I personally examined the crime scene including the patio and the chair and there were only those areas of blood sketched by the NIS and seen in the PowerPoint.

- 5. Crime scene evidence collected but not available to the ME:** GSR, blood spatter, fingerprints. This is a time when Bryan Burnett could be present and summarize his findings and then present Dr. Wagner with Bryan's reports.

This is a case where the abundance of evidence is intriguing to an investigative mind. The evidence requires a common-sense knowledge of blood spatter, fingerprints, the rather neat repose of the victim's body when he should have been rendered a "rag-doll" having no brain after the shot and the next-door neighbor not having heard the shotgun blast. More sophisticated knowledge is extensively covered in an article on Instantaneous Death which I would present at this time- *brain and breathing, brain and circulation, brain and cardiac influence, etc.*

In my opinion, the evidence tells the *whole story*. It speaks out in a clear concise voice. The conclusion is based on a combination of common sense, a basic understanding of brain and brainstem functions, minimal experience in evaluating various types of skull fractures and forensic evidence collected at the crime scene that aids in determining the *manner of death*.