

# And the Truth Shall Set Him Free.

## Or Will It?

Benjamin La Guer won't give up until he's convinced every journalist and civil libertarian that he didn't commit the rape for which he's been imprisoned for eleven years. He makes a compelling case.

BY JOHN TAYLOR

**W**HAT IN God's name is this country coming to when a man can no longer get off a few harmless cracks about spics? After all, just because you enjoy the occasional spic joke doesn't mean you're prejudiced. If, say, you're on a jury and you refer, lightheartedly, to the man whose fate you're deciding as a spic, that doesn't mean you're going to be more inclined to find him guilty. You'll weigh the evidence and then convict or acquit on the basis of that evidence, regardless of whether the man's a spic or, for that matter, a wop, mick, wog, dago, hebe, coon, slope, chogue, towelhead, wet-back, or nip. He will get a fair trial.

This, more or less, was the thinking of one Joseph Novak, a member of the all-male,

all-white jury that, in Worcester, Massachusetts, in 1984, convicted a young Hispanic man named Benjamin La Guer of rape in a trial that sent him to prison for life. "The goddamned spic is guilty just sitting there—look at him. Why bother having the trial?" another juror remembers Novak saying even before opening arguments. Then, during jury deliberations, when one member had wondered aloud how it could be possible that, as the victim had testified when she took the stand, the rape could have gone on for eight hours, Novak reportedly said, "Spics screw all day and night."

Seven years after La Guer was found guilty, the presiding judge summoned jurors, lawyers, and the prisoner himself to a hearing to discuss these alleged comments. Taking the

Rage of innocence: La Guer makes one hundred collect calls a day to tell his side of the story.

witness stand, Novak, a retired steelworker, sounded alarmingly muddled in light of the fact that he had helped put someone away for life. He told the judge he had been the jury foreman when he hadn't. He said the jury had included women when it hadn't. He also denied making the spic comments. "I never heard of that word, spic," he said. "The only spic I ever knew was Spic & Span."

Novak then complained that everyone had become far too sensitive about this business of ethnic slurs. He himself, he explained, had been called a "dirty Polack" when he was in grammar school. "The kids always used to call 'dirty Polack'—whatever nationality—'dirty frog,' 'dirty wop,' 'dirty Irish.' That wasn't considered an ethnic slur then, because the kids usually made up." People are so much more thinskinnow, Novak lamented. "Today you can take a slight dig at a nationality and it's considered an ethnic slur," he said. "Everything is so changed so much today."

**T**HE JUDGE DIDN'T seem to think it was that big a deal, either. Without even hearing from more than half the jurors, he declared that the allegation of jury bias was "unsupported" and sent La Guer back to prison, where he remains today. That decision outraged a host of legal-advocacy groups. The Harvard Law School's Criminal Justice Institute, the Civil Liberties Union Foundation, the National Conference of Black Lawyers, the Anti-Defamation League, and a number of other organizations have all sided with La Guer in his appeal to the Supreme Judicial Court of Massachusetts, which has yet to make a ruling.

But the issue of a fair trial aside, there is persuasive evidence that La Guer did not in fact commit the crime for which he was convicted—the brutal sexual assault of an elderly woman. While that evidence was never presented at the original trial, it theoretically could have been presented and so has never provided sufficient grounds for an appeals court to overturn the jury's verdict. La Guer will be eligible for parole after serving fifteen years. But because he continues to insist on his innocence, his parole board—which, like most such boards, prefers repentant prisoners—might not ever let him out.

Since his conviction, La Guer has served most of his time at Gardner state prison in central Massachusetts. Gardner was previously a mental institution, and, in an odd, almost gothic coincidence, the woman who accused La Guer of raping her has had a history of mental illness and was once a patient there herself. She walked the same tiled halls, looked out the same wire-reinforced windows. But that is only one of many ironies in the La Guer case. It also provides a complementary counterpoint to the bleak moral equation established in the saga of the Menendez brothers. While the rich seem to be able to get away with parricide these days, those without wealth are unable to establish their innocence even when it exists. Justice, both trials in their own ways demonstrate, has been subsumed by commerce. Freedom, it would seem, is less a right than a commodity.

