

No. S270723

In the Supreme Court of the State of California

THE PEOPLE OF THE STATE OF CALIFORNIA,
Plaintiff and Respondent,
v.
ANDRES QUINONEZ REYES,
Defendant and Appellant.

Fourth Appellate District, Division Three, Case No. G059251
Orange County Superior Court, Case No. 04CF2780
The Honorable Richard M. King, Judge

**EXHIBIT A PART 2 OF 2 IN SUPPORT OF RESPONDENT'S
REQUEST FOR JUDICIAL NOTICE**

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MINUTE ORDER

Case Number 04CF2780 F A

People Vs Reyes, Andres Quinonez

Report Request Criteria

- | | |
|--------------------------|-------------------|
| 1. Docket Date Range | : Date filter |
| 2. Sequence Number Range | : Sequence filter |
| 3. Docket Category | : Category filter |

<u>Docket Dt</u>	<u>Seq</u>	<u>Text</u>
5/30/2006	24	People's Exhibit # 15 manila evidence envelope with evidence tags attached containing smaller envelope containing bullet from autopsy marked for identification.
	25	Witness excused.
	26	People's Exhibit # 16 Stipulation signed by both counsel re: testimony of Rocky Edwards if called to testify in this case marked for identification.
	27	Stipulation read to the jury.
	28	Witness, Detective Richard Ashby, Santa Ana Police Department, sworn and testified.
	29	People's Exhibit # 17A polaroid photograph depicting victim's identification card marked for identification.
	30	People's Exhibit # 17B polaroid photograph depicting victim standing with hands in pockets marked for identification.
	31	People's Exhibit # 17C polaroid photograph depicting victim in squatting position marked for identification.
	32	People's Exhibit # 17D polaroid photograph depicting victim in squatting position marked for identification.
	33	People's Exhibit # 17E polaroid photograph depicting victim standing with hands in pockets marked for identification.
	34	People's Exhibit # 17F polaroid photograph depicting victim standing wearing no shirt marked for identification.
	35	People's Exhibit # 17G polaroid photograph depicting victim kneeling marked for identification.
	36	People's Exhibit # 17H polaroid photograph depicting victim kneeling marked for identification.
	37	People's Exhibit # 17I polaroid photograph depicting victim without shirt in kneeling position marked for identification.
	38	People's Exhibit # 17J polaroid photograph depicting victim throwing gang signs marked for identification.
	39	People's Exhibit # 17K polaroid photograph depicting victim throwing gang signs marked for identification.
	40	People's Exhibit # 17L polaroid photograph depicting victim in a kneeling position throwing gang signs marked for identification.
	41	Witness excused.

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5/30/2006	42	At 11:49 AM, court admonished jurors and declared a recess.
	43	Proceedings held outside the presence and hearing of the jurors.
	44	Discussion held re: witness Michael Contreras; Court will seek counsel for witness.
	45	At 11:54 AM, court declared a recess.
	46	Petition for an Order Compelling Testimony of a Witness (1324 Penal Code) filed.
	47	Again in open court at 01:50 PM, Defendant present with counsel. People duly represented. Sworn Jurors present in their proper places.
	48	At 01:50 PM, Court admonished jurors and declared a recess to reconvene on 05/31/2006 at 09:00 AM in Department C36 for Jury Trial.
	49	Proceedings held outside the presence and hearing of the jurors.
	50	Discussion held with respect to witnesses needing counsel. Attorney Ernest Eady will appear as a friend of the Court to counsel witness Michael Contreras.
	51	Counsel advised the Court that witness Eddie Reyes will also need counsel on 05/31/2006.
	52	Motion by Defense to preclude People from illiciting testimony with respect to police report was heard.
	53	Motion taken under submission.
	54	At 02:10 PM, court declared a recess.
	55	Again in open court at 03:59 PM, Defendant present with counsel. People duly represented.
	56	Jury not present.
	57	Minor witness Michael Contreras present with his mother, Leticia Reyes.
	58	Witness, Michael Contreras, sworn and testified.
	59	The Court advised Witness Michael Contreras of the right against self-incrimination. Attorney Ernest Eady, appearing as a friend of the Court, counsels the witness. The Witness asserts 5th Amendment rights on all questions asked and is excused.
	60	People offer use immunity to witness.
	61	Petition for use immunity is granted; Court orders witness to testify.
	62	Witness refuses to testify.

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<u>Docket Dt</u>	<u>Seq</u>	<u>Text</u>
5/30/2006	63	The People request Court to hold witness in contempt.
	64	Defense objects to grant of immunity and to witness being held in contempt.
	65	Court orders Leticia Reyes, mother of minor witness Michael Contreras, to produce minor to Dept. C36 on 05/31/2006 at 08:30 AM.
	66	At 04:32 PM, court declared a recess.
	67	At 04:32 PM, Court and Counsel confer in chambers without Court Reporter present.
	68	Defendant ordered to return.
	69	Defendant remanded to the custody of the Sheriff.
	70	Current bail set for defendant to remain.
	71	Notice to Sheriff issued.

Court ORDERED Filed without signature

FILED
SUPERIOR COURT OF CALIFORNIA
COUNTY OF ORANGE
CENTRAL JUSTICE CENTER

SUPERIOR COURT OF CALIFORNIA
COUNTY OF ORANGE, JUSTICE CENTER MAY 31 2006

ALAN SLATER, Clerk of the Court

By: R. Healy Deputy
R. HEALY

Case No.: 04CF2780

THE PEOPLE OF THE STATE OF CALIFORNIA,

Plaintiff,

vs.

ANDRES REYES

Defendant

WAIVER OF HEARING

(Use Immunity)

COMES NOW the undersigned, Michael Contreras, a witness of the State of California in the above-entitled action, states as follows:

That the undersigned has refused to testify as a witness in the above-entitled case upon the grounds of self-incrimination;

That the undersigned fully understands that in accordance with Section 1324 of the Penal Code of the State of California, the undersigned is entitled to a full hearing in the Superior Court with an opportunity to present evidence for the court's consideration; and to have a finding made as to whether or not in this case it would be clearly contrary to the public interest or could subject the undersigned to criminal prosecution in another jurisdiction to compel the undersigned to give testimony containing incriminating matters;

That the undersigned waives the issuance of an order to show cause why the giving of testimony and production of evidence should not be compelled, and to a hearing thereon;

WHEREFORE, the undersigned hereby consents to the issuance of the attached order by this court, forthwith, compelling the undersigned to answer such questions and produce such evidence in the above entitled case, as may be material, competent and relevant to the case.

DATED: May 30, 2006

By: MICHAEL CONTRERAS

USE IMMUNITY

MINUTE ORDER

Case Number 04CF2780 F A

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1. Docket Date Range : >= 05/31/2006 00:00:00 and <= 05/31/2006
2. Sequence Number Range : No sequence number range specified.
3. Docket Category : Minute Order

<u>Docket Dt</u>	<u>Seq</u>	<u>Text</u>
5/31/2006	1	Hearing held on 05/31/2006 at 09:00:00 AM in Department C36 for Jury Trial.
	2	Officiating Judge: Carla M. Singer, Judge
	3	Clerk: B. Healy
	4	Bailiff: J. Hanson
	5	Court Reporter: Lynn Peterson
	6	In open court at 09:10 AM
	7	Defendant present in Court with counsel Brott, James, Conflict Attorney.
	8	People represented by Mark Geller, Deputy District Attorney, present.
	9	Witness Michael Contreras, a minor, with his mother and with attorney Ernest Eady as friend of the court to assist him present.
	10	Michael Contreras resumed the stand with counsel Eady beside him and indicated that with a grant of use immunity, he is willing to testify now. The People withdrew their petition for contempt. The Defense requests to examine witness at this time as to why he is now willing to testify; the People object and the Court sustained the objection for now. Court in recess at 9:25 a.m. to await jurors.
	11	Again in open court at 09:30 AM, Defendant present with counsel. People duly represented. Sworn Jurors present in their proper places.
	12	Witness, Michael Contreras, a minor, sworn and testified.
	13	People's Exhibit # 18 Paper with black & white copies of small photos of three males marked for identification.
	14	At 09:50 AM, Court and Counsel confer in chambers with Court Reporter present.
	15	In chambers, counsel Brott sought guidance before planned exam of witness about why he is willing to testify now. The People indicated that they will not call Eddie Reyes as a witness; services of attorney Ed Hall as friend of the court will not be necessary. Issue of feigned memory loss pursuant to People vs Green reserved for hearing out of jurors' presence. Court, counsel and staff returned to open court where examination of Michael Contreras resumed and concluded.
	16	At 10:00 AM, court admonished jurors and declared a recess.
	17	Proceedings held outside the presence and hearing of the jurors.

MINUTE ORDER

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3. Docket Category : Minute Order

Docket Dt Seq Text

- 5/31/2006 18 The Court ordered Michael Contreras to wait in the hall with his mother until excused; witness told that he will be subject to recall though after excused for now. The People offered proof of testimony anticipated from Officer Ashby re Michael Contreras interview; the defense objects to the testimony. Arguments presented and the Court made the following findings in allowing the People to recall Detective Ashby:
Michael Contreras' testimony was minimizing and deceiving, and memory loss was feigned i.e. identities of three males in Exhibit 18. The Court finds Michael Contreras is unable to understand a grant of immunity even with assistance of counsel; the unsigned Waiver of Hearing ordered filed. Court in recess at 10:20 a.m.
- 19 Again in open court at 10:30 AM, Defendant present with counsel. People duly represented. Sworn Jurors present in their proper places.
- 20 **Richard Ashby of Santa Ana Police Department recalled to the stand.**
- 21 Witness excused.
- 22 **David Rondou of Santa Ana Police Department recalled to the stand.**
- 23 At 11:35 AM, Court and Counsel confer in chambers without Court Reporter present.
- 24 **People's Exhibit # 19 Predicate acts case 0sCF0135 Melgoza (23 pages, certified copies) marked for identification.**
- 25 At 11:50 AM, court admonished jurors and declared a recess.
- 26 Again in open court at 01:40 PM, Defendant present with counsel. People duly represented. Sworn Jurors present in their proper places.
- 27 David Rondou, previously sworn, resumes testimony.
- 28 At 01:45 PM, Court and Counsel confer in chambers without Court Reporter present.
- 29 Delete "and struck last question/answer" from the ~~above~~ text entry *below. sh*
(Entered NUNC_PRO_TUNC on 06/01/06)
- 30 The Court instructed the jurors on how to consider expert testimony and struck last question/answer; the Court read a modified CALCRIM 360. Witness examination resumed.
- 31 At 01:55 PM, Court and Counsel confer in chambers with Court Reporter present.

MINUTE ORDER

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People Vs Reyes, Andres Quinonez

<u>Docket Dt</u>	<u>Seq</u>	<u>Text</u>
5/31/2006	32	In chambers, the Court heard the defense objection to evidence of defendant's behavior while in juvenile hall and post-crime. After argument, the Court sustained the objection, will strike the People's last question and answer, and will limit the People to asking the expert about defendant calling out F-troop name after arrest. Court, counsel and staff returned to open court. After the Court instructed the jury to disregard the last question and answer, examination of the witness resumed.
	33	At 02:25 PM, court admonished jurors and declared a recess.
	34	Again in open court at 02:40 PM, Defendant present with counsel. People duly represented. Sworn Jurors present in their proper places.
	35	David Rondou, previously sworn, resumes testimony.
	36	Witness excused.
	37	The People rest subject to processing of exhibits. Defendant rests reserving motion pursuant to Penal Code 1118.1; opening statement by defense now waived.
	38	At 03:10 PM, Court admonished jurors and declared a recess to reconvene on 06/05/2006 at 01:30 PM in Department C36 for Jury Trial.
	39	Proceedings held outside the presence and hearing of the jurors.
	40	People's Exhibit # 1 through 19 received into evidence.
	41	People's Exhibit # 14A, 14B, 14C, 14D, 14E (5) small evidence envelopes, each containing a bullet marked for identification.
	42	Exhibits 14A, 14B, 14C, 14D, 14E to remain for identification only pursuant to stipulation and order.
	45	Motion by Defense to dismiss Count 1 pursuant to Penal Code 1118.1 argued.
	46	Defense motion pursuant to Penal Code 1118.1 denied.
	47	Defendant and both counsel ordered to return on 6-5-06 at 9:00 a.m. to this department; proposed jury instruction conference set for that Monday. Court in recess at 3:20p.m.
	48	Defendant ordered to return.
	49	Defendant remanded to the custody of the Sheriff.
	50	Current bail set for defendant to remain.
	51	Notice to Sheriff issued.

1
ATTORNEY GENERAL
SAN DIEGO
2006 SEP 20 PM 2:47

No. G037395

**COURT OF APPEAL – FOURTH DISTRICT
DIVISION THREE
STATE OF CALIFORNIA**

THE PEOPLE OF THE STATE OF CALIFORNIA

vs.

NO. 04CF2780

REYES, ANDREWS QUINONEZ

**APPEAL FROM THE SUPERIOR COURT OF CALIFORNIA
COUNTY OF ORANGE**

HONORABLE CARLA M SINGER
JUDGE

CLERK'S TRANSCRIPT

APPEARANCES

ATTORNEY FOR PLAINTIFF AND RESPONDENT
THE PEOPLE OF THE STATE OF CALIFORNIA

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Suite #1100
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ATTORNEY FOR THE DEFENDANT AND APPELLANT

APPELLATE DEFENDERS
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MINUTE ORDER

Case Number 04CF2780 F A.

People Vs Reyes, Andres Quinonez

Report Request Criteria

1. Docket Date Range : Date filter
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<u>Docket Dt</u>	<u>Seq</u>	<u>Text</u>
6/5/2006	1	Hearing held on 06/05/2006 at 01:30:00 PM in Department C36 for Jury Trial.
	2	Officiating Judge: Carla M. Singer, Judge
	3	Clerk: B. Healy
	4	Bailiff: J. Hanson
	5	Court Reporter: Lynn Peterson
	6	In open court at 11:45 AM
	7	Defendant present in Court with counsel Brott, James, Conflict Attorney.
	8	People represented by Mark Geller, Deputy District Attorney, present.
	9	Court and Counsel review jury instructions with Court Reporter present.
	10	The Court and both counsel conferred in chambers off record about proposed jury instructions before convening in open court to place objections and arguments on record. Also in open court, the Court informed counsel that the record of opening arguments had been checked for any reference by the People of the defendant's custodial status and/or other crimes; no references found. Defendant's counsel agreed to the instruction in this regard that the Court drafted and will read with other instructions. Court in recess at noon.
	11	Again in open court at 01:35 PM, Defendant present with counsel. People duly represented. Sworn Jurors present in their proper places.
	12	The Court read the Instructions to the Jury.
	13	At 02:35 PM, court admonished jurors and declared a recess.
	14	Proceedings held outside the presence and hearing of the jurors.
	15	Court and counsel conferred re modification to CALCRIM 500 and as to the need for CALCRIM 121 again. Court in recess at 2:45 p.m.
	16	Again in open court at 03:05 PM, Defendant present with counsel. People duly represented. Sworn Jurors present in their proper places.
	17	Closing argument presented on behalf of the People.
	18	Closing argument presented on behalf of the Defense.
	19	At 04:05 PM, Court and Counsel confer at side bar without Court Reporter present.

MINUTE ORDER

Case Number 04CF2780 F A.

People Vs Reyes, Andres Quinonez

Report Request Criteria

1. Docket Date Range : Date filter
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3. Docket Category : Category filter

<u>Docket Dt</u>	<u>Seq</u>	<u>Text</u>
6/5/2006	20	At 04:08 PM, Court admonished jurors and declared a recess to reconvene on 06/06/2006 at 09:00 AM in Department C36 for Jury Trial.
	21	At 04:09 PM, Court and Counsel confer at side bar without Court Reporter present.
	22	Proceedings held outside the presence and hearing of the jurors.
	23	Alternate Juror #3 asked to go to friend's funeral tomorrow noon and remained for inquiry by Court. Alternate #3 ordered to return at 9:00 a.m. tomorrow, but will be excused in time for funeral. Court in recess at 4:15 p.m.
	24	Defendant and Counsel ordered to return.
	25	Defendant remanded to the custody of the Sheriff.
	26	Current bail set for defendant to remain.
	27	Notice to Sheriff issued.

ALAN SLATER, Clerk of the Court
By: *[Signature]*
CASE NO. *04CF 2780*

STIPULATIONS AT END OF TRIAL

PEOPLE VS. *Andre Reyes*

1. Jury may be sent on breaks and adjourned at end of the day or reassembled in jury room informally by the bailiff or clerk without the presence of the parties.
2. Testimony may be read back by the court reporter in the jury room without presence of the parties.
3. All exhibits will be given to the jury for examination during deliberations; except weapons or drugs, which will be made available for examination by the jury in the jury room in the presence of the bailiff or clerk.
4. Counsel must remain in the courthouse unless one of the following alternatives is selected:

1. Another attorney will stand in for trial counsel and has the same authority as trial counsel to act on any question or request from the jury without consulting with trial counsel.
2. Trial counsel may be on-call and available by telephone and trial counsel and defendant agree that trial counsel may be consulted by telephone concerning any jury request or question. In such case, the consultation will be off the record and no transcription will be made of statements made by the parties to any such consultation. Any right to such a verbatim transcription is hereby waived. Defense counsel and defendant will not be able to consult each other concerning any jury question or request and such right is also waived.

Trial attorneys on call must be available to return within fifteen minutes. If attorney cannot be reached at the phone number left with clerk, (he/she) will thereafter be required to remain in the courthouse during the balance of deliberations. DEFENDANT MUST REMAIN WHILE JURY DELIBERATES.

DEFENDANT
[Signature]
ATTORNEY FOR DEFENDANT

DEFENDANT
ATTORNEY FOR DEFENDANT

DEPUTY DISTRICT ATTORNEY
[Signature]

SUPERIOR COURT OF THE STATE OF CALIFORNIA
FOR THE COUNTY OF ORANGE

FILED
SUPERIOR COURT OF CALIFORNIA
COUNTY OF ORANGE
CENTRAL JUSTICE CENTER

JUN 6 2006

ALAN SLATER, Clerk of the Court

By: R. Healy, Deputy AK

PEOPLE OF THE STATE OF CALIFORNIA,)
Plaintiff)

VS)

ANDRES QUINONEZ REYES,)
Defendant)

Case No. 04CF2780

Rough transcripts of
testimony read back to
the jury on 6-6-06

(READ BACK OF TESTIMONY.)

(ROUGH DRAFT!!!)

W I T N E S S I N D E X

<u>Witness:</u>	<u>DIRECT</u>	<u>CROSS</u>	<u>REDIRECT</u>	<u>RECROSS</u>	<u>VOIR DIRE</u>
<u>STEVEN GARCIA</u>					
BY MR. GELLER	2				
BY MR. BROTT		15			
<u>MATTHEW SELINSKE</u>					
BY MR. GELLER	20				
BY MR. BROTT		31			
BY MR. GELLER				38	

SANTA ANA, CALIFORNIA - THURSDAY, MAY 25, 2006
MORNING SESSION

-ooo-

(READ BACK OF TESTIMONY.)
(ROUGH DRAFT!!!)

STEVEN GARCIA,

CALLLED AS A WITNESS, HAVING BEEN FIRST DULY WAS, SWORN
EXAMINED AND TESTIFIED AS FOLLOWS:

DIRECT EXAMINATION

BY MR. GELLER:

Q Good morning.

A Good morning.

Q What I want to do is lay out a few ground rules
for you so that you can assist all of these folks here who
need to hear what you have to say. You also need to speak
loud and slowly so that the Court Reporter can take down
everything you have to say. And please allow me and the
defense attorney to finish our questions before you answer,
because, again, the Court Reporter has to take down
everything that's said here in court.

Do you understand me?

A Yeah.

Q And you also need to answer "yes" or "no," if it
calls for it. Don't shake your head or answer "uh-huh" or
"huh-uh," all right?

A Okay.

Q Yes?

A Okay.

Q Would you practice on keeping that voice up
because, again, everybody in here needs to hear what you
have to say.

How old are you?

A Fifteen.

Q Speak right into that microphone if you have to.
You go to school?

A Yes.

Q Where do you go to school?

A Valley High School.

Q Is that in Santa Ana?

A Yeah. Yes.

Q What grade are you in?

A 10th.

Q You live with your folks?

A Yes.

Q What I'd like to talk to you about is something
that you witnessed almost two years ago. It happened in the
summer of 2004, specifically, August 10th, 2004. Okay?

A Okay.

Q Do you remember where you were, it was a Tuesday
evening, it was about 6:30 p.m. on that Tuesday evening on
testimony read to jury - rough draft

1 August 10th, 2004.

A Um, I was with um my mom.

