

## Judge tosses confession in murder case



Photo credit: Chris Ware | Attorney Michael J. Brown, P.C., at his office in Central Islip. Brown is shown with a recording of a police interrogation of Jairon Gonzales Martinez on a computer at his office. (July 19, 2011)

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In Suffolk's first murder case with a videotaped interrogation, a judge Wednesday threw out a written confession and much of an oral confession after the video showed detectives ignored the defendant's attempt to exercise his right to remain silent.

State Supreme Court Justice Mark Cohen made the ruling in the case against Jairon Gonzales Martinez, 22, charged with fatally beating Rinaldo Bethancourt Lopez, 29, outside a Brentwood pool hall two years ago.

In the video, Gonzales Martinez tells a Spanish-speaking detective several times, "I don't want to talk," but detectives ignore him and continue to question him.

Cohen said Gonzales Martinez's body language and tone of voice on the video made it clear that he was trying to assert his right to end the questioning. "This right must be scrupulously honored," Cohen said.

Gonzales Martinez went on to admit he took part in the beating, didn't care that anyone died and signed a written confession. Cohen ruled that anything Martinez said after he said he didn't want to talk could not be used at trial.

"It's a game changer," defense attorney Michael Brown said of the decision. He said the video and the court's decision bolster what defense attorneys have long claimed -- that police improperly question suspects in their zeal to get confessions.

Assistant District Attorney Glenn Kurtzrock said he wasn't troubled by the decision. "It's not damaging in the slightest," he said. "Nor was it unexpected." Cohen ruled that prosecutors may still use admissions Gonzales Martinez made on the way to police headquarters.

"The remainder of the evidence is overwhelming," Kurtzrock said. Several witnesses identified Gonzales Martinez as one of the people attacking Bethancourt Lopez with bricks, bats and metal poles, and Kurtzrock said his blood and that of another surviving victim were recovered from the defendant's clothing.

Kurtzrock said he doubted videotaped interrogations will have much of an effect on future prosecutions. He said detectives have testified truthfully about interrogations before, and videos will show that.

In this case, he said detectives continued to question Gonzales Martinez because they felt he was "equivocal" about asserting his right to remain silent.

Nassau has videotaped interrogations for about a year and a half longer than Suffolk. Officials there say the system has worked well, although in one early case, a judge threw out inaudible video of Caleb Lacey confessing to arson that killed four people. He was still convicted.