A focused narrative line and a clear object lesson are what make for a good "true story." But the journalist's search for such true stories can be frustrating. Most human experience simply doesn't fit the handful of narrative conventions storytelling requires. It's too incoherent, it's full of contradictions, it lacks a satisfying resolution, it's ultimately impenetrable.

La Guer's case, when I first heard about it, seemed different; it followed the narrative convention of the falsely imprisoned innocent. And unlike almost every other unjustly imprisoned convict—who may be in prison because of some procedural flaw but who did commit the crime he is accused of, or who did something worse that he got away with, or who is in some other way utterly repulsive—La Guer is a genuinely sympathetic person. He has an engaging personality. The energy with which he has rallied support and pursued his appeals is remarkable, even inspiring, and he has become something of a cause célèbre in Massachusetts. It all made for a compelling, relatively straightforward true story. Or so his supporters said.

**B**ENJAMIN LA GUER was born and raised in the South Bronx. Both his parents were Puerto Rican immigrants who had been married previously. His father, Luperto, worked on a road crew for a construction company. In the late Seventies, Ben's parents drifted apart, and Luperto moved to Leominster, a slightly dilapidated mill town in the hills of central Massachusetts, to live near two of his daughters from his first marriage. Ben went with him.

Not exactly a young man of great promise, Ben dropped out of school at sixteen to join the Army. He was initially assigned to study communications, but a bad stutter, which had earned him the nickname El Gago in childhood, made it difficult for him to express himself when excited, and he was switched to refrigeration repair. After three years of service, he was caught selling a small quantity of hashish and, in June of 1983, received a general discharge.

Ben returned to Leominster and moved into his father's apartment in a converted factory next to a polluted creek. He had been back three weeks when, around 11:00 on the morning of July 15, the police knocked on the door. A tall bald man introduced himself as Detective Ronald Carignan and told Ben the police wanted to talk to him.

"You mean about the old lady next door?" La Guer asked. The detective nodded.

Ben did not know the woman well. She was in her late fifties. She had white hair and a square jaw, was slightly heavy, and wore glasses. He had nodded to her coming in and out of the apartment. Twice he'd noticed she had left her keys in her lock and he had pointed this out to her. She had little to say and seemed to spend most of her time by herself. Occasionally she carried a canvas-backed folding chair out to the front porch and sat there for hours.

By July 15, everybody in the building knew that, three nights before, the woman had been brutally raped. She had told the police she had been sitting at her table, drinking a cup of tea, at 9:00 in the evening, when a muscular black man suddenly appeared in the apartment. He was, she said, nude except for a pair of long white socks. He threw her on the ground and began hitting her, then pulled her legs apart so violently she felt he might dislocate her hips. His breath had a foul, rotten odor. For the next eight hours, he raped and sodomized her. She did not think a man could keep at it so long, she told the police, but he never stopped. He also beat her, told her he hated her, threatened to murder her if she cried out, placed a plastic bag over her head, pulled the rings off her fingers, and took her handbag, which had nine dollars in cash and three dollars in change, before he finally left.

Neighbors had heard her cries at 5:00 A.M. and called the police. When they arrived they found the woman lying on her back nude, her hands and feet tied together so tightly with electrical cord that one of the officers had to use his folding knife to free her. The woman's right eye was closed tight. The entire right side of her face was bruised and swollen. Her jaw was fractured. She had blood on her hands and face. "This is one of the most vicious sexual assaults on a particularly fragile and vulnerable person that I have ever seen," Robert Mulkern, the judge who tried the case against Ben La Guer, would say later.