2 Q Do you remember where you were?

A Um, on Sullivan.

3 Q I still need you to please talk as loud as you can. If you have to just lean right to you that microphone?

4 MR. BROTT: Can he move his chair closer.

5 THE COURT: We're going to try to make an adjustment right now. The answer was "on Sullivan."

BY MR. GELLER:

6 Q Where were you?

A On Sullivan.

7 Q Do you remember where on Sullivan you were?

A No, just on Sullivan.

8 Q Your folks, do they have a produce truck?

A They had.

9 Q They had one. Back in the summer of 2004, did they have a produce truck?

10 A Yes, we just had got the truck when it happened. We just had got the truck when it happened.

11 Q If I showed you a photograph do you think you'd recognize that truck?

12 A Yes.

13 Q Sir, I'd like to show you what's been previously marked as People's 6 and People's 7 for Identification. I'm going to ask you if you recognize what's in the photographs.

14 A That is the car.

15 Q There's a truck in the photos on People's 6 there's, looks like, a large maybe blue Ford pickup truck with kind of a shell on the back with looks like some fruit inside. Is that your parents' produce truck?

A No.

17 Q Was that a produce truck that you saw out at the scene of this crime?

18 A It was behind us.

Q Okay. But that's not your folks' truck?

19 A No.

20 Q All right. You mentioned a blue car in the photo. There's both one shown in 6 and 7, in each one of those two photos. Did you see that blue car out there that day?

A Yes.

22 Q You see how there's a yellow tarp covering the blue car on each one of those photographs?

23 A Yes.

24 Q Did you see the car before the yellow tarp was put on it or after the yellow tarp was put on it?

A Before.

25 Q Okay. Did you see anybody driving that car that day?

26 A Yes.

Q Did you know that person?

testimony read to jury - rough draft

1 A No.

2 Q What were you doing out at that location that day
before anything happened?

3 A I was helping my mom get the truck cleaned,
because she was selling right there on Sullivan.

4 Q Selling right there on Sullivan?

5 A Yeah, with the truck that she had.

6 Q What was your mom selling?

7 A Um, tacos and stuff.

8 Q But your mom's truck was not shown in either of
the two pictures that I just had in front of you?

9 A No.

10 Q Did you see anybody on bicycles that day prior to
seeing that blue car?

11 A Um, yes.

12 Q How many people did you think you saw on bicycles
that day immediately before you saw the blue car?

13 A Like seven about.

14 Q And where -- which direction were they going?
You know what, let me show you this diagram. It
will probably help you.

15 Why don't you take a look at People's Exhibit 2
for Identification. It's already been identified as kind of
an overhead view of the intersection of Sullivan and
Willits. Take as long as you need to kind of get your
bearings here.

16 Q Do you see it?

17 A Yep.

18 Q Do you see there's an elementary school up here?

19 A Yes.

20 Q In the northeast corner. Do you see that, sir?

21 A Yes.

22 Q Okay. You know where that was in relationship to
where you were and your mom was that day?

23 A Yeah. We were right here on the bottom.

24 Q Okay. Maybe with the court's permission you
could come off the witness. Stand and point to exactly
where you and your mom were.

25 THE COURT: Sure.

26 MR. BROTT: At what point in time?

MR. GELLER: This would be before anything happened,
this is before you saw the blue car, but you saw the seven
people on bikes.

THE WITNESS: Right here.

BY MR. GELLER:

Q What you've now indicated is the west curb line
of Sullivan Street immediately adjacent to where it actually
says "Sullivan Street" on the diagram; is that right?

A Yeah.

Q Okay. You can have a seat.

So you and your mom are out there. And you see
what you just said was seven guys riding on bikes.

testimony read to jury - rough draft

1 Which direction did you see them traveling?
 2 A They were going up Sullivan.
 3 Q So were they going towards the school or away
 4 from the school?
 5 A To the school.
 6 Q Were they in the street or were they on the
 7 sidewalk?
 8 A Sidewalk.
 9 Q Which sidewalk?
 10 A The left side.
 11 Q So they would be on the side closest to you on
 12 the picture; is that correct?
 13 A Yes.
 14 Q And what, if anything, did you see them do?
 15 MR. BROTT: Objection; it's vague. "them."
 16 THE COURT: Overruled.
 17 The people on the bicycles, what did you see them
 18 do, if anything?
 19 THE WITNESS: Well, I just saw them riding the bikes
 20 down Sullivan.
 21 THE COURT: Next question.
 22 BY MR. GELLER:
 23 Q Were these people your age, were they older than
 24 you, were they younger than you?
 25 A I think they were older.
 26 Q Were they boys, men, what do you think they were?
 27 A I'm not sure. I know they were males, but.
 28 Q They were male. Do you know how old they were?
 29 A No.
 30 Q Did you recognize any of them?
 31 A No.
 32 Q Had you ever seen any of them in the
 33 neighborhood?
 34 A No.
 35 Q Did you live in that neighborhood on Sullivan and
 36 Willits back then in August?
 37 A No.
 38 Q 2004.
 39 Were they all in a single line going up Sullivan
 40 Street towards the school or how were they separated, if at
 41 all, when you saw them?
 42 A They were all together.
 43 Q And then what happened?
 44 A The car um then I saw the car going up Sullivan,
 45 that's when I heard them like screaming to the car.
 46 Q You saw a car heading up Sullivan?
 47 A Yes.
 48 Q So that, again, is from where you were going
 49 towards the school?
 50 A Yes.
 51 Q Is that what you mean by "up"?
 52 A Yes.

testimony read to jury - rough draft

1 Q What kind of car was that?
 A Blue Honda.
 2 Q So what happened next?
 A The guys on the bikes started screaming at the
 3 car to slow down.
 MR. BROTT: Objection; no foundation.
 4 THE COURT: Overruled. Next question.
 BY MR. GELLER:
 5 Q Where was the car compared to where the bikes
 were at the time you heard them yelling that?
 6 A They were on the sidewalk and the car was just
 driving by.
 7 Q So it was right next to them, basically, on their
 right?
 8 A Yes.
 Q So what happened next?
 9 A Well, they -- the car kept going fast down the
 street so they all tried to follow him.
 10 MR. BROTT: Objection; no foundation. Move to strike
 it.
 11 THE COURT: Overruled. Denied.
 BY MR. GELLER:
 12 Q When you say that they started to follow the car,
 what exactly did you see them do?
 13 A They were just screaming out for him to slow down
 because they wanted to talk to him, and the car just did a
 14 U-turn like down by Willits trying to go down back.
 Q What is the last thing you said?
 15 A Well, the car made a U-turn trying to go back
 down Sullivan instead of going up.
 16 Q Did you hear the individuals on the bicycles say
 anything else to the person in the car?
 17 MR. BROTT: Objection; it's vague. "they."
 THE COURT: Overruled.
 18 MR. BROTT: There's no foundation as to who they were
 speaking to.
 19 THE COURT: Overruled.
 MR. GELLER: You can answer.
 20 THE WITNESS: Huh?
 Q Did you hear them say anything else to the person
 21 in the car?
 A Just to slow down, that was it.
 22 Q Did you hear them say, hey homey stop we want to
 talk to you?
 23 A Something like that.
 Q Well, that's different than what you just said,
 24 right? That's different than just, hey, slow down?
 A Well I just heard them saying like screaming
 25 out -- they were just screaming to him to slow down because
 they wanted to talk to him.
 26 Q Let me ask you this, Mr. Garcia: You were
 interviewed by the police that night, right?
 testimony read to jury - rough draft

1 A Yes.

2 Q And were you truthful when you spoke with the
3 police officers that night?

4 A Yes..

5 Q Did you have anything to hide from the police
6 officers that night?

7 A No.

8 Q Had you done anything wrong that night?

9 A No.

10 Q Was everything a lot fresher in your mind that
11 night than it is right now?

12 A Um --

13 Q Do you understand what I'm asking you?

14 A No, not really.

15 Q Do you remember things better right now or do you
16 remember what you were talking to the police about better
17 when you were actually speaking with the cops?

18 A When I first talked to them -- well, I can't
19 really remember much right now.

20 Q So everything was a lot clearer in your mind back
21 then?

22 A Yes.

23 Q Do you remember telling the police officer that
24 interviewed you, "hey, homey stop we want to talk to you,"
25 that's what the bicyclist said to that guy in the blue
26 Honda?

27 A Um, yes.

28 Q Do you remember telling him whether that was said
29 in English or in Spanish?

30 A In English.

31 Q Do you remember telling the police officer that
32 the bikes were separated into two groups?

33 A Um, yes.

34 Q Is that true?

35 A Yes.

36 {stop reading}

37 Q Do you remember telling the police officer that
38 the group in the back was yelling up to the people in the
39 front to stop the car?

40 MR. BROTT: Objection; this is leading.

41 THE WITNESS: Um, yes.

42 THE COURT: Hold on, hold on just a second. It is
43 leading. Sustained.

44 MR. GELLER: May I be heard, your Honor.

45 THE COURT: No.

46 {start reading}

47 BY MR. GELLER:

48 Q What else did you tell the police what else
49 happened that night? We'll start that way.

50 A Um, I don't know after that the car just left
51 then I heard the gunshot. I saw --

52 Q You need keep your voice up.

53 testimony read to jury - rough draft

1 A Well after the car turned around all I heard was
a gunshot from the corner, that's all.

2 Q You just testified you saw the car make a U-turn,
right?

3 A Yeah.

4 Q Okay. You never told the police that you saw the
car make a U-turn.

5 MR. BROTT: Objection; that assumes facts not in
evidence.

6 THE COURT: I don't know that it's a question, so if
you rephrase.

BY MR. GELLER:

7 Q Did you tell the police you saw the car make a
U-turn?

8 A Um, I don't really remember.

9 Q Okay. I had an opportunity -- well, do you want
to take a look at the police report? I don't think you've
ever seen that. Do you want to take a look at the police
10 report to help you remember this?

A Um, okay.

11 MR. BROTT: Your Honor I don't know that he's said he
doesn't remember.

12 MR. GELLER: He just did.

13 THE COURT: He has said he doesn't remember, Mr. Brott.
Okay.

14 Mr. Geller is going to show you what the police
wrote down. But he's only going to show you the police
report so that you can read it silently to yourself and see
15 if what's in there helps you remember what you saw that
night. Okay.

16 THE WITNESS: Okay.

MR. GELLER: 145 --

17 MR. BROTT: I believe it would be more technically
correct if it helps him remember what he told the police
18 that night rather than what he saw that night.

19 THE COURT: Okay. As you like it. But he's looking at
the report.

MR. BROTT: Okay. I see where you're going.

20 MR. GELLER: 145 and 146 of discovery.

21 Q Mr. Garcia go ahead and read the police report.
I know you've never seen it. Take as long as you need.
We're going to ask you some questions whether or not that
22 refreshes your memory.

THE COURT: How long a report did you give him?

23 MR. GELLER: Page and a half.

Ready?

24 THE WITNESS: Yeah.

BY MR. GELLER:

25 Q Does that help you refresh your memory to all
this?

26 A Yes.

Q Kind of have to follow the rules of evidence
testimony read to jury - rough draft

1 here, so I'm first going to ask you some questions. And
 2 then if you don't remember you can ask to see this again and
 3 then I got to ask you some more questions. All right?
 A . . . Okay.
 4 Q So let's back up. Let's talk about what happened
 5 that night.
 6 What we've got out from you is you're over there
 7 off of Sullivan Street, near the word Sullivan on
 8 People's 2. Is that right?
 A Yes.
 9 Q You're helping your mom?
 A Yes.
 10 Q You notice some bicyclists?
 A Yes.
 11 Q Tell us what happened next.
 12 A Well, cuz I was like fixing the thing on the
 13 truck, the bikes passed by me like they almost hit me
 14 because they had just passed through -- they passed through
 15 like where I was at. And that's when um then after I saw
 16 the blue car pass by and they started looking at each other
 17 and they were screaming out for the car to stop because they
 18 wanted to talk to him. And the car just speeded up and so
 19 they wouldn't catch him. The bikes went after him. And
 20 getting to Willits is when he did the U-turn and when I saw
 21 they were like -- I just heard a gunshot and when I looked
 22 over to where they were at I just saw them standing on the
 23 corner and the car was stopped like right next to my mom's
 24 truck.
 25 Q How many bicyclists do you remember seeing?
 A There were about like seven.
 26 Q Do you remember telling the police officer that
 interviewed you that night that you remember seeing seven to
 ten bikes?
 A Yes.
 Q Were the bikes grouped together or were they
 separated?
 A When I first saw them they were all together.
 Q Okay. Did that grouping change?
 A After I heard the gunshot is when they left in
 different ways.
 Q Do you remember telling the police officer that
 the bikes were kind of in two groups?
 A After the shooting, yes.
 Q Do you remember telling the police officer that
 before the shooting the bikes were in two groups?
 A I told him they were all together at first.
 Q Do you remember whether either of the groups
 yelled up anything to -- well, doesn't make any sense.
 A Do you remember telling the police officer that
 one of the groups yelled to the other group as the car
 passed?
 A Um, well, yes, they told him to hurry up because
 testimony read to jury - rough draft

1 some of them were slowing down and the ones in front told
them to keep up.

2 Q So now you do have them in two groups; is that
right?

3 A Yeah, as they were getting to the corner, almost.

4 Q And these are two groups long before any
shooting?

5 A At first they were together. But once they were
going to, like, Willits is when someone was slowed down.
The ones that were in the back.

6 Q I want to make sure that we're all perfectly
clear about this. Do you have the groups separated into two
7 groups before the shooting?

8 A Um, yes, when they were barely getting to the
corner is when they kind of separated.

9 Q Do you remember telling the police officer that
at least five of the bikes were in one group?

10 A Yes, I remember that.

{stop reading}

11 Q Do you remember specifically what one of the
groups said to the car as it passed by them?

12 MR. BROT: Objection; it's vague as to what a group
can't say anything.

13 THE WITNESS: There was --

THE COURT: Hold on just a second I'll sustain. It's
vague. Rephrase.

14 {start reading}

BY MR. GELLER:

15 Q Do you remember telling the police officer what
you heard one of the members state as the car drove past?

16 A Yes.

17 Q What?

A One of them that was going was screaming at the
car.

18 Q What did he say?

19 A Well that to slow down because they wanted to
talk to him.

20 Q Do you remember telling the officer, "hey, homey
stop we want to talk to you"?

A Yes.

21 Q You already testified that the car made a U-turn
in the intersection of Sullivan and Willits; is that right?

22 A Yes.

23 Q Did you see that happen?

A Yes.

24 Q You actually saw the car enter the intersection
of Willits and turn all the way around and come back now
towards you?

25 A Yes.

26 Q Did you tell the officer that interviewed you
that night that you didn't see that, you don't know that,
and you're not even sure if it's the same blue car?

testimony read to jury - rough draft

1 A Yes, it was the same car.
 2 Q So as you sit here in court right now you think
 it's the same car?
 3 A It was the same car.
 4 Q Did you tell the officer when you were
 interviewed an hour or two after this crime -- a few hours
 5 after the crime, that you thought the car made a U-turn in
 the intersection, you didn't see that, you don't know that,
 and you don't even know if it's the same blue car?
 6 A Well, yes, it was the same blue car.
 7 Q That's not what I'm asking you.
 A And I did see it.
 8 Q What's that?
 A And I did see it and tell him.
 9 Q Were you lying to the police officer at the time?
 A No.
 10 Q No reason to lie, right?
 A No.
 11 Q Did you actually see anybody shoot?
 A Um, I didn't really see the face of the person
 12 but I saw them like when -- once I heard -- I just heard the
 gunshot. That's when I turned around.
 13 Q I'm not trying to trick you here, but I can't ask
 the question anymore simple. Did you see somebody shoot a
 14 gun that night?
 A I just saw him with the gun, but I didn't see
 15 him --
 Q You saw somebody with a gun?
 16 A Well, yeah.
 Q Did you see him pull the trigger?
 17 A No.
 Q Did you see like a muzzle flash come out of the
 18 end of the gun?
 A No, I didn't see that.
 19 Q So the person with the gun what did you see that
 person do?
 20 A Well, cuz I wasn't paying attention to them.
 Just one second when I heard the gunshot is when I turned
 around.
 21 Q Did you tell the police officer that interviewed
 you that night that you heard the shooting but you didn't
 see it?
 22 A Um, yes, I told him that I heard the gunshot and
 that's when I turned around.
 23 Q Where were the bikes with respect to that
 intersection, Sullivan and Willits, at the time of the
 24 shooting?
 A They were right in the corner on Willits.
 25 Q Why don't you show us.
 With the court's permission, go ahead and get up
 26 and point to where the bikes were.
 THE COURT: Go ahead.
 testimony read to jury - rough draft

1 THE WITNESS: Right here.

BY MR. GELLER:

2 Q What you now pointed to is the northwest corner
of Sullivan and Willits; is that right?

3 A Yes.

Q Okay. All seven bikes were in that area?

4 A Yes, they were all there.

Q They weren't in two groups anymore or were they
5 ever in two groups?

A Well, they were all together right there.

6 Q Were they on the sidewalk or on the street?

A On the sidewalk.

7 Q The person you saw with the gun where was he on
the sidewalk or in the street?

8 A On the sidewalk.

Q So you never saw any bikes in the street?

9 A No, they were just like they were all on the
sidewalk.

10 Q Did you see the car, the car that got shot?

A Yes, I saw. After I heard the gunshot I turned
11 and looked at the car.

Q Is the car now coming back at you towards your
12 location on Sullivan?

A Yes, because it was right behind us so that's
13 when I saw it just behind us.

Q From where you were standing which way did you
14 have to look with respect to Sullivan Street to see where
that car was? Did you have to look south to your right or
15 north to your left towards the school?

A I looked to my right and that's when I saw the
16 car.

Q So we're clear, what you're saying is as you're
17 standing here on the west sidewalk near the word "Sullivan,"
you're looking that direction to see where the car that got
18 hit with the bullet is?

A I was where the red car is at. I was looking.

19 MR. BROTT: I can't hear him.

THE WITNESS: Where the red car is at is where I was
20 at. And when I turned to my right is when I saw the car
that was right behind my mom's truck.

21 BY MR. GELLER:

Q So the car that I just showed you in the
22 photographs where it was located if you're here over here by
what's shown as the red car next to the word "Sullivan" in
23 People's 2, which way did you look to your right or left?

A My right.

24 Q So it's farther down Sullivan; is that?

A Up because I first looked up to Willits where
25 they were at. When I turned right is when I saw the blue
car.

26 Q Where is the blue car? Just show me point to
something on here where the blue car is?

testimony read to jury - rough draft

1 MR. BROTT: At what point in time?

2 THE COURT: We're going to stop now with the jury.
{stop reading}

3 Ladies and gentlemen, I'm going to let you go to
4 lunch. Please don't converse among yourselves or with
5 anyone else on any subject connected with the trial. Please
6 don't form or express any opinion on the case. Please
7 assemble outside the courtroom doors at 1:30. We'll start
8 back with you then.

9 Mr. Garcia, you stay where you are for a moment.

10 (THE FOLLOWING PROCEEDINGS WERE HAD IN
11 OPEN COURT OUT OF THE PRESENCE OF THE JURY:)

12 THE COURT: All right. Mr. Garcia, I'm kind of
13 guessing that maybe Mr. Geller hasn't had enough time talk
14 to you before you testified. But in any event, we haven't
15 finished with your testimony and so I'm ordering you to come
16 back here at 1:30 this afternoon so we can do that.

17 In the meantime I would suggest you step into the
18 hallway and wait for Mr. Geller because he may want to chat
19 with you a little bit and he might try to help remind you
20 about what happened that night a little more.

21 Also during lunch it would be good if you would
22 practice speaking loudly but don't scare anyone. Okay. If
23 you're going to stay in the building or be on the grounds.
24 But you need keep your voice up and you need to speak slowly
25 because we're having trouble hearing you. We're having
26 trouble understanding you. And what you have to say in this
courtroom is very, very important. So I'll see you at
1:30678. You can go out in the hallway now.

MR. BROTT: Your Honor, I strenuously object to the
Court instructing this witness that it's okay for Mr. Geller
to remind him as to what he saw that night.

THE COURT: Okay. I understand your objection. And
I'm only suggesting that if Mr. Geller wants to talk to the
witness he can do so. I'm not suggesting that he put words
in Mr. Garcia's mouth nor am I suggesting that Mr. Garcia
get any information about what he saw. I am suggesting that
if you want to take another look at the reports and if that
would help you remember, that's okay to do. And I apologize
to you, Mr. Brott if I miss communicated that to Mr. Garcia.
But you can step down now, Mr. Garcia.