Detective Carignan asked La Guer to come down to the station. He readily complied. "I thought they were going to ask me what I knew about her," he now says. At the station, Carignan told La Guer he could have a lawyer. La Guer said he didn't need one. The detective began reading him his Miranda rights. La Guer said he was familiar with them. Carignan then told La Guer he bore a certain resemblance to the description the woman had given of her attacker. The detective asked if he could photograph him. La Guer agreed.

After the picture was taken, with a Polaroid, Carignan gathered up eight other Polaroids of young, dark-skinned males, put La Guer's photograph in the middle of the stack, and then, while La Guer remained at the police station, took them to the hospital to show the victim. Half an hour later he returned.

"She identified you immediately and without hesitation," he told La Guer.

**A**T THE TIME of his arrest, a public defender was appointed to represent La Guer, but he wanted his own lawyer. He called a relative who called another relative who recommended Peter Ettenberg, a criminal-defense attorney in Worcester. Benjamin had about \$2,700 that had come to him through the GI bill. He was planning to use it for college tuition. Instead, he wrote out a check to Ettenberg for the entire amount. Ettenberg's fee was \$5,000, however. Lu-perto La Guer promised to pay the balance in installments.

Benjamin told Ettenberg he could not have assaulted the woman between 9:00 and 5:00 on the night of July 12. His time during those hours was accounted for. He had had dinner with one of his sisters, Lisa Bromes, then dropped by a



The photo lineup: While hospitalized, the victim identified La Guer (second from top, left-hand column) when police showed her eight Polaroids of "dark-skinned" men.

local bar called the Plymouth Cafe, where he had spent several hours drinking with people from the neighborhood. Around midnight, acquaintances gave him a ride in a red Chevy Nova to the apartment of a former girlfriend. She was not home, but other members of her family were there, watching a movie on videotape. After visiting with them for half an hour, he walked home.

Ettenberg hired Nancy Martinez, a member of a private investigative agency and a distant cousin of Benjamin's, to take statements from these various alibi witnesses. Unfortunately, as Martinez discovered, the Plymouth Cafe was a seedy, somewhat disreputable place. Fights broke out there regularly; in fact, the police had been called in to stop a brawl the very night of the rape. The bar's regulars included small-time drug dealers and other petty criminals. They were not, as a rule, interested in cooperating with any investigation that might require them to make court appearances.

But Martinez did take statements from La Guer's sister Lisa, from two of the young men who had driven with La Guer over to the apartment of his former girlfriend, and from the girlfriend's sister, brother, and neighbor. Unfortunately, the details of their statements conflicted somewhat with La Guer's account. Time sequences were contradictory. Gaps remained unclosed. As a group, the witnesses, all teenagers except for Ben's sister, were inarticulate and unimpressive.

It seemed to Ettenberg entirely possible that, even if they testified, the jury would give more credence to the victim's personal identification of Ben. And if convicted, La Guer could receive a life sentence. So Ettenberg worked out a plea bargain with the district attorney's office.

"I've got good news and bad news," La Guer remembers Ettenberg telling him in a telephone call shortly before the trial began. "The good news is, you're not going to get life; the bad news is, you are going to have to do some time." In exchange for pleading guilty to assault, Ettenberg explained, La Guer would be sentenced to a maximum of twenty years in Concord, the state's most comfortable prison, with the possibility of parole after a mere two years. This struck Ettenberg as an extremely good deal.

La Guer rejected it. He was, he insisted, innocent. With the trial scheduled to start in only a week, Ettenberg left for a vacation in Barbados. He did take Nancy Martinez's investigative report with him, but whatever homework he actual-

ly did was useless. La Guer's trial proved brief and perfunctory. When Ettenberg expressed concern about the all-white jury, the judge brushed the question aside. The prosecution's main witness was the victim. She described the rape and beating in horrifying detail. "I'm an old woman," she said at one point, mystified that she had been singled out for a sexual attack. "Why an old woman?"

"Now, were you able to see the face of that person in your apartment?" James Lemire, the prosecutor, asked her.

"Yes, I was."

"And when you saw that person's face, would you know who that person was?"

"Yes, I would."

"When you saw it that night when you were on the floor, did you know who it was?"

"Yes."

"And who do you know that person to be?"

"That chap right there."

"And may the record reflect that she has pointed to the defendant, Your Honor?" the prosecutor asked.

"Yes," the judge said.

Except for La Guer's sister Lisa, who said Benjamin had left her house around 9:30, Ettenberg did not call any of the witnesses interviewed by Nancy Martinez. The night before the defense presented its case, a man named Miguel Gonzalez telephoned Ettenberg and told him he'd been at the Plymouth Cafe that night, had seen Benjamin there, and was willing to say so to the jury. Gonzalez had been sent to testify by a man named Ray Vasquez, the friend of La Guer's who owned the red Nova and who had been sitting with him at the bar but who, for reasons that remain mysterious, was unwilling to appear in court himself.

When Gonzalez entered the courtroom the next day, he gave Benjamin a high five—a cavalier gesture of solidarity that offended many of the jurors. Worse, he turned out to be an awful witness. He admitted during cross-examination that he knew La Guer only glancingly, hadn't seen him for years, had been sitting on the far side of the bar that night, and wasn't even exactly sure whether the night he'd seen La Guer at the Plymouth Cafe was the night of the rape. One member of the jury would later say that other jurors referred to Gonzalez as "a goddamned fool" and "a lying son of a bitch."

La Guer himself then testified, but to no avail. The jury deliberated for three hours before returning a verdict of guilty. Prior to the sentencing, Lawrence Hipshman, a psychiatrist in the employ of the Massachusetts Department of Corrections, evaluated La Guer and declared that he "does not fit either a psychological or pathological profile of a person capable of committing this crime." Using this statement, Ettenberg asked the judge for leniency. Benjamin, he pointed out, had no background of crime or violence. The judge rejected that logic. The attack, he maintained, was too horrifying for such considerations. "My function in this instance is the protection of society," he told La Guer. "On the aggravated rape, life."

**T**HE NORTH CENTRAL Correctional Institution, in the town of Gardner, is just twenty minutes on Route 2 from Leominster. It is a handsome collection of old redbrick buildings with peaked slate roofs. The grounds are surrounded by tall wire fences topped with coils of razor wire. Gardner, as lawyers and criminals uniformly refer to the prison, is a medium-security facility, housing men who have committed

violent crimes but are not considered violent, such as William Douglas, the obese Tufts University professor who became obsessed with and murdered a young Boston prostitute in 1983.

Ben La Guer has been imprisoned there since 1985. When I went to visit him in February, he was waiting in a spacious visitors' room with large windows that overlooked the snowbound yard. At the time of his arrest he was extremely thin, but in the last eleven years he has gained weight. He has a small head, dark, wide-set eyes, and a few residual acne scars. His short black hair showed the first signs of gray.

Gardner, La Guer said, wasn't that bad, for a prison. The inmates have to rise at 7:00 in the morning for a head count and be back in their cells at 10:00 P.M. for lockup, but in between they can do pretty much whatever they want. Most play basketball or watch TV. La Guer spends his time in the law library or on the phone. He makes, he said, up to one hundred collect calls a day to lawyers, public-interest advocates, and reporters, and considers himself lucky if five are accepted. Since learning that I was interested in his case, he had begun calling me once and sometimes twice a day.

Although La Guer had shown few signs of intellectual curiosity before his conviction, once he was imprisoned he was seized with the desire to master the system that had put him away. For the first year of his sentence, he had been sent to the state's big, grim maximum-security prison in Walpole. There he read books like *Trial Advocacy* and *Legal Problem Solving: Analysis, Research, and Writing*. One day, another inmate asked him to help draft a petition claiming ineffective counsel. The motion he wrote succeeded in reducing the man's sentence, and other inmates sought him out. La Guer began to charge for his services, anything from a carton of cigarettes up to \$500, depending on the research involved. His legal-career also helped keep him out of trouble. "If people of influence—people who've killed a state trooper or people who listen to Sicilian music in the library—are talking to you," he said, "other people will leave you alone."