MR. GELLER: And your Honor, may I for the record I
have no intention of speaking to the witness over the lunch
hour. I have no intention of helping him with his
testimony. I'm trying to lay foundation so that when
Detective Ashby comes in who is the interviewing officer we
can clear all of this up.

THE COURT: Okay. Well, I'm having difficulty
understanding Mr. Garcia. I think Mr. Garcia may be
somewhat confused. In any event, go to lunch. We'll see
you at 1:30. Okay.

(Noon recess taken.)

testimony read to jury - rough draft

1 SANTA ANA, CALIFORNIA - THURSDAY, MAY 25, 2006
 2 AFTERNOON SESSION
 -ooo-

3 (THE FOLLOWING PROCEEDINGS WERE HAD IN
 4 OPEN COURT:)

5 THE COURT: All right. We are resuming in People vs.
 6 Andres Reyes, case number 04CF2780. Record should reflect
 7 the People are represented, the Defendant is present with
 8 his counsel, and fifteen jurors have returned to the
 9 courtroom at this time. Mr. Garcia has resumed his place on
 10 the witness stand.

11 And, Mr. Geller, whenever you're ready, you may
 12 continue your direct examination.

13 {start reading}

14 BY MR. GELLER:

15 Q Mr. Garcia, we don't have too much more. I'm
 16 going to try to make it as easy as I possibly can for you.
 17 I'm not trying to get you upset or anything like that. I'm
 18 just trying to get through this, okay?

19 A Okay.

20 Q I want to talk about specifically the shooting at
 21 this point in time. Did you or did you not see somebody
 22 shoot a gun?

23 A No.

24 Q And so we're clear, so the jury is clear, you and
 25 I, what? We met maybe for five minutes this morning before
 26 you testified; that's the extent of time we ever spoke
 27 before this case; is that right?

28 A Yes.

29 Q We didn't speak over the lunch hour at all?

30 A No.

31 Q When I was talking to you before the break about
 32 two groups of bicycles, I want to make sure that I was
 33 clear. Were the bicyclists all right next to one another or
 34 was there some distance that separated the individual
 35 bicycles?

36 A They were together.

37 Q After you heard the shot did you see where this
 38 blue car ended up?

39 A Yeah, when I looked over to the side is when I
 40 saw the car, it just stopped.

41 Q Did it come to a stop on Sullivan Street?

42 A Yes.

43 Q Did you go up to the car to see who was in it?

44 A Yes.

45 Q Did you see somebody in the driver's seat?

46 A Yes.

47 Q Was he bleeding?

48 A Yes.

49 Q Did he say anything to you?

50 A No.

testimony read to jury - rough draft

1 Q Did you see where the bicyclists went after the
shot was fired?
2 A No, they just got like separated.
Q When you say "separated" can you be a little more
3 specific?
A Like, um, they went different directions.
4 Q That means some of them went on Willits?
A Yeah.
5 Q Some of them went on Sullivan?
A Yes.
6 Q You didn't recognize any of the bicyclists; is
that correct?
7 A No, I didn't recognize.
Q The car that you saw going northbound on Sullivan
8 Street towards the elementary school, away from where you
and your mother's truck was, do you know what kind of car
9 that was?
A It was a Honda.
10 Q It's your opinion that the car that you saw going
northbound Sullivan was the same car that got shot at now
11 going southbound Sullivan, right?
A Yes, it was the same car.
12 MR. GELLER: I have nothing further.
THE COURT: Cross examination.
13 MR. BROTT: Thank you.

/////

CROSS-EXAMINATION

14 BY MR. BROTT:
15 Q I'm referring now to People's No. 3, this
exhibit.
16 Do you recognize this, Mr. Garcia?
A Yes.
17 Q Yes?
A Yeah.
18 Q And does that look like a hand-drawn version of
this picture?
19 THE COURT: Of this picture?
MR. BROTT: Of People's 1, that photo we've been
20 talking about before, just a different way of looking --
THE WITNESS: Yeah.
21 MR. BROTT: -- At it?
THE WITNESS: Yeah.
22 BY MR. BROTT:
Q Would that be fair to say?
23 A Yeah.
Q Could you step up here please and show me about
24 where your mom's produce truck was when you saw all this.
THE COURT: He's going to show you on People's 3.
25 MR. BROTT: On People's 3. I'm talking about 3. And
I'll be just using that.
26 THE WITNESS: Right here. The truck was like right
here, parked. (INDICATING.)
testimony read to jury - rough draft

1 BY MR. BROTT:
2 Q The truck was parked down here? (INDICATING.)
2 A Yeah.
3 Q And where was the other produce truck you said
3 you saw on the pictures?
4 A Ours was, like, right here. It was like right
4 here. (INDICATING.)
5 Q So the other produce truck that you saw in the
5 picture was?
6 A Yeah.
6 Q North of your -- closer to Willits than to you,
7 right?
7 A Yes.
8 Q And -- you can sit down.
8 Now, where were you in relation to your mom's
9 truck when you first noticed the guys on the bikes?
9 A I was on the side of the truck.
10 Q Which side of the truck were you on?
10 A The sidewalk.
11 Q On the sidewalk side?
11 A Yeah.
12 Q So the truck would have been between you and the
12 street?
13 A Cuz -- the truck was on the left side and the
13 doors are on the side of the truck, so I was standing right
14 on the sidewalk.
14 Q So you were -- is the produce on your truck on
15 both sides of the truck?
15 A Since the front of the truck was facing this way
16 and the doors were over here and we opened them.
16 Q So it was parked on the west side of the --
17 A Yeah, facing this way. (INDICATING.)
17 Q So it was facing -- was it facing the wrong
18 direction, like, as if it was going to drive up there?
18 A No, it was like -- like it was coming this way.
19 (INDICATING.)
19 Q I can't hear you.
20 A Like it was going to come driving this way.
20 Because the truck was right here. It was like going this
21 way. (INDICATING.)
21 Q You see my pen? If this is the front of your
22 mom's truck, which way is that truck pointing, up or down?
22 A Down.
23 Q Down?
23 A Yeah, in the front. So I was on the side.
24 Q All right. Now, you are on the sidewalk side and
24 where when you first see these bicyclists are they on that
25 photo or on that diagram?
25 A They passed through the sidewalk.
26 Q They came right by the sidewalk?
26 A Yes.
26 Q That you're standing on?
testimony read to jury - rough draft

1 A Yes.
2 Q Is this the sidewalk, the gray area I'm pointing
to?
3 A Yes..
4 Q And were you standing on the sidewalk?
A Yes.
5 Q And did they go by one by one or?
A No, they --
6 Q Or did they go by in a group?
A They passed out together.
7 Q Passed all together?
A Yeah.
8 Q About seven of them or so?
A Yeah.
9 Q And then did they -- where were they in relation
to you when you say you heard them say something for the
first time?
10 A Well, they had already passed me when I heard
them.
11 Q They had already gone by?
A Yeah.
12 Q And the car you say that they were speaking at,
had it already gone by your location when you first heard
them saying these things?
13 A Yes, it had passed me too.
14 Q And from the time you heard them first say
something until the time you heard the shot, how long a time
was that?
15 A Not sure.
16 Q Well was it more than a minute, 30 seconds, or
did it happen just really fast?
17 A Just like a minute after, something like that.
18 Q And did at any point before the shooting did the
group of seven kind of separate?
19 A Once they were getting to the corner right there
Willits.
20 Q Right. And they're saying or somebody in the
group that's closest to you is saying hey, slow down; isn't
that what they were saying?
21 A One of them had screamed to the car to slow down.
22 Q Well how do you know he was talking to the car
and not the group ahead?
23 A Well, then after I heard like the one that was in
front scream to the guys that were behind him to keep up
like with them. So they could stay all together.
24 Q But at that point, right before that, the guys in
the back had been saying, "hey, slow down," right?
25 A Yes.
26 Q Now, you didn't see those guys talking to any
other car, did you?
A No.

testimony read to jury - rough draft

1 Q And you didn't see those guys talking to a car
that was coming this direction on Sullivan, did you?

2 A No.

3 Q Now you say that you -- you looked up after you
heard the sound of the shot; is that true?

4 A Yes.

5 Q What were you looking at at the time of the shot?

6 A I was, since I was fixing the things in the truck
when I heard the gunshot is when I turned around.

7 Q So you had gone back to doing what you were doing
before the guys rode by?

8 A Yes. Like they passed me I was just like fixing
the things on the truck. And when I heard the gunshot is
when I turned around and I saw them over by like the corner.

9 Q When they went by and you heard these things, you
went right back to work, you didn't think anything was going
to happen, right?

10 A I didn't think nothing was going to happen like.

11 Q There was nothing particularly dangerous or
exciting about guys riding by on a bike, was there?

12 A No.

13 Q They didn't say anything about a gang, did they?

14 A No.

15 Q They didn't yell out the name of any gang or
anything?

16 A No.

17 Q They didn't use any hand signs, did they?

18 A No, not that I saw.

19 Q Have you ever seen somebody use hand signs, gang
hand signs?

20 A I've seen people.

21 Q And you didn't see any of those guys do that, did
you?

22 A No.

23 Q Did you see anybody in the group of seven riders
that was -- that stood out in terms of being tall, short,
fat, skinny, different from the others?

24 A I didn't see it.

25 Q You weren't really paying attention what they
looked like?

26 A No.

27 Q Because until the gunshot nothing in they did
sounded scary, right?

28 A Um, no, it was --

29 Q Is that true?

30 A Yep.

31 Q Did you see anybody with a hat on?

32 A No.

33 Q Did you ever see anybody else besides you and
your buddy run up to the car?

34 A No.

testimony read to jury - rough draft

1 Q When you looked up after the shot, all you saw
was some bicyclists up there at the corner; is that true?

2 A Yes.

3 Q That's all you saw?

4 A That's all I saw.

5 Q And then they kind of scattered?

6 A Yes.

7 Q Where was your mom when all this happened?

8 A She was in the truck feeding my sister.

9 Q You just saw the one car go north, go towards the
top of the chart that day before this event happened, right?

10 A Yes.

11 Q But you didn't see the U-turn, correct?

12 A No, I didn't really see him when he turned, but I
noticed that he was coming back.

13 Q So it had done a complete reversal of its
direction, correct?

14 A Yes.

15 MR. BROTT: No further questions.

16 THE COURT: Redirect.

17 MR. GELLER: No thank you.

18 THE COURT: May the witness be excused.

19 MR. GELLER: Yes.

20 MR. BROTT: Yes.

21 THE COURT: Thank you very much.

22 Mr. Garcia, you're excused from this trial now.
You've free to leave and thank you for coming to court. You
can go.

23 Your next witness.

24 MR. GELLER: Thank you. With the court's permission
Detective Selinske.

25 THE BAILIFF:

26 THE CLERK: Do you solemnly state the evidence you are
about to give in the cause now pending before this court
shall be the truth, the whole truth and nothing but the
truth, so help you God?

27 THE WITNESS: I do.

28 THE CLERK: State your name, please.

29 THE WITNESS: Matthew Selinske.

30 THE CLERK:

31 THE WITNESS: S- e- l- INS k- e-.

32 THE CLERK: Matthew two tees or one.

33 THE WITNESS: Two "T"'S.

34 THE CLERK: Thank you, sir. You can take the stand.

35 THE COURT: You may inch squire.

36 MR. GELLER: Thank you.

25 {{{}}

26 MATTHEW SELINSKE,
CALLED AS A WITNESS, HAVING BEEN FIRST DULY SWORN, WAS
testimony read to jury - rough draft

1 EXAMINED AND TESTIFIED AS FOLLOWS:

DIRECT EXAMINATION

2 BY MR. GELLER:

Q Good afternoon, Detective Selinske.

3 A Good afternoon.

Q By whom are you employed?

4 A City of Costa Mesa police department.

Q And how long have you been a Costa Mesa police
5 officer?

A Nine years.

6 Q Do you have any prior law enforcement experience?

A Yes, I did.

7 Q War was that?

A Police cadet with the City of Anaheim.

8 Q How long was that?

A About a year and a half.

9 Q Your present assignment with Costa Mesa is what?

A I'm assigned as an Investigator with the
10 narcotics and vice investigation unit.

Q Is that the same position you held about two
11 years ago August of 2004?

A Yes, it was.

12 Q Normally when you're out investigating the types
of crimes that you do on a regular basis are you dressed in
13 a suit as you are here in court today?

A No, I'm not.

14 Q What's your normal attire?

A T-shirts, jeans, shorts, hats backwards.

15 Q Why is that?

A We're an undercover type unit and we need to
16 blend in with our environment. We drive unmarked vehicles.
Therefore, a suit wouldn't allow us to blend in.

17 Q What I want to talk to you about is August 10th
of 2004. You were working that day?

18 A Yes, I was.

Q And you were working an undercover operation in
19 the City of Santa Ana?

A Yes, we were.

20 Q Just briefly tell us the nature of what you were
doing in Santa Ana that day.

21 A We were working an undercover investigation in
that area involving major narcotics trafficker, the
22 surveillance was centered on a location within the City of
Santa Ana and we were basically in the initial stages of
23 setting up the surveillance for that investigation.

Q And you say "we," who are you referring to?

24 A Myself and the other members of my team.

Q Now you were in an unmarked Costa Mesa police car
25 that day?

A Yes.

26 Q Did you have anybody in the car with you at that
time?

testimony read to jury - rough draft

1 A No, I did not.
 2 Q At some point in time you were heading southbound
 Sullivan Street from First Street; is that correct?
 3 A Yes.
 4 Q And about what time of day was that?
 A About 20 minutes after 6:00 p.m.
 5 Q I'd like to show you a series of photographs.
 6:20 p.m. on August 10th still light outside; is that
 5 correct?
 A Yes, it is.
 6 Q Are you familiar with the intersection of
 Sullivan and Willits?
 7 A Yes, I am.
 8 Q All right. We've got a couple diagrams here. I
 don't think we need to mention that one. But let's take a
 look at the overhead. This has been marked as People's 2
 9 for Identification.
 Do you see that?
 10 A Yes, I do.
 Q Does it seem to accurately represent the
 11 intersection of Sullivan and Willits as you remember it
 almost two years ago?
 12 A Yes, it does.
 Q I realize there's -- we don't know when this
 13 overhead was taken, there's a whole bunch of vehicles on
 both streets, probably none of those were present, none of
 14 those specific vehicles were present on August 10th of 2004;
 would that be right?
 15 A I think so.
 Q Okay. I'd like you to take a look at a bunch of
 16 photographs, series of photographs.
 See how there's a school up here on the northeast
 17 corner?
 A Yes.
 18 Q This has been marked as People's 5 for
 Identification. Do you recognize what's in the photograph?
 19 A Yes, I do.
 Q Okay. What's that a picture of?
 20 A That's a picture of the north part of the
 intersection looking north towards First Street from,
 21 basically, the middle of the intersection.
 Q The lighting conditions that you see in this
 22 photograph kind of approximate the lighting conditions that
 you saw at 6:20 p.m. on August 10th?
 23 A Yes, about that.
 Q And I'm assuming there's a series of four orange
 24 cones and yellow police tape going across east to west the
 intersection or above the intersection there. Those weren't
 25 present prior to anybody from Santa Ana arriving at the
 scene; is that right?
 26 A That's correct.
 Q Okay. Same kind of foundational questions here
 testimony read to jury - rough draft

1 with respect to People's 4. Do you recognize that?

A Yes, I do.

2 Q Okay. That's already been identified as a view
3 looking southbound from the north part of the intersection,
4 looking south on Sullivan. You can kind of see the Willits
5 intersection. Is that, again, kind of approximate the
6 lighting conditions that you saw that day?

A Yes, it does.

5 Q Okay. Sun is probably an hour farther along in
6 its dissent to the hoizone but essentially that's how it
7 looked?

A Yes.

7 Q Same kind of foundational questions with
8 People's 7?

A Yes.

8 Q Now there's a blue car with a yellow tarp over
9 the front driver's side of the car. Ultimately you saw a
10 blue car that day; is that correct?

A Yes.

10 Q When you first saw it the yellow tarp was not
11 there?

A That's correct.

12 Q You saw where the car came to rest?

A Yes, I did.

13 Q Okay. And that approximates where it's shown on
14 that photograph?

A Yes, it does.

15 Q And you saw that, I know we're kind of putting
16 the cart before the horse here, but you heard a shooting and
17 you saw the car come to that position shortly after the
18 shooting, right?

A Yes.

17 Q Okay. Same thing with respect to People's 6.

A Yes.

18 Q Okay. Car just kind of a different angle of the
19 same car, same location that it came to rest in?

A Yes, it is.

19 Q Okay. Same thing with respect to People's 10.
20 Do you see that?

A Yes, I do.

21 Q Just kind of a close-up of the car?

A Yes, it is.

22 Q Okay. Then also with respect to People's 9,
23 another close-up of the rear of the same vehicle that you
24 saw out on the scene that day at about that time?

A Yes, it is.

24 Q Okay. Same thing with respect to People's 8?

A Yes, it is.

25 Q Okay. Great.

26 So let's talk about your observations that day.
You've already testified you're working undercover. You're
driving southbound Sullivan Street. Prior to getting on
testimony read to jury - rough draft

1 Sullivan do you know where you were coming from?
 A Yes, I do.
 2 Q Let's use the map here, People's 1. Where were
 you coming from?
 3 A I was coming southbound from First Street.
 Q That would be indicated this intersection which
 4 is near the lower left-hand corner of the diagram?
 A Correct.
 5 Q Okay. Let's talk about as you're traveling
 southbound Sullivan Street. Were there pedestrians out in
 6 that area at that time?
 A Yes, there was quite a few, quite a bit.
 7 Q As you're approaching the intersection of Willits
 street, People's 2 is an overhead, cars are kind of sparsely
 8 shown here. There's only maybe two cars parked on the west
 side of Sullivan Street, two or three maybe four cars on the
 9 east side. Is that kind of how the cars were parked when
 you saw it on August 10th?
 10 A No, it was not.
 Q What's different?
 11 A Both sides of the street --
 THE COURT: Watch the mike Detective.
 12 THE WITNESS: Sorry.
 Both sides of the street both north and south of
 13 the intersection were lined with parked cars. There was
 essentially no place to park.
 14 BY MR. GELLER:
 Q Okay. Pedestrian traffic, are there people on
 15 foot near the intersection, on the sidewalks, if you recall?
 A Yes, there was quite a bit of foot traffic.
 16 Q Okay. Where was the -- as you were traveling
 southbound, you saw some photographs of a blue Honda car,
 17 where was the first point that you noticed that Honda that
 day?
 18 A That would have been just south of the crosswalk
 facing southbound into the intersection.
 19 Q Okay. There's a white, looks like probably a
 truck shown on that diagram, People's 2, excuse me. It
 20 seems to be just short of the limitline for the stop sign
 there. Was the Honda car, what? Maybe a car length or two
 21 south of that, was it still in the crosswalk, if you recall?
 A Yeah, it was definitely into the intersection
 22 approximately two car links.
 Q Okay. What was it about that car that attracted
 23 your attention to it?
 A Well, I heard a loud noise that I recognized was
 24 a gunshot. When I looked directly in front of me I saw the
 rear window of that vehicle explode out on the driver's side
 25 and the rest of it shattered in a spider web fashion, and
 that's what drew my attention to the vehicle.
 26 Q How far back north on Sullivan Street were you
 from the car at the time you made those observations?

testimony read to jury - rough draft

1 A Approximately 40 yards.

2 Q It's kind of hard to tell what 40 yards is on
3 this overhead. I don't know if any of these diagrams will
4 assist with that. Maybe we'll start with People's 2.
5 There's a big school building off to the east. Would you be
6 able to approximate for us in relationship to maybe the
7 school building or just if you need to go ahead and point to
8 the map where you think you probably were at the time you
9 made these observations?

10 A It would have been, essentially, between this
11 white vehicle here and this darker colored vehicle here,
12 just about right in the middle.

13 Q And there is a white vehicle, it looks like it's
14 heading southbound on the west side of Sullivan, and a
15 darker vehicle, pretty much adjacent to the end of the
16 school building also heading southbound west side of
17 Sullivan; is that correct?

18 A Yes.

19 Q Was there anything between you and the blue car
20 at the time you made those observations?

21 A There were no other vehicles between us.

22 Q Did you see the blue car make a U-turn in the
23 Sullivan Willits intersection?

24 A No, I did not.

25 Q Was the blue car when you first observed it in a
26 position where it could have made a U-turn in the
27 intersection of Sullivan and Willits or was it just coming
28 straight southbound Sullivan?

29 A I believe it was coming directly southbound.

30 Q And what do you base that upon?

31 A Just the position in the intersection. I didn't
32 think that in that small area it could have made a U-turn or
33 come from any other direction.

34 Q Do you recall seeing it, say, north of the
35 limitline here or was your attention just you just weren't
36 paying attention to that car at that point?