**M**OST OF THE TIME La Guer worked on his own appeal, which centered on the victim's history of mental illness. The day after the attack, police investigators had met with the victim's daughter, who'd told them the woman was in the care of a mental-health clinic because she had had "a nervous breakdown about fourteen years ago and has not been right since." Her medical records showed she had been diagnosed as a schizophrenic. While the judge had ruled the woman's medical history inadmissible, it could of course raise doubts about her reliability. Furthermore, when the victim picked out La Guer's photograph at the hospital three days after the rape, she was on eight drugs, including Demerol, a narcotic, and the antipsychotic medication Compazine. And she was not even wearing her glasses.

Other evidence supported La Guer's claim of mistaken identity. When the woman initially described her attacker to the police, she said he was "very dark" and "a Negro." La Guer has an olive complexion. Among La Guer's distinguishing characteristics are his stutter and the tattoo of a black panther on his left arm. The woman mentioned neither of these, though she said her attacker had been nude, except for his tube socks, and had talked to her constantly throughout the ordeal.

Furthermore, no forensic evidence linked La Guer to

the crime. The police did find a knife apparently belonging to the assailant, but they lost it. They also discovered a partial palm print in the woman's apartment, but it did not match La Guer's. The hospital where she was admitted had given the police a complete rape kit, which included pubic-hair clippings and vaginal swabs that contained seminal fluid, but they did not deliver it to the state laboratory for a week. By that time the enzymes in the fluid had deteriorated to the point where it was impossible to identify the DNA.

A year after La Guer was transferred to Gardner, an appellate court rejected his petition for a new trial. When the appeal was denied, La Guer fell into a depression and sought treatment from the prison psychiatrist. One day he saw his own medical records on the psychiatrist's desk and looked through them. Among the information they contained was the fact that his blood was type B. Only two days later did La Guer realize the significance of this information.

On the night of the attack, the assailant had left a tube sock in the victim's apartment. The police had discovered several pairs of tube socks in the La Guer apartment, and this seemed to them to link La Guer to the crime. The sock from the victim's apartment was tested by the state forensic laboratory, which identified perspiration residue that came from someone with type-O blood. Before the trial, from jail, La Guer gave a saliva sample that was tested for blood type. But the test proved inconclusive. As a result, the sock was never introduced into evidence. La Guer now says that at the time his blood type was tested, he mistakenly believed he had type-O blood and, at the suggestion of someone he knew, had mixed another inmate's saliva with his own to confuse the results. After seeing his medical records, he realized that, if he had given the authorities a legitimate saliva sample, the results would have provided evidence of his innocence rather than a false impression of guilt.

In August of 1986 La Guer placed a collect call to a reporter for the Fitchburg, Massachusetts, *Sentinel & Enterprise* and persuaded him to write a series of articles about his case. On the basis of these articles, La Guer was able to interest advocacy groups and other reporters in his cause. In 1987 an Associated Press reporter named John King interviewed one of the jurors, William Nowick. During the interview King told Nowick about the information that Judge Mulkern had ruled inadmissible.

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Follow-up  
INVESTIGATION REPORT

Complaint No. 83-2845  
Date 07/13/83

Complainant Unit  
Address Waterways Apts

She described him as being very dark skinned, possibly an accent, thin muscular build, short hair and appeared to be Negro. She stated that she has seen this man several times and has seen him going in and out of the apt next to her, the La Guer apt and she in fact has seen him use his own key to get in the apt. She stated that once he rang her buzzer to get in the complex when she went to answer the door he said hello to her and went into the apt next door. She further stated that she might be raped, he told her that he was 30 years old and he was from Pittsburgh.