37 A Correct, I was not paying attention to the
38 vehicle before I heard the sound.

39 Q Nothing unusual was going on prior to hearing a
40 gunshot?

41 A No.

42 Q You see any bicyclists on the sidewalk or on the
43 street prior to hearing a gunshot?

44 A No.

45 Q So what did you do next?

46 A I noticed something else between myself and the
47 vehicle that I had noticed when I heard the shot.

48 Q Okay. What was that?

49 A That was an individual standing in the middle of
50 this crosswalk here straddling a bicycle. He had an object
51 in his right hand that I recognized as a handgun, a
52 revolver. He took that and he stuffed it into the pants he
53 testimony read to jury - rough draft

1 was wearing.

2 Q Okay. When you said "this crosswalk" what you're
referring to is the crosswalk, the east west crosswalk on
the north side of the intersection; is that correct?

3 A Yes, it is.

4 Q Okay. The individual that you saw with the
handgun, where specifically was he? Just right in the
middle of the street, right in the middle of the crosswalk,
5 closer to one side of the Sullivan curb, where was he?

A Right in the middle of the crosswalk.

6 Q And was he on a bicycle at the time?

7 A He had a bicycle. He was straddling it, standing
on the ground one leg on each side of the frame.

8 Q What kind of bicycle was that?

A Beach cruiser type of bicycle.

9 Q Did you see any other individuals on bicycles in
the immediate proximity to that person you saw with the
gun?

10 A Yes, I believe I saw two other people.

11 Q And where were they in relationship to that
person?

A They were behind him.

12 Q Behind him meaning where?

13 A I'm sorry. On his east side. More towards the
school.

Q Closer to the school?

14 A Correct.

Q How far a part were they?

15 A I don't recall that.

Q Can you approximate for us, if you can?

16 A Just within a few feet.

Q Okay.

17 A Nothing too far.

18 Q So now you've identified three bicyclists. Was
there anything about these other two bicyclists that
indicated to you that they were with the person with the
19 gun?

A Yes.

20 Q What?

21 A When the individual that I saw with the handgun
got on the bike and began traveling, they appeared to travel
with him.

22 Q Where did they travel to, if you know?

23 A I believe that they -- when he traveled he went
northbound on Sullivan Street on the street. I believe I
saw them out of the corner of my eye getting on to the
24 sidewalk and riding in the same direction.

25 Q Which sidewalk would that be on, the west side or
east side of Sullivan?

A The west side.

26 Q So the guy with the gun is traveling up the
middle of the street towards you?

testimony read to jury - rough draft

1 A Towards me, but not in the middle of the street.
 Q Where is he?
 2 A He's more on the west side riding, basically,
 between my vehicle and the parked vehicles on the west side.
 3 Q And the other two are on the sidewalk actually?
 A Correct.
 4 Q Did you see any other bicyclists that you
 attributed to those three individuals?
 5 A No, I do not recall.
 Q How far were you initially when you saw the
 6 person in the inter -- in the crosswalk shoving the gun in
 his waistband?
 7 A Approximately 40 yards.
 Q This all happened relatively quickly, I would
 8 imagine?
 A Yes, it did.
 9 Q Were you expecting to see a shooting at that
 point in time?
 10 A No, I was not.
 Q The ethnicity of the person who was shoving the
 11 gun in his waistband was what?
 A Hispanic.
 12 Q Male or female?
 A Male.
 13 Q Approximately how old?
 A Between 17 and 20 years old.
 14 Q Physical description?
 A Approximately six feet two inches tall, weighed
 15 approximately 165 pounds.
 Q Did you recall what type of gun you were able to
 16 see?
 A Yes.
 17 Q What was?
 A It was a revolver.
 18 Q Obviously, you know the difference between a
 revolver and a semi-auto?
 19 A Yes, I do.
 Q What was it that made you believe it was a
 20 revolver?
 A I just -- I saw it simply saw it and I recognized
 21 it as a revolver.
 Q Two guns don't look anything alike, right?
 22 A Well, between a revolver and a semi-auto handgun,
 yeah, they don't look alike.
 23 Q And you were not present when any guns were
 recovered later on that evening; is that correct?
 24 A That's correct.
 Q Have you ever seen any guns associated with this
 25 case?
 A I've seen photographs, and that's it.
 26 Q You never actually seen a gun?
 A No.

testimony read to jury - rough draft

1 Q All right. Person that you saw with the handgun,
did you get a good look at his face?

2 A Yes.

3 Q And did you recognize that person?

4 A Do I recognize that person?

5 Q Did you recognize that person?

6 A Yes.

7 Q You did recognize that person, you had seen him
before that?

8 A I apologize. No, I misunderstood your question.
No, I had never seen him before.

9 Q What about the other two individuals?

10 A No.

11 Q Person that you saw with the gun, do you believe
that person is here in court right now?

12 A Yes, I do.

13 Q Would you point him out for us.

14 A He's seated at the Defendant's table wearing a
dark blue shirt.

15 Q Indicating the Defendant Mr. Reyes, please?

16 THE COURT: Yes.

17 BY MR. GELLER:

18 Q So we're clear, you did not see this Defendant
shoot a gun that day, did you?

19 A I thought I just said I did.

20 Q Did you see him shoot the gun?

21 A Oh, I apologize. No, I did not.

22 Q With Mr. Brott's permission and the Court's
permission, I'd ask that Mr. Reyes stand up.

23 THE COURT: All right. Mr. Reyes, please stand.

24 BY MR. GELLER:

25 Q Can you give us an estimate of how tall you think
he is?

26 A Oh, 5'8".

27 Q He can sit down.

28 A Clearly not 6'2"; is that correct?

29 Q Correct.

30 Q Were you present or were you close enough -- back
up.

31 A Were you driving with your window open?

32 A No.

33 Q Were you able to hear any words exchanged from
any of those three bicyclists prior to the shooting directed
towards anybody?

34 A No.

35 Q Do you remember the remainder of the physical
description you had given the Santa Ana Police Department
with respect to the person you saw with the gun that day?

36 A Yes, I do.

37 Q Why don't you share that with us.

38 A Light-skinned, wearing a red Angels baseball cap,
black T-shirt with white writing on the front and light blue
testimony read to jury - rough draft

1 jeans, light-colored blue jeans.

2 Q How far was the Defendant to you believe road
past you on that bike after putting a gun in his waistband,
3 how far was he from you at the closest point?

4 A Approximately five feet.

5 Q Were you looking at his face as he rode past you?

6 A Yes, I tried to.

7 Q Why didn't you do something about it at that
8 point in time?

9 A Well, my handgun that I carry, my firearm, was in
10 my bag in the back seat of my car. I was trying to reach
back to get it.

11 Q Why didn't you just get out of your car at that
point with or without your handgun?

12 A I wasn't going to take on somebody that was armed
without a handgun.

13 Q Okay. So what did you do?

14 A As I was leaning back trying to get the handgun
15 is when the suspect passed me. I tried get my handgun out
and I tried to get the best look I could at him.

16 Q Then what happened?

17 A I traveled to the intersection where I made a
18 U-turn. I came back northbound and went all the way to
First Street looking for the suspect, but I did not locate
19 him.

20 Q So you came to the intersection of Sullivan and
Willits, which means you had to travel another 40 yards or
so. You made a u-turn. I'm assuming you did that pretty
21 quickly?

22 A Yes.

23 Q And by the time that you were now heading back
northbound Sullivan towards First Street you were not able
24 to find any of the three bicyclists?

25 A Correct.

26 Q So what did you do at that point?

27 A I made another U-turn and I traveled back to the
28 intersection of Willits and Sullivan to check on the
occupants of the vehicle.

29 Q And did you do that?

30 A Yes, I did.

31 Q And what did you see when you got to the vehicle?

32 A When I -- I parked and I walked up to the vehicle
33 on the driver's side. I saw a male seated in the driver's
seat who was slumped back towards his left towards the
34 driver's door. I saw a large bulge in his forehead just
above his right eye.

35 Q I'd like you to take a look at People's 11 and
12. People's 11 is first.

36 Do you recognize what's in that photograph?

37 A Yes, I do.

38 Q What's that?

39 A That's the man that I saw sitting in the driver's
testimony read to jury - rough draft

1 seat of the vehicle.
 Q Okay. Did you try to determine whether he was
 2 dead or alive at that point in time?
 A No, I did not.
 3 Q Was he moving?
 A No, he was not.
 4 Q Was he saying anything?
 A No, he was not.
 5 Q Okay. Did he appear to be in pretty much the
 same position that you see him there in People's 11?
 6 A Yes, it is.
 Q You don't know when People's 11 was taken, you
 7 don't know how long after the shooting occurred that that
 photo was actually taken, do you?
 8 A No, I do not.
 Q Now, People's 12 is similar photograph, the
 9 passenger door -- I'm sorry the driver's door is open there.
 Did you open the driver's door?
 10 A No, I did not.
 Q So that's not how you observed the car anyways.
 11 It may be how you observed the body but not how you observed
 the car?
 12 A Correct.
 Q So what do you do now?
 13 A At that time I was already on the phone dialed
 9-1-1 was contacting Santa Ana Police and fire department.
 14 Several of my partners who were in the area working with me
 had joined me. I tried to give them the best description I
 15 could of the suspect. And when the first officers arrived
 on scene I transmitted that same information to them.
 16 Q You've already identified the Defendant here in
 court today. Were you ever shown what's called a six-pack
 17 photo array?
 A Yes, I was.
 18 Q What does that mean to you?
 A A six-pack photo array is a series of six
 19 photographs where a person suspected of a crime may or may
 not be in there and the person being shown the photograph is
 20 asked to identify a person to see if that person -- if one
 of those people may be the person that you saw commit the
 21 crime.
 Q That's something a tool that you use in your job
 22 as a police officer with the Costa Mesa police department?
 A Yes.
 23 Q And something that you use to try to identify a
 suspect when somebody maybe was a witness to a crime?
 24 A Yes.
 Q Kind of like you were on that day?
 25 A Yes.
 Q And were you shown the photo six-pack in this
 26 case?
 A Yes, I was.

testimony read to jury - rough draft

1 Q Investigator Rondou was one of the officers that
showed that to you?

2 A Yes, it was.

3 Q Do you know when that was in relationship to the
shooting?

4 A Yes, I do.

5 Q When was that?

6 A Was two days after.

7 Q So that would be the 12th of August?

8 A Correct.

9 Q I'm not going to ask you about the results of
that six-pack at this point in time. But what I want to
10 talk to you about is what information, if any, you knew
about the crime prior to looking at the photographs.

11 A The only information that I knew or that I had
was my own eyewitness account of what occurred.

12 Q Okay. Any of the Santa Ana investigators -- I
believe there were two of them that came to speak with you;
13 is that correct?

14 A That's correct.

15 Q -- And did of them talk to you that they had a
suspect in custody or anything like that?

16 A No, they did not.

17 Q Okay. Did they share any information with you
about -- at the time you looked at the array that there was
18 a gun that they had recovered or anything of that nature?

19 A Not before I looked at it, no.

20 Q And you were given kind of an admonishment
beforehand?

21 A Yes, I was.

22 Q Is that the same kind of admonishment that you
give witnesses?

23 A Yes, it is.

24 Q Why don't you summarize for us, that
admonishment.

25 A Generally, the admonishment for the Costa Mesa
police department is that you're being shown an array of six
26 photographs that the suspect may or may not be one of the
persons in the photographs and that it is just important to
identify a suspect as to not identify one so that innocent
persons are not arrested or prosecuted for a crime.

27 Q And with that in mind you did look at the photos;
is that correct?

28 A Yes.

29 Q And, again, without giving us the results were
you able to identify -- were you able to make an
30 identification from that photographs somebody that you saw
ride past you after shoving a gun in their waistband was in
fact in that array?

31 A Yes.

32 Q So now what that leaves us with is your initial,
and what you said here in court, that the person that you
testimony read to jury - rough draft

1 saw shoving the gun in his waistband was 6'2" to 6 foot 3,
2 165 pounds. Clearly that doesn't match the physical
description of this individual; is that's correct?

A Yes.

3 Q Would you agree that?

A Yes, I do.

4 Q Do you have an explanation?

A My only explanation could be that it was
5 something that happened very fast. I had a very short look
in terms of time at the Defendant while he was -- or the
6 person while he was straddling the bicycle before he got on
the bicycle and began riding the bicycle right towards me.

7 MR. GELLER: May I have just a moment please.

THE COURT: Yes.

8 MR. GELLER: I have nothing further.

THE COURT: Cross examination.

9 CROSS-EXAMINATION

BY MR. BROTT:

10 Q Detective, you were driving southbound on
Sullivan. And what were you doing? I mean, were you
11 looking for something or you just happened to be driving
down that street?

12 A No, I was I was part of the surveillance I was
looking for a place to park to handle the outside of the
13 surveillance, basically.

Q And you had turned on First Street to come down
14 Sullivan; is that true?

A That's correct.

15 Q And First Street next major intersection up above
Willits?

16 A Yes, north of Willits.

Q So, theoretically, you're looking forward as
17 you're driving?

A Correct.

18 Q You're not looking down?

A Correct.

19 Q You're keeping your attention directed ahead of
you, but maybe not necessarily paying attention to what's
20 going on?

A Correct.

21 Q Other than you're keeping in your lane and not
going to hit a parked car, etc.?

22 A Yes.

Q Is that true?

23 A Yes.

Q So how long do you think it took you to drive
24 from First Street down Sullivan to the point where you heard
the gunshot?

25 A Oh, I would guess 15 seconds.

Q And you looked up when you saw the gunshot --
26 heard the gunshot, right?

A Yes.

testimony read to jury - rough draft

1 Q You looked up immediately?
A Yes.
2 Q And immediately you saw this person?
A Yes.
3 Q And would you say it was a matter of a second or
two after the shot that you looked up and saw this person?
4 A Yes, I would say within a second.
Q And it wouldn't -- there wouldn't have been time
5 in that second to have handed off the gun to somebody; is
that true?
6 MR. GELLER: Objection; that calls for speculation.
THE COURT: Give me a minute on this.
7 THE COURT: Overrule the objection.
Do you have the question in mind?
8 THE WITNESS: Yes. I don't think so.
BY MR. BROTT:
9 Q There wouldn't have been time to switch guns?
A I don't think so.
10 Q With somebody else?
A I don't think so.
11 Q And you're a police officer, knowing that you've
just witnessed a shooting, correct?
12 A Yes.
Q And you want to take careful consideration about
13 identifying the person you just saw do this gun job, right?
A Yes.
14 Q And as you just told us about the admonishment
that people get when they look at photos, it's important
15 that you identify a person correctly and not incorrectly; is
that true?
16 A That's true.
Q And as a police officer you're especially aware
17 of that?
A Yes.
18 Q And you, in your own mind, made an observation
from 40 yards away and you start clicking off things that
19 you know that you're supposed to look and recognize,
correct?
20 A Correct.
Q And certainly the facial features of someone is
21 very important?
A Yes.
22 Q But their physical features are very important
too; is that true?
23 A That's true.
Q And things like tattoos, hair color, clothing,
24 height, weight, anything you can observe that will help tie
down that person's identification is the kind of stuff that
25 you're looking for, correct?
A Yes.
26 Q And as a police officer you're probably thinking
a little quicker than the average citizen about what you
testimony read to jury - rough draft

1 want to see and what you want to remember; is that true?
 A I think that's true.
 2 Q And you wanted to get that information out to the
 3 police officers that would be investigating this or the
 4 paramedics and your partners and anybody else that was
 interested as quickly as possible and as accurately as
 possible; is that true?
 A Yes.
 5 Q So you called 9-1-1 and you gave them a
 description of the people, did you not?
 6 A Yes, I did.
 Q And then you gave the same description to the
 7 police that you were with, correct?
 A Yes.
 8 Q So they could help you?
 A Yes.
 9 Q And then you gave officer Yattew that same
 description?
 10 A Yes.
 Q When he asked you right there at the scene within
 11 minutes?
 A Yes.
 12 Q Of the event.
 And you told him, did you not, that the person
 13 was 6'2" to 6'3", 165 pounds and skinny, wearing a red Angel
 hat. Did you tell him that?
 14 A Yes, I did.
 Q And you believe that to be true when you said
 15 that?
 A Yes, I did.
 16 Q And you told that to your partners, to the 9-1-1,
 to Yettaw, and then you told the officers that came and
 17 interviewed subsequently the Detectives, told them that same
 description about 6'2" to 6'3," and skinny and 165 pounds,
 18 true?
 A Yes.
 19 Q In fact, you also wrote a report of your own on
 Costa Mesa police department police report form and you gave
 20 that same description in that report too, didn't you?
 A Yes, I did.
 21 Q Now how tall to you do you think I am.?
 A 6'4", 6'5 "
 22 Q Me?
 A Yes.
 23 Q Really? Skinny?
 A Do I have to answer that one.
 24 Q Well this gentleman over here is nowhere near
 6'2" to 6'3", is he?
 25 A I don't think so.
 Q And assuming he hasn't lost a lot of weight, he
 26 doesn't look like he weighs 165 to 175 pounds, does he?
 A No.

testimony read to jury - rough draft

1 Q As you're coming down Willits -- excuse me, as
2 you're coming down Sullivan, there's no other cars in front
of you besides this one; is that true?

A That's true.

3 Q And did you see anybody around that car on
4 bicycles, yelling at that car or saying anything to that
car?

A No.

5 Q In fact, the first thing that you saw in relation
6 to that car was when you looked up and saw the glass shatter
in the back of the car, correct?

A Yes.

7 Q Did you ever hear anybody out there that day yell
any gang slogans?

8 A No.

Q Do you know what gang slogans are?

9 A I think I know one when I hear one, but
specifically.

10 Q You didn't hear any?

A No.

11 Q And did you see anybody throwing hand signs or
gang signs?

12 A No, no.

Q And you specifically didn't see anybody coming up
13 to that car beforehand, hitting that car up -- you know what
a hit up is, don't you?

14 A Yes, I do.

Q You didn't see anything like that happen, did
15 you?

A No, I did not.

16 Q Now, the person that you say fired this weapon
stuffed it in his waistband?

17 A Yes.

Q Well, is he -- when you look up, this person, is
18 his back to you or is he facing you?

A His back is to me.

19 Q And where is the gun?

A In his right hand.

20 Q And so if I'm turning around now I'm not quite 40
yards away, am I?

21 A No, you're not.

Q Okay. Can we get to the back of the courtroom
22 would that be about as far as you are away?

A No. Further.

23 Q Farther. To the edge of the building out there?

A I think you'd have to be standing in air.

24 Q Standing on thin air?

A Yes.

25 Q And you see this person with their right hand
extended, down to their body, what do you see?

26 A It was extended.

Q And the gun had already gone off?
testimony read to jury - rough draft

1 A Yes.

2 Q Correct?

3 A And then that person with their back to you does
4 what with the gun?

5 A With their back to me they turn coming towards
6 me, not all the way, and as they're turning they're stuffing
7 the gun into their waistband.

8 Q Well, where is the bicycle while this person is
9 turning?

10 A May I stand to demonstrate?

11 Q Sure.

12 A The individual was standing straddling the frame
13 of the bicycle, standing like this. And when he started
14 turn towards me, he turned around, went like this, and put
15 the weapon into his waistband.

16 Q Did you see -- you can sit down.

17 MR. GELLER: Can we describe that for the record,

18 MR. BROTT: Oh, yes. For the record I better do that.

19 For the record, it appeared that the witness took
20 his right hand, did a slow pivot clockwise.

21 THE WITNESS: To my right, yes.

22 MR. BROTT: To your right and during the pivot puts the
23 gun in a waistband area; is that correct?

24 THE WITNESS: That's correct.

25 BY MR. BROTT:

26 Q Okay. Did you see him pull up his shirt or
anything like that?

A Yes, I did.

Q What did he do?

A Pulled up his shirt and stuffed the firearm into
his waistband.

Q Did you see anything underneath his shirt?

A Yes, I did.

Q What did you see?

A I saw that he was wearing light blue and white
boxer shorts.

Q How could you tell they were boxer shorts and not
briefs?

A I've never seen briefs that color.

Q Not even on Michael Jordan on those ads on TV,
you never seen them?

A No.

Q And then that person got on the bike and started
riding towards you?

A Yes.

Q And you're in the street, correct?

A Correct.

Q And where you are? If I understand your --
everybody see?

You're up in here, approximately, am I correct?

I'll describe it for the record, if I'm right.

A Yes, approximately.

testimony read to jury - rough draft

1 Q Okay. So it would be -- I'm going to guess it's
about as my fingers go, about 3 inches below this top white
2 car on Sullivan?
A That would be approximately.
3 Q Okay. And the crosswalk that that person started
out in is in this area right down here on the picture,
4 correct, the crosswalk?
A Yes.
5 Q And that person rides where? On the sidewalk?
A No.
6 Q Where?
A He road on the street northbound between the
7 vehicles that are traveling and the vehicles that are
parked.
8 Q And you are looking for your gun, correct?
A Yes.
9 Q And so how long do you think it took him to ride
his bike from the crosswalk up to where you were?
10 A Four seconds at the most.
Q And during that four seconds you were -- strike
11 that.
At what point during that four seconds did you
12 attempt to retrieve your weapon?
A The entire time.
13 Q Okay. Did you turn around? It was in the back
seat, wasn't it?
14 A It was behind the front passenger's seat on the
floorboard.
15 Q It was in a bag?
A Yes.
16 Q Zipper bag?
A Yes.
17 Q Closed?
A The zipper was not closed, no.
18 Q Was the gun in a holster?
A Yes, it was.
19 Q Does it have a snap on it?
A No.
20 Q And it's a handgun, I take it?
A Yes.
21 Q And so you're sitting in your driver's seat and
you're reaching down to get your gun, correct?
22 A Correct.
Q And so you have to look down to know where you're
23 reaching, don't you?
A No.
24 Q You never looked at the bag?
A No.
25 Q You kept looking up?
A Yes.
26 Q So the whole four seconds you never took your
eyes off of that person while you're reaching for a gun?
testimony read to jury - rough draft

1 A Well, I didn't say I didn't take my eyes off him
but I wasn't looking down for my gun.

2 Q Well, how much of that four seconds were you
3 looking at him -- that's it. How much of that four seconds
were you looking at him?

4 A I would say most of it.

5 Q What's most of it?

6 A The majority of the four seconds.

7 Q Well you said out of the corner of your eye you
were looking at those other people; isn't that true?

8 A That's true.

9 Q So you were looking at them as well; isn't that
10 true?

11 A Out of the corner of my eye I was, yes.

12 Q Where were they?

13 A They were on the sidewalk.

14 Q Which sidewalk?

15 A The west sidewalk of the intersection or of the
16 street.

17 Q Are they behind him?

18 A Yes.

19 Q Are they -- did they say anything as they go by?

20 A I don't know.

21 Q They didn't say anything to you?

22 A I don't know. I didn't hear anything.

23 Q Were your windows rolled up or down?

24 A They were up.

25 Q Your radio was it on or off?

26 A My police radio was on. My stereo was on. And
my next tell was on.

Q And so as this guy goes by you, you get a good
look at his body, don't you?

A Yes.

Q And you get a good look at how much you think
think he weighs; is that true?

A Yes.

Q And you were pretty certain that it was 6'2" to
6'3", correct?

A Correct.

Q You told everybody that, correct?

A Correct.

Q Do you remember how the other people were
dressed?

A No.

Q Is that because you didn't get a good look at
them or you weren't paying attention to them?

A I think it was probably a combination of both.

Q But in your mind that car, the one ahead of you,
the one that got shot at, was the one that was ahead of you
coming southbound on Sullivan the whole time you were on
Sullivan; is that your -- is that true?

A Yes, it is.

testimony read to jury - rough draft

1 MR. BROTT: Nothing further.

THE COURT: Redirect?

2 MR. GELLER: Very briefly.

REDIRECT EXAMINATION

3 BY MR. GELLER:

4 Q Detective Selinske, when the individual that you
saw put the gun in his waistband was straddling the bicycle,
5 was the front of the bicycle facing westbound in that
crosswalk area and he had his body turned facing a little
6 bit southbound; is that about right?

A That's correct.

7 Q Okay. And so when he turned back, which would be
clockwise, to give you a profile of him, is that when you
8 saw him shoving the gun in his waistband?

A Yes, it is.

Q Okay.

9 MR. GELLER: I have nothing further.

MR. BROTT: Nothing further.

10 THE COURT: May the witness be excused?

MR. GELLER: Yes.

11 MR. BROTT: Yes.

12 THE COURT: Okay. Thank you very much,
Detective Selinske. You are excused from this trial.

THE WITNESS: Thank you.

13 (END OF READBACK.)

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testimony read to jury - rough draft

1 SANTA ANA, CALIFORNIA - WEDNESDAY, MAY 31, 2006

2 MORNING SESSION

3 -00o-

4

5 (TESTIMONY READ TO JURY:)

6

7 RICHARD A. ASHBY,

8 CALLED AS A WITNESS, HAVING BEEN FIRST DULY SWORN, WAS

9 EXAMINED AND TESTIFIED AS FOLLOWS:

10 DIRECT EXAMINATION

11 BY MR. GELLER:

12 Q Detective Ashby, thanks again for coming back to
13 court. I'd like to talk to you about your interview with
14 Michael Contreras, okay?

15 A Sure.

16 Q On Friday, September 10th of 2004, shortly before
17 ten in the morning, did you interview Michael Contreras?

18 A Yes.

19 Q And that was at his school?

20 A Yes.

21 Q And did you speak with Michael Contreras about
22 both what happened in El Salvador Park prior to the homicide
23 and then also the incident at English and 12th Street?

24 A Yes, we did.

25 Q And did Mr. Contreras have any difficulty
26 remembering both of those two incidents?

1 A No.

2 Q Was Mr. Contreras responsive to your questions?

3 A Yes, he was.

4 Q Did he seem to understand what you were saying to
5 him based upon his responses?

6 A Yes.

7 Q Was Mr. Contreras at that point in time in fear
8 that you could tell?

9 A Um, I don't know. Kids that age are always a
10 little apprehensive to talk to the police. I'm sure he was
11 a little apprehensive.

12 Q All right. Fair enough.

13 By the way, that interview was tape recorded; is
14 that correct?

15 A Yes, it was.

16 Q I'd like to first start out talking about the
17 park incident. Did you speak with him about him being in
18 El Salvador Park prior to the homicide?

19 A Yes.

20 Q And did he tell you what he was doing in the
21 park?

22 A He said he was in the park with his brother, I
23 believe his name is Joseph, and that his cousin Severo
24 De La Riva was doing community service at El Salvador Park
25 that day and got off around 18 -- excuse me, 6 in the
26 evening, 6:30 in the evening, and that they were playing

rough draft - testimony of det. ashby

1 handball.

2 Q Did Mr. Contreras use any other name to talk
3 about his cousin Severo De La Riva?

4 A Yes.

5 Q What did he tell you?

6 A He told us that Severo was a gang member from
7 5th Street in the City of Santa Ana and that his -- he's
8 known by a moniker of "bouncer."

9 Q Did Mr. Contreras at that point in time have any
10 difficulty in your mind remembering who Severo De La Riva
11 his cousin was?

12 A No.

13 Q You weren't showing him any photographs at that
14 point in time; is that correct?

15 A No, I don't believe so.

16 Q Okay. Did you talk about Francisco or
17 Frank Lopez with Mr. Contreras?

18 A Yes.

19 Q And what did you talk to Mr. Contreras about
20 Mr. Lopez?

21 A He told us that Francisco Lopez, who he
22 identified also as a cousin of his, and goes by the moniker
23 of little speedy from F-Troop, was also at the park with him
24 along with Andy Reyes. And that Mr. Lopez had in his
25 possession a revolver that he described as being dark in
26 color with a brown handle and approximately eight to nine

rough draft - testimony of det. ashby

1 inches in length.

2 Q Did Mr. Contreras have any difficulty describing
3 the specifics of that gun to you?

4 A No.

5 Q Did he have any difficulty describing who was
6 present when Frank Lopez was displaying the gun?

7 A No, he did not.

8 Q Who did he tell you was present when Frank Lopez
9 was displaying the gun?

10 A Well, the individuals that I just named, his
11 cousin Severo De La Riva, his brother Joseph, his brother
12 Francisco Lopez who he said had the gun, Andy Reyes and
13 himself.

14 Q Did you ask Michael Contreras about people by the
15 name of Chewy and Bam Bam?

16 A Yes, we did.

17 Q And what did he tell about them?

18 A I believe he told us that first he didn't know
19 them and then I believe that he later recanted that and
20 admitted that he knew them because they're -- his father
21 knew their father.

22 Q I'd like to talk to you about -- well, did
23 Michael Contreras indicate to you that day that he claimed a
24 particular gaing?

25 A No, he did not.

26 Q Did you talk to him at all about the F-Troop

rough draft - testimony of det. ashby

1 gang?

2 A Yes, a little bit.

3 Q What did you talk to him about?

4 A We asked him if he was claiming F-Troop. He said
5 no. We had mentioned that we had found in a search of his
6 residence some items that appeared to be associated with the
7 F-Troop gang. And he stated that those items probably
8 belong to his brother Joseph.

9 Q Was there anything else that you spoke with him
10 about concerning the park and the People that were present
11 at the park?

12 A Other than he said that Mr. Lopez showed the gun
13 to everybody prior to Severo, Mr. Frank Lopez and Andy Reyes
14 leaving the park on their bicycles.

15 Q You also spoke with him about the incident that
16 occurred at 10th, 12th and English area; is that correct?

17 A Yes.

18 Q What did he tell you about his involvement in
19 that incident?

20 {stopped reading}

21

22 {start reading}

23

24 CROSS-EXAMINATION

25 BY MR. BROTT:

26 Q Detective Ashby, you said that when you were
rough draft - testimony of det. ashby

1 interviewing Mr. Contreras that he didn't have any trouble
2 remembering what was going on. Is that your testimony?

3 A Yes.

4 Q And that he was just a little apprehensive; is
5 that true?

6 A Well, like I said, anybody his age is usually
7 apprehensive. I don't recall specifically, so I can't say
8 whether he was fearful or not. I'm assuming that he
9 probably was a little apprehensive talking to us.

10 Q Okay. A little apprehensive. But you view that
11 in retrospect as just the natural -- the natural fear factor
12 of a youngster talking to a police officer?

13 A Yes.

14 Q Okay. Was he evasive?

15 A At some times, yes.

16 Q And would you -- how would you characterize his
17 demeanor, let's say, during the first 20 minutes of the
18 interview? Was he happy?

19 A I don't think he was happy to be there talking to
20 us, no.

21 Q Didn't he start to cry?

22 A I believe he did.

23 Q And when did he start crying?

24 A I don't recall at what point.

25 Q Do you remember why he started crying?

26 A No, I do not.

rough draft - testimony of det. ashby

1 Q Isn't it true that you and, was it Mr. Herter?

2 A Yes.

3 Q Didn't you repeatedly tell him that you didn't
4 think he was telling you the truth?

5 A Yes, that's probably true.

6 Q And that almost every time after you told him
7 that he told you something different; isn't that true?

8 A That's probably true too.

9 Q And he was crying when he was changing his story
10 repeatedly, wasn't he?

11 A Um, that's probably true.

12 Q So it wasn't just a smooth interview where
13 everything came tumbling out; is that true?

14 A That's true.

15 Q He eventually talked about what he had seen over
16 at the park, true?

17 A Yes.

18 Q But he initially denied knowing very much about
19 that, true?

20 A True.

21 Q And you told him that you talked to other people
22 and that you knew what the truth was and that you wanted him
23 to tell you that truth; is that true?

24 A That's probably true too.

25 Q And eventually he told you what you had told him
26 you believed to be the truth was; isn't that true?

1 MR. GELLER: Objection; that's vague.

2 THE COURT: I'm going to sustain that. I'm not sure I
3 understand.

4 BY MR. BROTT:

5 Q He eventually told you what you told him you
6 believed the truth was; is that true?

7 A I don't quite understand that question.

8 Q Well, he didn't initially just blurt out
9 everything about what happened at the park, did he?

10 A No.

11 Q You told him you knew what happened at the park,
12 didn't you?

13 A Yes, probably.

14 Q And you told him what you knew or what you
15 thought happened there?

16 A No, that's not true.

17 Q Didn't you say you talked to the other people at
18 the park?

19 A There's a difference between saying I talked to
20 the other people and telling him what they told us.

21 Q Well when he would say he didn't know something
22 or he would give an answer that you thought was evasive you
23 would say, "I've talked to everybody else and I know that's
24 not true."

25 A Yes, that's true.

26 Q And then he would change his story to say

rough draft - testimony of det. ashby

1 something else eventually, correct?

2 A Yes.

3 Q And what he changed it to was what you had
4 indicated to him was the truth in your mind, correct?

5 MR. GELLER: Objection; that's vague again.

6 THE COURT: I'm going to overrule.

7 THE WITNESS: You're going to have to ask the question
8 again, I don't understand it.

9 THE COURT: Let me repeat --

10 MR. BROTT: I'll move on.

11 THE COURT: Okay.

12 Q What he said he saw at the park was a discussion
13 of some kind between Frank, Andy, Severo and himself; is
14 that true?

15 A And his brother Joseph.

16 Q His brother Joseph.

17 And where were they in the park when that
18 happened?

19 A Handball courts I believe is what he indicated.

20 Q They were just sitting around talking?

21 A I didn't ask him that.

22 Q Well, did you ask him what context the subject of
23 the gun came up?

24 A No, I did not.

25 Q Did you ask him if Andy ever had the gun?

26 A No, I did not.

rough draft - testimony of det. ashby

1 Q At the park?

2 A No, I did not.

3 Q All he said was that Frank had a gun, correct?

4 A I believe so, yes.

5 Q Frank and only Frank had a gun?

6 A I believe so, yes.

7 Q And that no one else at the park had a gun,

8 correct?

9 A He -- Frank is the only one he said that had a

10 gun.

11 Q And there was no discussion of what Frank was

12 going to do with that gun, was there?

13 A That's correct.

14 Q And there was no discussion about going and

15 shooting somebody with that gun, was there?

16 A That's correct.

17 Q And there was no discussion about going and

18 hitting up anybody with that gun, was there?

19 A He didn't tell us that there was, no.

20 Q When he used the words "hit up," were those words

21 his or do you recall?

22 A I believe they were his.

23 Q He didn't say where you from, but he used the

24 word? But he used the word "hit up."

25 A I believe he used those words when we went to

26 clarify what he meant by "hit up."

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{stop reading}

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(END OF READBACK.)

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rough draft - testimony of det. ashby

MINUTE ORDER

Case Number 04CF2780 F A

People Vs Reyes, Andres Quinonez

Report Request Criteria

1. Docket Date Range : Date filter
2. Sequence Number Range : Sequence filter
3. Docket Category : Category filter

<u>Docket Dt</u>	<u>Seq</u>	<u>Text</u>
6/6/2006	1	Hearing held on 06/06/2006 at 09:00:00 AM in Department C36 for Jury Trial.
	2	Officiating Judge: Carla M. Singer, Judge
	3	Clerk: B. Healy
	4	Bailiff: J. Hanson
	5	Court Reporter: Lynn Peterson
	6	Off record in chambers before session, the Court informed and discussed with both counsel Juror #1's phone call this morning to the court clerk.
	7	In open court at 09:08 AM
	8	Defendant present in Court with counsel Brott, James, Conflict Attorney.
	9	People represented by Mark Geller, Deputy District Attorney, present.
	10	Juror #1 phoned the clerk this morning to report that she has been in car accident and cannot come to court. Pursuant to stipulation and order, Juror #1 is excused and Alternate #1 will be seated as new Juror #1. At 9:10 a.m., fourteen jurors brought into court. Jurors re-seated pursuant to stipulation and order.
	11	Rebuttal argument presented on behalf of the People.
	12	The Court read aloud to the jurors a portion of the testimony of Dt. Rondou on 5/25/06 from the reporter notes; it related to defendant's statements in back of police car on way to station.
	13	The Court read the Instructions to the Jury.
	14	At 09:50 AM, the Jury retired to the jury room to deliberate in charge of Deputy J. Hanson duly sworn for that purpose.
	15	Counsel stipulates that the alternate juror(s) may go home or to work. The Court admonishes the alternate juror(s) and releases them subject to their remaining in telephone contact with the bailiff for the duration of the jury's deliberation.
	16	Court in recess at 9:55 a.m.
	17	Stipulations at End of Trial filed.
	18	At 10:30 AM, the jury submitted the following written request: "We, the jury in the above entitled action request the following: "The testimony of Steven Garcia (who he saw riding bikes), /s/Juror # 8, Foreperson." Counsel were notified.

MINUTE ORDER

Case Number 04CF2780 F A

Report Request Criteria

1. Docket Date Range : Date filter
2. Sequence Number Range : Sequence filter
3. Docket Category : Category filter

People Vs Reyes, Andres Quinonez

<u>Docket Dt</u>	<u>Seq</u>	<u>Text</u>
6/6/2006	19	At 10:30 AM, the jury submitted the following written request: "We, the jury in the above entitled action request the following: "The testimony of Det. Salynski", /s/Juror # 8, Foreperson." Counsel were notified.
	20	Pursuant to telephonic agreement of both trial attorneys about Jury requests, the Court directs the reporter to read back entire testimony of Steven Garcia and Detective Matthew Selinski. At 11:08 a.m., reporter commenced read back of Garcia testimony
	21	At 11:08 AM, the Court Reporter entered the jury room and read back requested testimony and completed read back at 11:10 AM.
	22	Read back of Garcia testimony stopped by the jury who did not want entire testimony, but only about when Garcia saw bikes on the sidewalk; the reporter directed the jury to prepare another more specific request for read back of portions of Garcia testimony that they want. The reporter left the jury room and informed the Court.
	23	At 11:25 AM, the jury submitted the following written request: "We, the jury in the above entitled action request the following: "Steven Garcia testomony (sic) - start at the beginning and we will let the reporter know when we have heard enough.", /s/Juror # 8, Foreperson." Counsel were notified.
	24	By direction of the Court, trial counsel phoned by clerk to read the third jury request. Both counsel agreed to the jury's request with regard to the Garcia testimony read back which will commence after the noon break. The reporter read back the testimony of Detective Selinski commencing at 11:27 a.m.
	25	At 11:27 AM, the Court Reporter entered the jury room and read back requested testimony and completed read back at 12:00 PM.
	26	At 12:00 PM, jurors left the jury room for lunch recess.
	27	At 01:35 PM, jurors returned to the jury room to resume deliberations.
	28	At 01:37 PM, the Court Reporter entered the jury room and read back requested testimony and completed read back at 02:08 PM.
	29	At 02:50 PM, the jury submitted the following written request: "We, the jury in the above entitled action request the following: "Testimony of Det. Ashby - 2nd time - In regard to his interview with Mike Contreas (sic) - about what happened in El Salvador Park prior to the shooting.", /s/Juror # 8, Foreperson." Counsel were notified.
	30	At 02:50 PM, jurors left the jury room for break.

MINUTE ORDER

Case Number 04CF2780 F A

People Vs Reyes, Andres Quinonez

Report Request Criteria

1. Docket Date Range : Date filter
2. Sequence Number Range : Sequence filter
3. Docket Category : Category filter

<u>Docket Dt</u>	<u>Seq</u>	<u>Text</u>
6/6/2006	31	By direction of the Court, the clerk phoned each trial attorney about the fourth written request from the jury. Both counsel agreed to read back of full testimony of Detective Richard Ashby; so ordered.
	32	At 03:10 PM, jurors returned to the jury room to resume deliberations.
	33	At 03:11 PM, the Court Reporter entered the jury room and read back requested testimony and completed read back at 03:17 PM.
	34	The Jury stopped read-back of direct examination of Dt. Ashby unaware that only one more page of notes to be read on direct; the jury requested Ashby cross-examination. The reporter requested a written request to that effect and exited the jury room.
	35	At 03:18 PM, the jury submitted the following written request: "We, the jury in the above entitled action request the following: "Det. Ashby - cross exam of 2nd day testimony regarding the park prior to the shooting.", /s/Juror # 8, Foreperson." Counsel were notified.
	36	Court and both counsel informed of the interruption of Ashby testimony read-back; no objections raised.
	37	At 03:19 PM, the Court Reporter entered the jury room and read back requested testimony and completed read back at 03:24 PM.
	38	The Jury stopped read back of the full cross-examination of Dt. Ashby and the reporter exited the jury room.
	39	At 04:25 PM, the jurors left the jury room for the evening recess, to return 06/07/2006 at 09:00 AM in Department C36 to resume deliberations.
	40	Defendant ordered to return.
	41	Current bail set for defendant to remain.
	42	Defendant remanded to the custody of the Sheriff.
	43	Notice to Sheriff issued.

#1
10:30 AM
6-6-06

FILED
SUPERIOR COURT OF CALIFORNIA
COUNTY OF ORANGE
CENTRAL JUSTICE CENTER

JUN 7 2006

ALAN SLATER, Clerk of the Court

**SUPERIOR COURT OF CALIFORNIA
COUNTY OF ORANGE, CENTRAL JUSTICE CENTER**

By: R. Healy
R. HEALY Deputy kb

PEOPLE OF THE STATE OF CALIFORNIA,
Plaintiff,

VS.