She further stated that she could not see any facial hair on him and at one point he slipped off a ring off her left hand, both at her apartment and one having the number stone of what she believed to be a diamond ring from the apt to her handbag that she described as being a ring from the apt to her handbag from the Bay State Bank W/A 22



The evidence: Investigators felt that La Guer's tube socks, which were similar to one found in the victim's apartment, pointed to his guilt.

Nowick was stunned to learn that the victim was once diagnosed as schizophrenic and that La Guer had been discharged from the Army for only a minor drug offense. "Those two things would have changed an awful lot," Nowick said. "How could she identify anyone? And most of us were veterans. We didn't know why he was let out of the Army and thought it was probably for rape or attacking some girl over in Germany." In fact, he went on, had this information come out, La Guer would have been acquitted. "With the things I've learned since," he said, "there's no way I would have voted guilty." When King asked him if the jury had been biased, Nowick said that several jurors had made racist comments about La Guer throughout the trial.

Based on all of Nowick's statements, La Guer, together with a pair of Harvard law students he had convinced of his innocence, drew up an appeal arguing that he had not received a fair trial. Massachusetts's Supreme Judicial Court ordered Robert Mulkern, the original trial judge, to hold a hearing on the matter. It was at this proceeding that the juror Joseph Novak made his complaints about oversensitivity to ethnic slurs.

The jury foreman also testified. He corroborated the gist of William Nowick's recollection about racist comments during the jury's deliberation but added that he didn't think they were "a big thing." Around this time, another juror, his face disguised, was quoted on a local television news show confirming that racist remarks had been made.

None of this impressed Judge Mulkern. He declared that William Nowick had made "wildly exaggerated" allegations only after "serious lobbying by advocates for La Guer" had convinced him the defendant was innocent. La Guer was denied a new trial.

**G**HOSTS NOW INHABIT the case of Benjamin La Guer. The real assailant—if we assume La Guer is innocent—has always been ghostly, a terrifying apparition who materialized in the victim's apartment one night, brutally raped and beat her, then vanished without a trace. Other players in the drama now have, in one fashion or another, disappeared as well. Ronald Carignan, the detective who investigated the crime, is dead. James Lemire, the prosecutor who convicted La Guer, has gone into private practice. Judge Mulkern has retired. The victim is in a nursing

home. La Guer's alibi witnesses have scattered. He is the only one who has not relinquished his role. He remains alone on the stage, trapped in time, protesting about an event that long ago receded into oblivion.

By now he has distilled his version of his case to one succinct declaration. The victim's mental illness, he says, explains the mistaken identity; the tube sock establishes his innocence; and the racism of some jurors explains why he was found guilty. After talking to as many people as I could, and after reading the seven-volume trial transcript and the various appellate briefs, affidavits, and rulings, I tended to agree. But just as I sat down to write, I also looked through Detective Carignan's initial investigative report and the notes of La Guer's original court-appointed public defender.

Two things struck me. First, La Guer had given three different alibis for the night of the rape. When Detective Carignan interviewed him at the police station, La Guer said he had been home alone. Then he told the public defender that he had spent the entire evening with his sister Lisa. Only when his own attorney, Peter Ettenberg, appeared on the scene did La Guer produce the story of the Plymouth Cafe and the midnight drive in the red Nova to the ex-girlfriend's house.

The next time La Guer called collect, I asked him about these discrepancies. He said that the woman was raped on a Tuesday night and that he was not questioned until Friday morning, at which point the detective asked him what he had done "last night," that is, Thursday night. He had told the truth, he said, that he'd stayed home alone. A similar misunderstanding, he went on, had occurred with the public defender, who'd asked him what he was doing Wednesday night, the night after the rape. He had said, truthfully, that he had spent it with his sister.