Case No. 04CF2780

ANDRES QUINONEZ REYES,
Defendant.

DO NOT DESTROY THIS DOCUMENT

We, the jury in the above entitled action, request the following:

The testimony of Steven Garcia (who he saw riding
bikes)

Juror No. 8 Department C36

This Tues day of 6, 2006



Foreperson

#2
10:30 AM
6-6-06

SUPERIOR COURT OF CALIFORNIA
COUNTY OF ORANGE, CENTRAL JUSTICE CENTER

FILED
SUPERIOR COURT OF CALIFORNIA
COUNTY OF ORANGE
CENTRAL JUSTICE CENTER

JUN 7 2006

By: R. Healy Deputy
R. HEALY, Clerk of the Court

PEOPLE OF THE STATE OF CALIFORNIA,
Plaintiff,

VS

Case No. 04CF2780

ANDRES QUINONEZ REYES,
Defendant.

DO NOT DESTROY THIS DOCUMENT

We, the jury in the above entitled action, request the following:

The testimony of Det Salynski

Juror No. 8 Department C36

This Thurs day of 6, 2006

[Redacted Signature]
Foreperson

FILED
SUPERIOR COURT OF CALIFORNIA
COUNTY OF ORANGE
CENTRAL JUSTICE CENTER

JUN 7 2006

ALAN SLATER, Clerk of the Court

By: R. Healy
R. HEALY Deputy
RH

**SUPERIOR COURT OF CALIFORNIA
COUNTY OF ORANGE, CENTRAL JUSTICE CENTER**

PEOPLE OF THE STATE OF CALIFORNIA,
Plaintiff,

VS

Case No. 04CF2780

ANDRES QUINONEZ REYES,
Defendant.

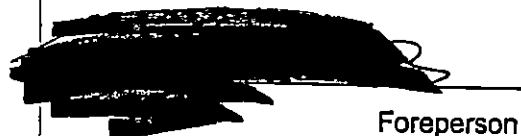
DO NOT DESTROY THIS DOCUMENT

We, the jury in the above entitled action, request the following:

Steven Garcia Testimony - when start at the beginning beginning
and we will let the reporter know when we
have heard enough

Juror No. 8 Department C36

This tw day of 6, 2006


Foreperson

#4
2:50 pm
6/6/06

FILED
SUPERIOR COURT OF CALIFORNIA
COUNTY OF ORANGE
CENTRAL JUSTICE CENTER

JUN 7 2006

SUPERIOR COURT OF CALIFORNIA
COUNTY OF ORANGE, CENTRAL JUSTICE CENTER

ALAN SLATER, Clerk of the Court

By: R. Healy
R. HEALY Deputy *RB*

PEOPLE OF THE STATE OF CALIFORNIA,
Plaintiff,

VS

Case No. 04CF2780

ANDRES QUINONEZ REYES,
Defendant.

DO NOT DESTROY THIS DOCUMENT

We, the jury in the above entitled action, request the following:

Testimony of Det. Ashby - 2nd time - In regard to his interview
with Mike Contreras - About what happened in El Salvador park
prior to the shooting.

Juror No. 8 Department C36

This Tues day of 6, 2006



Foreperson

#5 18 pm
3:06
U

FILED
SUPERIOR COURT OF CALIFORNIA
COUNTY OF ORANGE
CENTRAL JUSTICE CENTER

JUN 7 2006

SUPERIOR COURT OF CALIFORNIA
COUNTY OF ORANGE, CENTRAL JUSTICE CENTER

ALAN SLATER, Clerk of the Court

By: R. Healy Deputy
R. HEALY

PEOPLE OF THE STATE OF CALIFORNIA,
Plaintiff,

VS

Case No. 04CF2780

ANDRES QUINONEZ REYES,
Defendant.

DO NOT DESTROY THIS DOCUMENT

We, the jury in the above entitled action, request the following:

Det Ashby - Cross Exam of 2nd day testimony
regarding the park prior to the shooting

Juror No. 8 Department C36

This Tues day of 6, 2006

[Redacted Signature]

Foreperson

10:35 AM
6-7-06

FILED
SUPERIOR COURT OF CALIFORNIA
COUNTY OF ORANGE
CENTRAL JUSTICE CENTER

JUN 7 2006

**SUPERIOR COURT OF CALIFORNIA
COUNTY OF ORANGE, CENTRAL JUSTICE CENTER**

ALAN SLATER, Clerk of the Court

R. Healy
B. HEALY, Deputy

PEOPLE OF THE STATE OF CALIFORNIA,
Plaintiff,

VS

Case No. 04CF2780

ANDRES QUINONEZ REYES,
Defendant.

DO NOT DESTROY THIS DOCUMENT

We, the jury in the above entitled action, request the following:

Definition ~~of the word~~ of vicariously discharged a firearm...
as it relates to our verdict sheet. (Section Violation 187(a))

Juror No. 8 Department C36

This wed day of 7, 2006

[Redacted Signature]

Foreperson

#17
10:35 AM
6-7-06

FILED
SUPERIOR COURT OF CALIFORNIA
COUNTY OF ORANGE
CENTRAL JUSTICE CENTER

JUN 7 2006

**SUPERIOR COURT OF CALIFORNIA
COUNTY OF ORANGE, CENTRAL JUSTICE CENTER**

ALAN SLATER, Clerk of the Court

By: R. Healy Deputy pk

PEOPLE OF THE STATE OF CALIFORNIA,
Plaintiff,

VS

Case No. **04CF2780**

ANDRES QUINONEZ REYES,
Defendant.

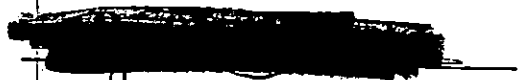
DO NOT DESTROY THIS DOCUMENT

We, the jury in the above entitled action, request the following:

Clarification regarding the process to determine the verdicts and
supporting findings.

Juror No. 8 Department C36

This Wed day of 7, 2006


Foreperson

The answers to your questions are in the jury instructions that have been provided to you.

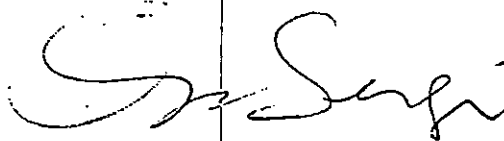
For the definition of vicarious discharge of a firearm, please read Instruction no. 1402 at pages 57, 58 and 59 of your packet of instructions.

For how to report your verdicts and findings, please read Instruction No. 640 at pages 37 and 38 of your packet of instructions.

Reading all the verdict forms may also be helpful.

If you find the defendant guilty of murder in the first degree or murder in the second degree, you must then determine whether the allegations of crime committed for the benefit of, at the direction of, or in association with a criminal street gang (Instruction No. 1401 at pages 54, 55 and 56 of your packet), and vicarious discharge of a firearm in a crime for the benefit of, at the direction of, or in association with a criminal street gang (Instruction No. 1402 at pages 57, 58 and 59 of your packet) are true or not true.

If you find the defendant not guilty of murder in the first degree, and not guilty of murder in the second degree, you do not need to determine whether the special allegations are true or not true and those verdict forms should be returned unsigned.



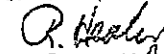

CARLA M. SINGER

FILED

SUPERIOR COURT OF CALIFORNIA
COUNTY OF ORANGE
CENTRAL JUSTICE CENTER

JUN 7 2006

ALAN SLATER, Clerk of this Court

By: 
R. HEALY, Deputy 

04CF2780

#8
3:20 pm
6-7-06

FILED
SUPERIOR COURT OF CALIFORNIA
COUNTY OF ORANGE
CENTRAL JUSTICE CENTER

JUN 7 2006

**SUPERIOR COURT OF CALIFORNIA
COUNTY OF ORANGE, CENTRAL JUSTICE CENTER**

ALAN SLATER, Clerk of the Court

By: R. Healy
R. HEALY

PEOPLE OF THE STATE OF CALIFORNIA,
Plaintiff,

VS

Case No. 04CF2780

ANDRES QUINONEZ REYES,
Defendant.

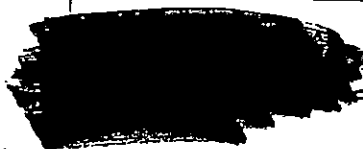
DO NOT DESTROY THIS DOCUMENT

We, the jury in the above entitled action, request the following:

We have agreed on Count 1, but we are unable
to agree on the degrees

Juror No. 8 Department C36

This Wed day of 7, 2006



Foreperson

JUN 7 2006

ALAN SLATER, Clerk of the Court

By: R. Healy Deputy reH

DISPOSITION TABLE

Case Name: Reyes
Case Number: 04CF2780
Date: 3/9/2006

Instruction / Special Verdict #	Requested By					Given as		Ref.	Wth-	Print Date
	Ppl.	Dfdt.	Crt.	Oth.	Name(s)	Req.	Mod.	used	drwn.	
CALCRIM 100										1/2006
CALCRIM 101										1/2006
CALCRIM 102										1/2006
CALCRIM 103										1/2006
CALCRIM 104										1/2006
CALCRIM 105										1/2006
CALCRIM 124										1/2006
CALCRIM 200										1/2006
CALCRIM 201										1/2006
CALCRIM 202										1/2006
CALCRIM 220										1/2006
CALCRIM 222										1/2006
CALCRIM 223										1/2006
CALCRIM 225										1/2006
CALCRIM 226										1/2006
CALCRIM 251										1/2006
CALCRIM 300										1/2006
CALCRIM 301										1/2006

DISPOSITION TABLE

Case Name:

Case Number:

Date: 3/9/2006

Instruction / Special Verdict #	Requested By					Given as		Ref-	Wth-	Print Date
	Ppl.	Dfdt.	Crt.	Oth.	Name(s)	Req.	Mod.	used	drwn.	
CALCRIM 302										1/2006
CALCRIM 303										1/2006
CALCRIM 318										1/2006
CALCRIM 332										1/2006
CALCRIM 333										1/2006
CALCRIM 355										1/2006
CALCRIM 358										1/2006
CALCRIM 359										1/2006
CALCRIM 370										1/2006
CALCRIM 373										1/2006
CALCRIM 400										1/2006
CALCRIM 401										1/2006
CALCRIM 403							×			1/2006
CALCRIM 416							×			1/2006
CALCRIM 417										1/2006
CALCRIM 418										1/2006
CALCRIM 500										1/2006
CALCRIM 520										1/2006

DISPOSITION TABLE

Case Name:

Case Number:

Date: 3/9/2006

Instruction / Special Verdict #	Requested By					Given as		Ref-	Wth-	Print Date
	Ppl.	Dfdr.	Crt.	Oth.	Name(s)	Req.	Mod.	used	drwn.	
CALCRIM 521										1/2006
CALCRIM 640										1/2006
CALCRIM 915										1/2006
CALCRIM 1400										1/2006
CALCRIM 1401										1/2006
CALCRIM 1402										1/2006
CALCRIM 1403										1/2006
CALCRIM 2688										1/2006
CALCRIM 3500					<i>Withdraw by IT</i>					1/2006
CALCRIM 3550										1/2006
CALCRIM 3575					<i>Withdraw by IT</i>					1/2006
CALCRIM 3577										1/2006
CALCRIM 3590										1/2006

*Request: 224
306*

Count - Special

SUPERIOR COURT OF CALIFORNIA
COUNTY OF ORANGE, CENTRAL JUSTICE CENTER

FILED
SUPERIOR COURT OF CALIFORNIA
COUNTY OF ORANGE
CENTRAL JUSTICE CENTER

JUN 7 2006

ALAN SLATER, Clerk of the Court

By: R. HEALY Deputy *pk*

PEOPLE OF THE STATE OF CALIFORNIA,
Plaintiff

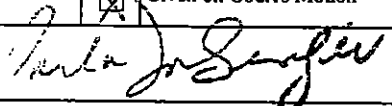
vs.

ANDRES QUINONEZ REYES Defendant.

Case No. 04CF2780

JURY INSTRUCTIONS GIVEN

CALCRIM 200. DUTIES OF JUDGE AND JURY

Requested by Plaintiff	<input checked="" type="checkbox"/>	Requested by Defendant	<input type="checkbox"/>	Requested by	<input type="checkbox"/>
Given as Requested	<input type="checkbox"/>	Given as Modified	<input checked="" type="checkbox"/>	Given on Court's Motion	<input type="checkbox"/>
Refused	<input type="checkbox"/>	 CARLA M. SINGER Judge			
Withdrawn	<input type="checkbox"/>				

Print date: 1/2006

Members of the jury, I will now instruct you on the law that applies to this case. I will give you a copy of the instructions to use in the jury room. [REDACTED]

You must decide what the facts are. It is up to you, exclusively, to decide what happened, based only on the evidence that has been presented to you in this trial.

Do not let bias, sympathy, prejudice, or public opinion influence your decision.

You must reach your verdict without any consideration of punishment.

You must follow the law as I explain it to you, even if you disagree with it. If you believe that the attorneys' comments on the law conflict with my instructions, you must follow my instructions.

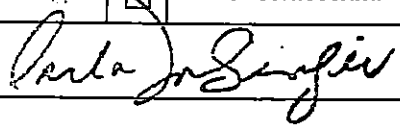
Pay careful attention to all of these instructions and consider them together. If I repeat any instruction or idea, do not conclude that it is more important than any other instruction or idea just because I repeated it.

Some words or phrases used during this trial have legal meanings that are different from their meanings in everyday use. These words and phrases will be specifically defined in these instructions. Please be sure to listen carefully and follow the definitions that I give you. Words and phrases not specifically defined in these instructions are to be applied using their ordinary, everyday meanings.

Some of these instructions may not apply, depending on your findings about the facts of the case. Do not assume just because I give a particular instruction that I am suggesting anything about the facts. After you have decided what the facts are, follow the instructions that do apply to the

facts as you find them.

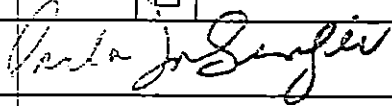
CALCRIM 201. DO NOT INVESTIGATE

Requested by Plaintiff	<input checked="" type="checkbox"/>	Requested by Defendant	<input type="checkbox"/>	Requested by	<input type="checkbox"/>
Given as Requested	<input checked="" type="checkbox"/>	Given as Modified	<input type="checkbox"/>	Given on Court's Motion	<input type="checkbox"/>
Refused	<input type="checkbox"/>	 Judge			
Withdrawn	<input type="checkbox"/>				
CARLA M. SINGER					

Print date: 1/2006

Do not do any research on your own or as a group. Do not use a dictionary or other reference materials, investigate the facts or law, conduct any experiments, or visit the scene of any event involved in this case. If you happen to pass by the scene, do not stop or investigate.


CALCRIM 202. NOTE-TAKING

Requested by Plaintiff	<input checked="" type="checkbox"/>	Requested by Defendant	<input type="checkbox"/>	Requested by	<input type="checkbox"/>
Given as Requested	<input checked="" type="checkbox"/>	Given as Modified	<input type="checkbox"/>	Given on Court's Motion	<input type="checkbox"/>
Refused	<input type="checkbox"/>	 CARLA M. SINGER Judge			
Withdrawn	<input type="checkbox"/>				

Print date: 1/2006

You have been given notebooks and may have taken notes during the trial. Please do not remove your notes from the jury room. You may use your notes during deliberations only to remind yourself of what happened during the trial. But remember, your notes may be inaccurate or incomplete. If there is a disagreement about what actually happened at trial, you may ask the court reporter to read back the relevant parts of the testimony to assist you. It is the testimony that must guide your deliberations, not your notes.

CALCRIM 220. REASONABLE

Requested by Plaintiff	<input checked="" type="checkbox"/>	Requested by Defendant	<input type="checkbox"/>	Requested by	<input type="checkbox"/>
Given as Requested	<input type="checkbox"/>	Given as Modified	<input checked="" type="checkbox"/>	Given on Court's Motion	<input type="checkbox"/>
Refused	<input type="checkbox"/>	 CARLA M. SINGER Judge			
Withdrawn	<input type="checkbox"/>				

Print date: 1/2006

The fact that a criminal charge has been filed against the defendant is not evidence that the charge is true. You must not be biased against the defendant just because (he/she/they) (has/hasn't) been arrested, charged with a crime, or brought to trial.

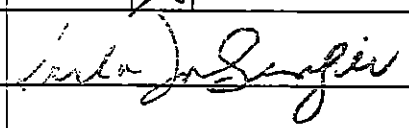
A defendant in a criminal case is presumed to be innocent. This presumption requires that the People prove each element of a crime and special allegation beyond a reasonable doubt. Whenever I tell you the People must prove something, I mean they must prove it beyond a reasonable doubt unless I specifically tell you otherwise.

Proof beyond a reasonable doubt is proof that leaves you with an abiding conviction that the charge is true. The evidence need not eliminate all possible doubt because everything in life is open to some possible or imaginary doubt.

In deciding whether the People have proved their case beyond a reasonable doubt, you must impartially compare and consider all the evidence that was received throughout the entire trial.

Unless the evidence proves the defendant guilty beyond a reasonable doubt, (he/she/they) (is/are) entitled to an acquittal and you must find (him/her/they) not guilty.

CALCRIM 222. EVIDENCE

Requested by Plaintiff	<input checked="" type="checkbox"/>	Requested by Defendant	<input type="checkbox"/>	Requested by	<input type="checkbox"/>
Given as Requested	<input type="checkbox"/>	Given as Modified	<input checked="" type="checkbox"/>	Given on Court's Motion	<input type="checkbox"/>
Refused	<input type="checkbox"/>	 <div align="right">Judge</div>			
Withdrawn	<input type="checkbox"/>				

CARLA M. SINGER

Print date: 1/2006

You must decide what the facts are in this case. You must use only the evidence that was presented in this courtroom [REDACTED]. "Evidence" is the sworn testimony of witnesses, the exhibits admitted into evidence, and anything else I told you to consider as evidence.

Nothing that the attorneys say is evidence. In their opening statements and closing arguments, the attorneys discuss the case, but their remarks are not evidence. Their questions are not evidence. Only the witnesses' answers are evidence. The attorneys' questions are significant only if they helped you to understand the witnesses' answers. Do not assume that something is true just because one of the attorneys asked a question that suggested it was true.

During the trial, the attorneys may have objected to questions or moved to strike answers given by the witnesses. I ruled on the objections according to the law. If I sustained an objection, you must ignore the question. If the witness was not permitted to answer, do not guess what the answer might have been or why I ruled as I did. If I ordered testimony stricken from the record you must disregard it and must not consider that testimony for any purpose.

You must disregard anything you saw or heard when the court was not in session, even if it was done or said by one of the parties or witnesses.

The court reporter has made a record of everything that was said during the trial. If you decide that it is necessary, you may ask that the court reporter's notes be read to you. You must accept the court reporter's notes as accurate.

During the trial, you were told that the People and the defense agreed, or stipulated, to certain facts. This means that they both accept those facts. Because there is no dispute about those facts

you must accept them as true.

In his examination of Detective Rondou, Mr. Geller asked a question that may have suggested the defendant was or has been in custody.

After a sidebar conference, the court struck the question and answer, and some additional testimony, and directed you to disregard that material.

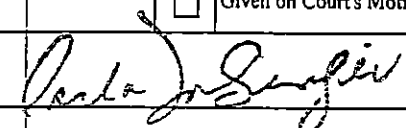
You have just been instructed the attorneys questions are not evidence and you are not to assume that something is true because one of the attorneys asked a question that suggested it was true. However, out of an abundance of caution, I further instruct you now, that a defendant's past or present custodial status may not be considered by you for any reason at all. Do not discuss that matter or let it influence your decision in any way.

Requested by Plaintiff	
Requested by Defendant	
Requested by	
Given on Court's Motion	X
Given as Requested	
Given as Modified	
Refused	

Carla M. Singer
CARLA M. SINGER

8

CALCRIM 223. DIRECT AND CIRCUMSTANTIAL EVIDENCE: DEFINED

Requested by Plaintiff	<input checked="" type="checkbox"/>	Requested by Defendant	<input type="checkbox"/>	Requested by	<input type="checkbox"/>
Given as Requested	<input checked="" type="checkbox"/>	Given as Modified	<input type="checkbox"/>	Given on Court's Motion	<input type="checkbox"/>
Refused	<input type="checkbox"/>	 Judge			
Withdrawn	<input type="checkbox"/>				

CARLA M. SINGER

Print date: 1/2006

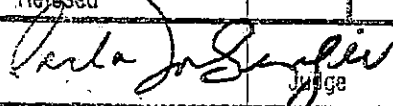
Facts may be proved by direct or circumstantial evidence or by a combination of both. Direct evidence can prove a fact by itself. For example, if a witness testifies he saw it raining outside before he came into the courthouse, that testimony is direct evidence that it was raining. Circumstantial evidence also may be called indirect evidence. Circumstantial evidence does not directly prove the fact to be decided, but is evidence of another fact or group of facts from which you may conclude the truth of the fact in question. For example, if a witness testifies that he saw someone come inside wearing a raincoat covered with drops of water, that testimony is circumstantial evidence because it may support a conclusion that it was raining outside.

Both direct and circumstantial evidence are acceptable types of evidence to prove or disprove the elements of a charge, including intent and mental state and acts necessary to a conviction, and neither is necessarily more reliable than the other. Neither is entitled to any greater weight than the other. You must decide whether a fact in issue has been proved based on all the evidence.

224. Circumstantial Evidence: Sufficiency of Evidence

Before you may rely on circumstantial evidence to conclude that a fact necessary to find the defendant guilty has been proved, you must be convinced that the People have proved each fact essential to that conclusion beyond a reasonable doubt.

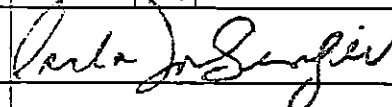
Also, before you may rely on circumstantial evidence to find the defendant guilty, you must be convinced that the only reasonable conclusion supported by the circumstantial evidence is that the defendant is guilty. If you can draw two or more reasonable conclusions from the circumstantial evidence, and one of those reasonable conclusions points to innocence and another to guilt, you must accept the one that points to innocence. However, when considering circumstantial evidence, you must accept only reasonable conclusions and reject any that are unreasonable.

Requested by Plaintiff		
Requested by Defendant		X
Requested by		
Given on Court's Motion		
Given as Requested		X
Given as Modified		
Refused		
 Judge		

CARLA M. SINGER

10

CALCRIM 225. CIRCUMSTANTIAL EVIDENCE: INTENT OR MENTAL State

Requested by Plaintiff	<input checked="" type="checkbox"/>	Requested by Defendant	<input type="checkbox"/>	Requested by	<input type="checkbox"/>
Given as Requested	<input type="checkbox"/>	Given as Modified	<input checked="" type="checkbox"/>	Given on Court's Motion	<input type="checkbox"/>
Refused	<input type="checkbox"/>	 Judge			
Withdrawn	<input type="checkbox"/>				
CARLA M. SINGER					

Print date: 1/2006

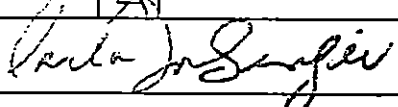
The People must prove not only that the defendant did the acts charged, but also that (he/~~she~~) acted with a particular intent or mental state. The instructions for each crime explain the intent or mental state required.

An intent or mental state may be proved by circumstantial evidence.

Before you may rely on circumstantial evidence to conclude that a fact necessary to find the defendant guilty has been proved, you must be convinced that the People have proved each fact essential to that conclusion beyond a reasonable doubt.

Also, before you may rely on circumstantial evidence to conclude that the defendant had the required intent or mental state, you must be convinced that the only reasonable conclusion supported by the circumstantial evidence is that the defendant had the required intent or mental state. If you can draw two or more reasonable conclusions from the circumstantial evidence, and one of those reasonable conclusions supports a finding that the defendant did have the required intent or mental state and another reasonable conclusion supports a finding that the defendant did not, you must conclude that the required intent or mental state was not proved by the circumstantial evidence. However, when considering circumstantial evidence, you must accept only reasonable conclusions and reject any that are unreasonable.

CALCRIM 226. WITNESSES

Requested by Plaintiff	<input checked="" type="checkbox"/>	Requested by Defendant	<input type="checkbox"/>	Requested by	<input type="checkbox"/>
Given as Requested	<input type="checkbox"/>	Given as Modified	<input checked="" type="checkbox"/>	Given on Court's Motion	<input type="checkbox"/>
Refused	<input type="checkbox"/>	 CARLA M. SINGER Judge			
Withdrawn	<input type="checkbox"/>				

Print date: 1/2006

You alone must judge the credibility or believability of the witnesses. In deciding whether testimony is true and accurate, use your common sense and experience. The testimony of each witness must be judged by the same standard. You must set aside any bias or prejudice you may have, including any based on the witness's gender, race, religion, or national origin, [REDACTED]. [REDACTED]. You may believe all, part, or none of any witness's testimony. Consider the testimony of each witness and decide how much of it you believe.

In evaluating a witness's testimony, you may consider anything that reasonably tends to prove or disprove the truth or accuracy of that testimony. Among the factors that you may consider are:

- > How well could the witness see, hear, or otherwise perceive the things about which the witness testified?
- > How well was the witness able to remember and describe what happened?
- > What was the witness's behavior while testifying?
- > Did the witness understand the questions and answer them directly?
- > Was the witness's testimony influenced by a factor such as bias or prejudice, a personal relationship with someone involved in the case, or a personal interest in how the case is decided?
- > What was the witness's attitude about the case or about testifying?
- > Did the witness make a statement in the past that is consistent or inconsistent with his or her testimony?
- > How reasonable is the testimony when you consider all the other evidence in the case?
- > Did other evidence prove or disprove any fact about which the witness testified?

[REDACTED]

> [REDACTED]

> [REDACTED]

[REDACTED]

> Was the witness promised immunity or leniency in exchange for his or her testimony?

Do not automatically reject testimony just because of inconsistencies or conflicts. Consider whether the differences are important or not. People sometimes honestly forget things or make mistakes about what they remember. Also, two people may witness the same event yet see or hear it differently.

[REDACTED]

[REDACTED]

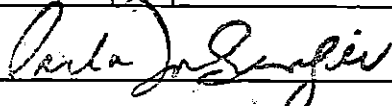
[REDACTED]

If you do not believe a witness's testimony that he or she no longer remembers something, that testimony is inconsistent with the witness's earlier statement on that subject.

If you decide that a witness deliberately lied about something significant in this case, you should consider not believing anything that witness says. Or, if you think the witness lied about some things, but told the truth about others, you may simply accept the part that you think is true and ignore the rest.

CALCRIM 251. UNION OF ACT AND INTENT: SPECIFIC INTENT OR MENTAL

State

Requested by Plaintiff	<input checked="" type="checkbox"/>	Requested by Defendant	<input type="checkbox"/>	Requested by	<input type="checkbox"/>
Given as Requested	<input type="checkbox"/>	Given as Modified	<input checked="" type="checkbox"/>	Given on Court's Motion	<input type="checkbox"/>
Refused	<input type="checkbox"/>	 Judge			
Withdrawn	<input type="checkbox"/>				

CARLA M. SINGER

Print date: 1/2006

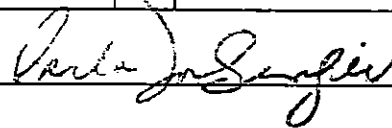
Every crime or other allegation charged in this case requires proof of the union, or joint operation, of act and wrongful intent.

In order to be guilty of the crimes

, a person must not only intentionally commit the prohibited act or intentionally fail to do the required act, but must do so with a specific intent or mental state. The act and the intent or mental state required are explained in the instruction for every crime or allegation.

And
murder, active participation
in a criminal street gang, or
the allegations of gang committed
for the benefit of, at the direction of,
and/or in association with
a criminal street gang, and various
discharge of a firearm causing death with
intent to promote, further and assist
in criminal conduct by gang members.

CALCRIM 300. ALL AVAILABLE EVIDENCE

Requested by Plaintiff	<input checked="" type="checkbox"/>	Requested by Defendant	<input type="checkbox"/>	Requested by	<input type="checkbox"/>
Given as Requested	<input checked="" type="checkbox"/>	Given as Modified	<input type="checkbox"/>	Given on Court's Motion	<input type="checkbox"/>
Refused	<input type="checkbox"/>	 Judge			
Withdrawn	<input type="checkbox"/>				

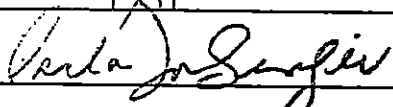
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Neither side is required to call all witnesses who may have information about the case or to produce all physical evidence that might be relevant.

15

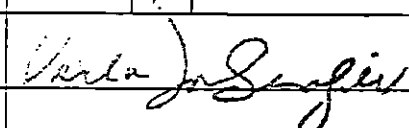
CALCRIM 301. SINGLE WITNESS'S TESTIMONY

Requested by Plaintiff	<input checked="" type="checkbox"/>	Requested by Defendant	<input type="checkbox"/>	Requested by	<input type="checkbox"/>
Given as Requested	<input type="checkbox"/>	Given as Modified	<input checked="" type="checkbox"/>	Given on Court's Motion	<input type="checkbox"/>
Refused	<input type="checkbox"/>	 CARLA M. SINGER Judge			
Withdrawn	<input type="checkbox"/>				

Print date: 1/2006

 requires supporting
 The) testimony of only one witness can prove any fact. Before you conclude that the
testimony of one witness proves a fact, you should carefully review all the evidence.

CALCRIM 302. EVALUATING CONFLICTING EVIDENCE

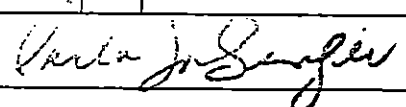
Requested by Plaintiff	<input checked="" type="checkbox"/>	Requested by Defendant	<input type="checkbox"/>	Requested by	<input type="checkbox"/>
Given as Requested	<input checked="" type="checkbox"/>	Given as Modified	<input type="checkbox"/>	Given on Court's Motion	<input type="checkbox"/>
Refused	<input type="checkbox"/>	 Judge			
Withdrawn	<input type="checkbox"/>				

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If you determine there is a conflict in the evidence, you must decide what evidence, if any, to believe. Do not simply count the number of witnesses who agree or disagree on a point and accept the testimony of the greater number of witnesses. On the other hand, do not disregard the testimony of the greater number of witnesses, or any witness, without a reason or because of prejudice or a desire to favor one side or the other. What is important is whether the testimony or any other evidence convinces you, not just the number of witnesses who testify about a certain point.

CALCRIM 303. LIMITED PURPOSE EVIDENCE IN GENERAL

Requested by Plaintiff	<input checked="" type="checkbox"/>	Requested by Defendant	<input type="checkbox"/>	Requested by	<input type="checkbox"/>
Given as Requested	<input checked="" type="checkbox"/>	Given as Modified	<input type="checkbox"/>	Given on Court's Motion	<input type="checkbox"/>
Refused	<input type="checkbox"/>	 <div style="display: flex; justify-content: space-between;"> CARLA M. SINGER Judge </div>			
Withdrawn	<input type="checkbox"/>				

Print date: 1/2006

During the trial, certain evidence was admitted for a limited purpose. You may consider that evidence only for that purpose and for no other.

306. Untimely Disclosure of Evidence

Both the People and the defense must disclose their evidence to the other side before trial, within the time limits set by law. Failure to follow this rule may deny the other side the chance to produce all relevant evidence, to counter opposing evidence, or to receive a fair trial.

An attorney for the (People/ [redacted]) failed to disclose: [redacted] [within the legal time period].

a police report related to the defendant's 2004 arrest for a carjacking violation

In evaluating the weight and significance of that evidence, you may consider the effect, if any, of that late disclosure.

~~However, the fact that the defendant's attorney failed to disclose evidence [within the legal time period] is not evidence that the defendant committed a crime.]~~

~~<Consider for multiple defendant cases>~~

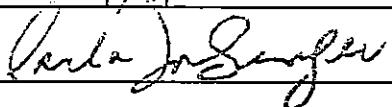
~~[You must consider the fact that an attorney for defendant [redacted] failed to disclose evidence when you decide the charges against defendant[s] [redacted] <insert names of other defendant[s]>]~~

Requested by Plaintiff	
Requested by Defendant	X
Requested by	
Given on Court's Motion	
Given as Requested	
Given as Modified	X
Refused	
<i>Carla M. Singer</i> Judge	

CARLA M. SINGER

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CALCRIM 318. PRIOR STATEMENTS AS EVIDENCE

Requested by Plaintiff	<input checked="" type="checkbox"/>	Requested by Defendant	<input type="checkbox"/>	Requested by	<input type="checkbox"/>
Given as Requested	<input type="checkbox"/>	Given as Modified	<input checked="" type="checkbox"/>	Given on Court's Motion	<input type="checkbox"/>
Refused	<input type="checkbox"/>	 <div style="text-align: right;">Judge</div>			
Withdrawn	<input type="checkbox"/>				

CARLA M. SINGER

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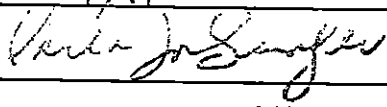
You have heard evidence of [redacted] statements that a witness made before the trial. If you decide that the witness made ([redacted] /those) statements, you may use ([redacted] at/those) statements in two ways:

1. To evaluate whether the witness's testimony in court is believable;

AND

2. As evidence that the information in ([redacted] at/those) earlier statements is true.

CALCRIM 332. EXPERT WITNESS TESTIMONY

Requested by Plaintiff	<input checked="" type="checkbox"/>	Requested by Defendant	<input type="checkbox"/>	Requested by	<input type="checkbox"/>
Given as Requested	<input type="checkbox"/>	Given as Modified	<input checked="" type="checkbox"/>	Given on Court's Motion	<input type="checkbox"/>
Refused	<input type="checkbox"/>	 CARLA M. SINGER Judge			
Withdrawn	<input type="checkbox"/>				

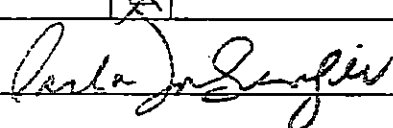
Print date: 1/2006

(A witness was/ [REDACTED]) allowed to testify as an expert/ and to give [REDACTED] opinions. You must consider the opinions, but you are not required to accept [REDACTED] (them) as true or correct. The meaning and importance of any opinion are for you to decide. In evaluating the believability of an expert witness, follow the instructions about the believability of witnesses generally. In addition, consider the expert's knowledge, skill, experience, training, and education, the reasons the expert gave for any opinion, and the facts or information on which the expert relied in reaching that opinion. You must decide whether information on which the expert relied was true and accurate. You may disregard any opinion that you find unbelievable, unreasonable, or unsupported by the evidence.

An expert witness may be asked a hypothetical question. A hypothetical question asks the witness to assume certain facts are true and to give an opinion based on the assumed facts. It is up to you to decide whether an assumed fact has been proved. If you conclude that an assumed fact is not true, consider the effect of the expert's reliance on that fact in evaluating the expert's opinion.

~~If the expert witnesses disagreed with one another, you should weigh each opinion against the others. You should examine the reasons given for each opinion and for other matters on which each witness relied. You may also compare the experts' qualifications.~~

CALCRIM 333. OPINION TESTIMONY OF LAY WITNESS

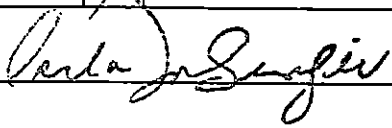
Requested by Plaintiff	<input checked="" type="checkbox"/>	Requested by Defendant	<input type="checkbox"/>	Requested by	<input type="checkbox"/>
Given as Requested	<input type="checkbox"/>	Given as Modified	<input checked="" type="checkbox"/>	Given on Court's Motion	<input type="checkbox"/>
Refused	<input type="checkbox"/>	 Judge			
Withdrawn	<input type="checkbox"/>				

CARLA M. SINGER

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[REDACTED] (Witnesses), who ([REDACTED] were) not testifying as [REDACTED] experts, gave [REDACTED] (their) opinions during the trial. You may but are not required to accept ([REDACTED] those) opinions as true or correct. You may give the opinions whatever weight you think appropriate. Consider the extent of the witness's opportunity to perceive the matters on which his or her opinion is based, the reasons the witness gave for any opinion, and the facts or information on which the witness relied in forming that opinion. You must decide whether information on which the witness relied was true and accurate. You may disregard all or any part of an opinion that you find unbelievable, unreasonable, or unsupported by the evidence.

CALCRIM 355. DEFENDANT'S RIGHT NOT TO TESTIFY

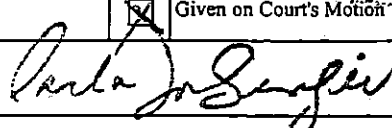
Requested by Plaintiff	<input checked="" type="checkbox"/>	Requested by Defendant	<input type="checkbox"/>	Requested by	<input type="checkbox"/>
Given as Requested	<input type="checkbox"/>	Given as Modified	<input checked="" type="checkbox"/>	Given on Court's Motion	<input type="checkbox"/>
Refused	<input type="checkbox"/>	 Judge			
Withdrawn	<input type="checkbox"/>				

CARLA M. SINGER

Print date: 1/2006

A defendant has an absolute constitutional right not to testify. He [REDACTED] may rely on the state of the evidence and argue that the People have failed to prove the charges beyond a reasonable doubt. Do not consider, for any reason at all, the fact that the defendant did not testify. Do not discuss that fact during your deliberations or let it influence your decision in any way.

CALCRIM 358. EVIDENCE OF DEFENDANT'S STATEMENTS

Requested by Plaintiff	<input checked="" type="checkbox"/>	Requested by Defendant	<input type="checkbox"/>	Requested by	<input type="checkbox"/>
Given as Requested	<input type="checkbox"/>	Given as Modified	<input checked="" type="checkbox"/>	Given on Court's Motion	<input type="checkbox"/>
Refused	<input type="checkbox"/>	<div align="right">  CARLA M. SINGER Judge </div>			
Withdrawn	<input type="checkbox"/>				

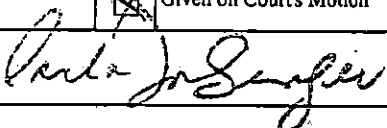
Print date: 1/2006

You have heard evidence that the defendant made an oral ~~statements~~ (before the trial/~~statements~~). You must decide whether or not the defendant made any (such/~~statements~~) ~~statements~~, in whole or in part. If you decide that the defendant made such a ~~statements~~, consider the ~~statements~~, along with all the other evidence, in reaching your verdict. It is up to you to decide how much importance to give to such a ~~statement~~.

You must consider with caution evidence of a defendant's oral statement unless it was ~~recorded~~.

24

**CALCRIM 359. CORPUS DELICTI: INDEPENDENT EVIDENCE OF A
CHARGED CRIME**

Requested by Plaintiff	<input checked="" type="checkbox"/>	Requested by Defendant	<input type="checkbox"/>	Requested by	<input type="checkbox"/>
Given as Requested	<input type="checkbox"/>	Given as Modified	<input checked="" type="checkbox"/>	Given on Court's Motion	<input type="checkbox"/>
Refused	<input type="checkbox"/>	 <div style="text-align: right;">Judge</div>			
Withdrawn	<input type="checkbox"/>				
CARLA M. SINGER					

Print date: 1/2006

The defendant may not be convicted of any crime based on (his/ [REDACTED] out-of-court statement/ alone. Unless you conclude that other evidence shows someone committed the charged crime [REDACTED] you may not rely on any out-of-court statement/ by the defendant to convict (him/ [REDACTED] of that crime [REDACTED] se.

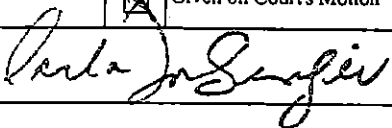
The other evidence may be slight and need only be enough to support a reasonable inference that someone's criminal conduct caused an injury, loss, or harm. The other evidence does not have to prove beyond a reasonable doubt that the charged crime actually was committed.

The identity of the person who committed the crime and the degree of the crime may be proved by the defendant's statement/ alone.

You may not convict the defendant unless the People have proved (his/ [REDACTED] guilt beyond a reasonable doubt.

25

CALCRIM 370. MOTIVE

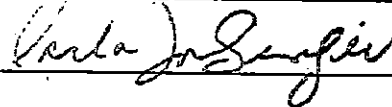
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Given as Requested	<input type="checkbox"/>	Given as Modified	<input checked="" type="checkbox"/>	Given on Court's Motion	<input type="checkbox"/>
Refused	<input type="checkbox"/>	 CARLA M. SINGER Judge			
Withdrawn	<input type="checkbox"/>				

Print date: 1/2006

The People are not required to prove that the defendant had a motive to commit (any of the crimes [REDACTED]) charged. In reaching your verdict you may, however, consider whether the defendant had a motive.

Having a motive may be a factor tending to show that the defendant is guilty. Not having a motive may be a factor tending to show the defendant is not guilty.