These explanations, while conceivable, were hardly compelling. Even more troubling was a second discrepancy I came across. La Guer's claim of innocence hinges on the theory of mistaken identity. The victim, traumatized, on drugs, and with a history of mental illness, is shown some photographs and asked by Detective Carignan not if she sees the attacker but, as he stated in his report, if she sees anyone "she knows." She identifies La Guer. But Carignan's report also states that the day after the rape, two days before showing her the photographs, he had asked the victim if she knew her assailant. "She stated that she has seen this man several times," he wrote, "and has seen him going in and out of the apt next to her, the La Guer apt, and she in fact has seen him use his own keys to get in the apt."

In other words, the crucial identification was not based on a photograph but on recognition. The next time La Guer called, I asked him about the report. He explained, with a note of impatience, that the woman had at first refused to describe her attacker, except to say he was black and had a Hispanic accent, because he'd said he would kill her if she did. She relented, according to the detective's report, only when her daughter threatened to go stay in the apartment as "bait" to lure the assailant back.

The victim, La Guer said, may have simply thrown out his name to prevent the daughter from endangering herself. Furthermore, he continued, the detective had already identified him as a Hispanic neighbor and, without including it in the report, may have suggested to the victim

that La Guer was the assailant. Evidence for this claim could be found in the fact that the detective destroyed his original notes of that interview. This conspiratorial explanation, while also possible, was even less impressive than the supposed sequence of misunderstandings that had led to the alibi confusion.

The conviction about La Guer's innocence that I felt had been a necessary precondition for writing about him was shaken. Maybe he had not had a fair trial, but had he committed the crime? I could no longer be so certain that he hadn't. The straightforward, somewhat predictable narrative of the unjustly imprisoned innocent also seemed jeopardized, and it occurred to me for a moment simply to leave any reference to the conflicting alibis or the victim's initial identification of La Guer out of the story. But that, of course, wouldn't have been fair to anyone, including La Guer. It would have been to substitute a false and simplistic moral lesson for a more elusive but truer one.

I sat down to compare the strengths of La Guer's story with its weaknesses. The weaknesses are, so to speak, weak themselves. After all, the stories of everyone else in the case also contain gaps and inconsistencies. The victim originally told Detective Carignan her attacker had been nude, which suggested he must have come from nearby, but on the witness stand she said that he'd been clothed. She also contradicted Carignan's report by saying on the stand that she would swear on a Bible that she had not identified La Guer until shown the photographs.

State officials, for their part, all along seemed less interested in uncovering the truth than in finding a possible culprit, sending him to prison, and then seeing that he stayed there. Carignan interviewed only three people—La Guer, the victim, and a man who lived in the basement—neglecting several other Hispanic tenants. When La Guer's blood type was finally determined, the prosecutor, who had previously argued that the sock was La Guer's, said the sweat with the conflicting blood type might have come from the victim.

**I**T IS IMPOSSIBLE, in the end, to see all the way into those few but crucial hours of La Guer's life. They remain blurry, and as a result, conclusive proof of his innocence lies just beyond reach. But while La Guer's story is not perfect, I again became convinced that he was innocent. Was it fair to expect him to have a flawless story? The perfect narrative is, more often than not, a literary construction. The fabric of most stories, if pulled hard enough, begins to unravel. How many of us, if called in by the police, would be able to establish irrefutably where we were on a particular night if we happened to have been talking to a stranger at a bar or swimming alone in a lake? How many of all our stories are, to one degree or another, unprovable?

Last November, La Guer appealed Judge Mulkern's decision to deny him a new trial. When I visited him in Gardner, he was expecting a ruling any day.

"This is your last shot, right?" I asked him. "If this appeal is rejected, that's it."

"Oh, no. No, no, no." He drew strenuously on the Newport he was smoking and tapped the ashes on the floor. "There's federal appeals courts. There's the Supreme Court. There's lots of ways to go. You think I'm going to give up on this?" He shook his head. "I'm not giving up." ■