CALCRIM 373. OTHER PERPETRATOR

Requested by Plaintiff	<input checked="" type="checkbox"/>	Requested by Defendant	<input type="checkbox"/>	Requested by	<input type="checkbox"/>
Given as Requested	<input type="checkbox"/>	Given as Modified	<input checked="" type="checkbox"/>	Given on Court's Motion	<input type="checkbox"/>
Refused	<input type="checkbox"/>	 CARLA M. SINGER Judge			
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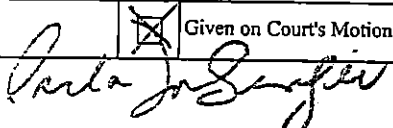
Print date: 1/2006

The evidence shows that ([REDACTED] n/other persons) may have been involved in the commission of the crimes charged against the defendant. There may be many reasons why someone who appears to have been involved might not be a codefendant in this particular trial. You must not speculate about whether ([REDACTED] /those other persons have) been or will be prosecuted. Your duty is to decide whether the defendant on trial here committed the crimes charged.




[REDACTED]

[REDACTED]

CALCRIM 400. AIDING AND ABETTING: GENERAL PRINCIPLES

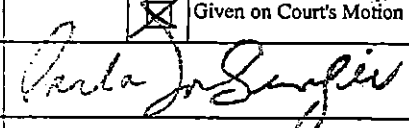
Requested by Plaintiff	<input checked="" type="checkbox"/>	Requested by Defendant	<input type="checkbox"/>	Requested by	<input type="checkbox"/>
Given as Requested	<input type="checkbox"/>	Given as Modified	<input checked="" type="checkbox"/>	Given on Court's Motion	<input type="checkbox"/>
Refused	<input type="checkbox"/>	 CARLA M. SINGER Judge			
Withdrawn	<input type="checkbox"/>				

Print date: 1/2006

A person may be guilty of a crime in two ways. One, he  may have directly committed the crime. Two, he  may have aided and abetted someone else, who committed the crime. In these instructions, I will call that other person the "perpetrator." A person is equally guilty of the crime whether he  committed it personally or aided and abetted the perpetrator who committed it.

Under some specific circumstances, if the evidence establishes aiding and abetting of one crime, a person may also be found guilty of other crimes that occurred during the commission of the first crime.

CALCRIM 401. AIDING AND ABETTING: INTENDED CRIMES

Requested by Plaintiff	<input checked="" type="checkbox"/>	Requested by Defendant	<input type="checkbox"/>	Requested by	<input type="checkbox"/>
Given as Requested	<input type="checkbox"/>	Given as Modified	<input checked="" type="checkbox"/>	Given on Court's Motion	<input type="checkbox"/>
Refused	<input type="checkbox"/>	 CARLA M. SINGER Judge			
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Print date: 1/2006

To prove that the defendant is guilty of a crime based on aiding and abetting that crime, the People must prove that:


1. The perpetrator committed the crime;
2. The defendant knew that the perpetrator intended to commit the crime;
3. Before or during the commission of the crime, the defendant intended to aid and abet the perpetrator in committing the crime;


AND

4. The defendant's words or conduct did in fact aid and abet the perpetrator's commission of the crime.

Someone aids and abets a crime if he  knows of the perpetrator's unlawful purpose and he  specifically intends to, and does in fact, aid, facilitate, promote, encourage, or instigate the perpetrator's commission of that crime.

If all of these requirements are proved, the defendant does not need to actually have been present when the crime was committed to be guilty as an aider and abettor.

If you conclude that defendant was present at the scene of the crime or failed to prevent the crime, you may consider that fact in determining whether the defendant was an aider and abettor. However, the fact that a person is present at the scene of a crime or fails to prevent the crime does not, by itself, make him  an aider and abettor.

A person who aids and abets a crime is not guilty of that crime if he  withdraws before the crime is committed. To withdraw, a person must do two things:

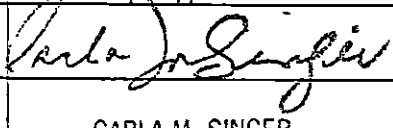
1. He [REDACTED] must notify everyone else he [REDACTED] knows is involved in the commission of the crime that he [REDACTED] is no longer participating. The notification must be made early enough to prevent the commission of the crime.

AND

2. He [REDACTED] must do everything reasonably within his [REDACTED] power to prevent the crime from being committed. He [REDACTED] does not have to actually prevent the crime.

The People have the burden of proving beyond a reasonable doubt that the defendant did not withdraw. If the People have not met this burden, you may not find the defendant guilty under an aiding and abetting theory.

CALCRIM 500. HOMICIDE: GENERAL PRINCIPLES

Requested by Plaintiff	<input checked="" type="checkbox"/>	Requested by Defendant	<input type="checkbox"/>	Requested by	<input type="checkbox"/>
Given as Requested	<input type="checkbox"/>	Given as Modified	<input checked="" type="checkbox"/>	Given on Court's Motion	<input type="checkbox"/>
Refused	<input type="checkbox"/>	 Judge			
Withdrawn	<input type="checkbox"/>				

CARLA M. SINGER

Print date: 1/2006

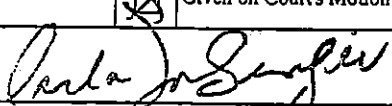
Homicide is the killing of one human being by another. (Murder [REDACTED])

[REDACTED] (is/are) a type of homicide. The defendant is charged with (murder [REDACTED])

A homicide can be lawful or unlawful. If a person kills with a legally valid excuse or justification, the killing is lawful and he/she has not committed a crime. If there is no legally valid excuse or justification, the killing is unlawful and, depending on the circumstances, the person is guilty of either *FIRST OR SECOND DEGREE* murder [REDACTED]. You must decide whether the killing in this case was unlawful and, if so, what specific crime was committed. [REDACTED]

[REDACTED]. I will also instruct you on the different types of (murder [REDACTED])







CALCRIM 520. MURDER WITH MALICE AFORETHOUGHT

Requested by Plaintiff	<input checked="" type="checkbox"/>	Requested by Defendant	<input type="checkbox"/>	Requested by	<input type="checkbox"/>
Given as Requested	<input type="checkbox"/>	Given as Modified	<input checked="" type="checkbox"/>	Given on Court's Motion	<input type="checkbox"/>
Refused	<input type="checkbox"/>	 CARLA M. SINGER Judge			
Withdrawn	<input type="checkbox"/>				


Print date: 1/2006

The defendant is charged in Count 1 with murder.





To prove that the defendant is guilty of this crime, the People must prove that:

1. The defendant committed an act that caused the death of (another person 
AND
2. When the defendant acted, (he ) had a state of mind called malice aforethought 






There are two kinds of malice aforethought, express malice and implied malice. Proof of either is sufficient to establish the state of mind required for murder.

The defendant acted with express malice if (he/she ) unlawfully intended to kill.

The defendant acted with implied malice if:

1. (He/She ) intentionally committed an act;
2. The natural consequences of the act were dangerous to human life;
3. At the time (he/she ) acted, (he/she ) knew (his/her ) act was dangerous to human life;

AND

4. (He/She ) deliberately acted with conscious disregard for (human/) life.

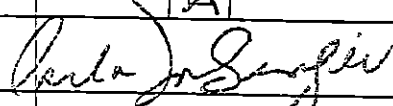
Malice aforethought does not require hatred or ill will toward the victim. It is a mental state that must be formed before the act that causes death is committed. It does not require deliberation or the passage of any particular period of time.

[REDACTED]

An act causes death if the death is the direct, natural, and probable consequence of the act and the death would not have happened without the act. A natural and probable consequence is one that a reasonable person would know is likely to happen if nothing unusual intervenes. In deciding whether a consequence is natural and probable, consider all of the circumstances established by the evidence.

[REDACTED]

CALCRIM 521. MURDER: DEGREES

Requested by Plaintiff	<input checked="" type="checkbox"/>	Requested by Defendant	<input type="checkbox"/>	Requested by	<input type="checkbox"/>
Given as Requested	<input type="checkbox"/>	Given as Modified	<input checked="" type="checkbox"/>	Given on Court's Motion	<input type="checkbox"/>
Refused	<input type="checkbox"/>	 CARLA M. SINGER Judge			
Withdrawn	<input type="checkbox"/>				

Print date: 1/2006

If you decide that the defendant has committed murder, you must decide whether it is murder of the first or second degree.

[REDACTED]

[REDACTED] eged.>

[REDACTED]

[REDACTED] willfully, deliberately, and

[REDACTED]

[REDACTED]

[REDACTED] and

[REDACTED] >.)

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

The defendant is guilty of first degree murder if the People have proved that (he/she) acted willfully, deliberately, and with premeditation. The defendant acted willfully if (he/she) intended to kill. The defendant acted deliberately if (he/ she) carefully weighed the considerations for and against (his/ her) choice and, knowing the consequences, decided to kill. The defendant acted with premeditation if (he/ she) decided to kill before committing the act that caused death.

The length of time the person spends considering whether to kill does not alone determine

whether the killing is deliberate and premeditated. The amount of time required for deliberation and premeditation may vary from person to person and according to the circumstances. A decision to kill made rashly, impulsively, or without careful consideration is not deliberate and premeditated. On the other hand, a cold, calculated decision to kill can be reached quickly. The test is the extent of the reflection, not the length of time.

~~<B. Torture>~~

~~The defendant is guilty of first degree murder if the People have proved that the defendant murdered by torture. The defendant murdered by torture if:~~

- ~~1. (He/She) willfully, deliberately, and with premeditation intended to inflict extreme and prolonged pain on the person killed while that person was still alive;~~
- ~~2. (He/She) intended to inflict such pain on the person killed for the calculated purpose of revenge, extortion, persuasion, or any other sadistic reason;~~

~~AND~~

- ~~3. The torture was a cause of death.~~

~~A person commits an act willfully when he or she does it willingly or on purpose. A person deliberates if he or she carefully weighs the considerations for and against his or her choice and, knowing the consequences, decides to act. An act is done with premeditation if the decision to commit the act is made before the act is done.~~

~~There is no requirement that the person killed be aware of the pain.~~

~~A finding of torture does not require that the defendant intended to kill.~~

~~<C. Lying in Wait>~~

~~The defendant is guilty of first degree murder if the People have proved that the defendant murdered while lying in wait or immediately thereafter. The defendant murdered by lying in wait if:~~

- ~~1. (He/She) concealed (his/her) purpose from the person killed;~~
- ~~2. (He/She) waited and watched for an opportunity to act;~~

~~AND~~

~~Then, from a position of advantage, (he/she) intended to and did make a surprise attack on the person killed.~~

~~_____ guilty of first degree murder if the People have proved that when the defendant murdered, (he/she) used ammunition designed primarily to penetrate metal or armor to commit the murder and (he/she) knew that the ammunition was designed primarily to penetrate metal or armor.~~

~~<G. Discharge from Vehicle>~~

~~The defendant is guilty of first degree murder if the People have proved that the defendant murdered by shooting a firearm from a motor vehicle. The defendant committed this kind of murder if:~~

- ~~1. (He/She) shot a firearm from a motor vehicle;~~
- ~~2. (He/She) intentionally shot at a person who was outside the vehicle;~~

~~AND~~

- ~~3. (He/She) intended to kill that person.~~

~~A firearm is any device designed to be used as a weapon, from which a projectile is discharged or expelled through a barrel by the force of an explosion or other form of combustion.~~

~~A motor vehicle includes (a/an) (passenger vehicle/motorcycle/motor scooter/bus/school bus/commercial vehicle/truck tractor and trailer/_____ (insert other type of motor vehicle)).~~

~~<H. Poison>~~

~~The defendant is guilty of first degree murder if the People have proved that the defendant murdered using poison.~~

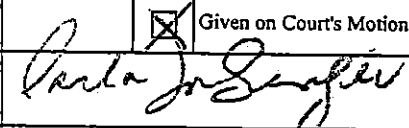
~~Poison is a substance, applied externally to the body or introduced into the body, that can kill by its own inherent qualities.~~

~~_____ <insert name of substance> is a poison.~~

~~All other murders are of the second degree.~~

~~The People have the burden of proving beyond a reasonable doubt that the killing was first degree murder rather than a lesser crime. If the People have not met this burden, you must find the defendant not guilty of first degree murder.~~

**CALCRIM 640. PROCEDURE FOR COMPLETION OF VERDICT FORMS: WITH
STONE INSTRUCTION**

Requested by Plaintiff	<input checked="" type="checkbox"/>	Requested by Defendant	<input type="checkbox"/>	Requested by	<input type="checkbox"/>
Given as Requested	<input type="checkbox"/>	Given as Modified	<input checked="" type="checkbox"/>	Given on Court's Motion	<input type="checkbox"/>
Refused	<input type="checkbox"/>	 CARLA M. SINGER Judge			
Withdrawn	<input type="checkbox"/>				

Print date: 1/2006

You have been given several verdict forms for [REDACTED] murder, a [REDACTED]

In connection with Count 1, I have given you 4 [REDACTED] separate verdict forms. These are: Guilty/Not Guilty of first degree murder and second degree murder [REDACTED]

You may consider these different kinds of homicide in whatever order you wish. I am going to explain how to complete the verdict forms using one order, but you may choose the order to use. As with all the charges in this case, to return a verdict of guilty or not guilty on a count, you must all agree on that decision.

If you all agree the People have not proved the defendant committed an unlawful killing, then you must complete each verdict form stating that (he/she) is not guilty.

If you all agree the People have proved the defendant killed unlawfully, you must decide what [REDACTED] degree of unlawful killing the People have proved.

If you all agree that the People have proved that the unlawful killing was first degree murder, complete the verdict form stating that the defendant is guilty of first degree murder. Do not complete the other verdict forms for this count.

If you all agree that the defendant is not guilty of first degree murder, but you agree the People have proved the killing was second degree murder, you must do two things. First, complete the verdict form stating that the defendant is not guilty of first degree murder. Then, complete the

verdict form stating that the defendant is guilty of second degree murder. Do not complete the verdict form stating that the defendant is guilty of second degree murder unless you all agree that the defendant is not guilty of first degree murder. Do not complete the other verdict forms for this count.

If you all agree the People have proved the defendant committed murder, but you cannot all agree on which degree they have proved, do not complete any verdict forms. Instead, the foreperson should send a note reporting that you cannot all agree on the degree of murder that has been proved.

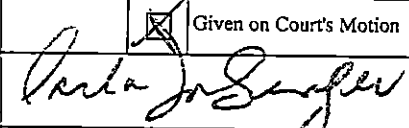
If you all agree that the defendant is not guilty of first degree murder, but you cannot all agree on whether or not the People have proved the defendant committed second degree murder, then you must do two things. First, complete the verdict form stating that the defendant is not guilty of first degree murder. Second, the foreperson should send a note reporting that you cannot all agree that second degree murder has been proved. Do not complete any other verdict forms for this count.

The People have the burden of proving that the defendant committed first degree murder rather than a lesser offense. If the People have not met this burden, you must find the defendant not guilty of first degree murder.

~~If you all agree that the defendant is not guilty of first or second degree murder, but you all agree the People have proved that (he/she) is guilty of voluntary manslaughter, then you must do two things. First, complete the verdict form stating that (he/she) is not guilty of first and second degree murder. Second, complete the verdict form stating that (he/she) is guilty of voluntary manslaughter. Do not complete the verdict form stating that the defendant is guilty of voluntary manslaughter unless you all agree that the defendant is not guilty of murder. Do not complete any other verdict forms for this count.~~

~~If you all agree that the defendant is not guilty of first or second degree murder, but you cannot all agree on whether or not the People have proved the defendant committed voluntary manslaughter, then you must do two things. First, complete both verdict forms stating that the~~

**CALCRIM 2688. DISTURBING THE PEACE: FIGHTING OR CHALLENGING
SOMEONE TO FIGHT**

Requested by Plaintiff	<input checked="" type="checkbox"/>	Requested by Defendant	<input type="checkbox"/>	Requested by	<input type="checkbox"/>
Given as Requested	<input type="checkbox"/>	Given as Modified	<input checked="" type="checkbox"/>	Given on Court's Motion	<input type="checkbox"/>
Refused	<input type="checkbox"/>	 CARLA M. SINGER Judge			
Withdrawn	<input type="checkbox"/>				

Print date: 1/2006

DISTURBING THE PEACE

To prove that **A PERSON** the People must prove that:

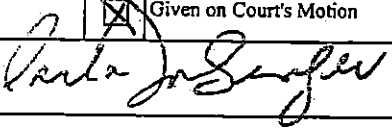
1. **A PERSON** willfully and unlawfully (fought/or challenged someone else to fight);

AND

2. The **PERSON** and **AN** other person were (in a public place/i **AN** when (the fight occurred/or the challenge was made) (;/.)

Someone commits an act willfully when he **AN** does it willingly or on purpose.

CALCRIM 915. SIMPLE ASSAULT

Requested by Plaintiff	<input checked="" type="checkbox"/>	Requested by Defendant	<input type="checkbox"/>	Requested by	<input type="checkbox"/>
Given as Requested	<input type="checkbox"/>	Given as Modified	<input checked="" type="checkbox"/>	Given on Court's Motion	<input type="checkbox"/>
Refused	<input type="checkbox"/>	 CARLA M. SINGER Judge			
Withdrawn	<input type="checkbox"/>				

Print date: 1/2006

To prove ^{an assault} [REDACTED], the People must prove that:

1. ^{A PERSON} [REDACTED] did an act that by its nature would directly and probably result in the application of force to a ^{NATURAL} person;
2. The ^{PERSON} [REDACTED] did that act willfully;
3. When the ^{PERSON} [REDACTED] acted, (he/^{NATURAL} [REDACTED]) was aware of facts that would lead a reasonable person to realize that (his/^{NATURAL} [REDACTED] act by its nature would directly and probably result in the application of force to someone;

AND

4. When the ^{PERSON} [REDACTED] acted, (he/^{NATURAL} [REDACTED]) had the present ability to apply force to a person (./.)

Someone commits an act willfully when he [REDACTED] does it willingly or on purpose. It is not required that he [REDACTED] intend to break the law, hurt someone else, or gain any advantage.

The terms application of force and apply force mean to touch in a harmful or offensive manner. The slightest touching can be enough if it is done in a rude or angry way. Making contact with another person, including through his or her clothing, is enough. The touching does not have to cause pain or injury of any kind.

The touching can be done indirectly by causing an object or someone else to touch the other

person.

Person
The People are not required to prove that the [REDACTED] actually touched someone.

The People are not required to prove that the [REDACTED] actually intended to use force against someone when (he/she) acted. *Person*

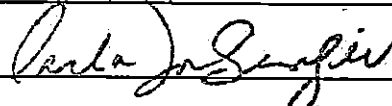
Person
No one needs to actually have been injured by the [REDACTED] act. [REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

**CALCRIM 403. NATURAL AND PROBABLE CONSEQUENCES (ONLY
NON-TARGET OFFENSE CHARGED)**

Requested by Plaintiff	<input checked="" type="checkbox"/>	Requested by Defendant	<input type="checkbox"/>	Requested by	<input type="checkbox"/>
Given as Requested	<input type="checkbox"/>	Given as Modified	<input checked="" type="checkbox"/>	Given on Court's Motion	<input type="checkbox"/>
Refused	<input type="checkbox"/>	 Judge			
Withdrawn	<input type="checkbox"/>				

CARLA M. SINGER

Print date: 1/2006

Before you may decide whether the defendant is guilty of murder, you must decide whether he is guilty of ^{disturbing the peace or} conspiracy to commit either disturbing the peace, assault, or [REDACTED], violations of Penal Code Sections 415, 240, [REDACTED] respectively.

To prove that the defendant is guilty of murder, the People must prove that:

1. The defendant is guilty of ^{disturbing the peace, or} conspiracy to commit either disturbing the peace, assault, or [REDACTED]

2. During the commission of ^{disturbing the peace or} conspiracy to commit either disturbing the peace, assault, or [REDACTED] the crime of murder was committed;

AND

3. Under all of the circumstances, a reasonable person in the defendant's position would have known that the commission of the murder was a natural and probable consequence of ^{or the} ^{disturbing the peace or} conspiracy to commit either disturbing the peace, assault, or [REDACTED]


A natural and probable consequence is one that a reasonable person would know is likely to happen if nothing unusual intervenes. In deciding whether a consequence is natural and probable, consider all of the circumstances established by the evidence. If the murder was committed for a reason independent of the common plan to ^{disturb the peace or} conspiracy ^{to commit either} or disturbing the peace, assault, or [REDACTED], then the commission of murder was not a natural and probable consequence of ^{disturbing the peace or} conspiracy to commit either disturbing the peace, assault, or [REDACTED]

[REDACTED]
To decide whether ^{the} crime of murder was committed, please refer to the separate instructions that I (have given) you on ^{that} (these) crime.

The People are alleging that the defendant originally conspired to commit ^{DISTURBED} ~~disturbing~~ the peace or ^{EITHER} ~~either~~ disturbing the peace, assault, or [REDACTED]; violations of Penal Code Sections 415, 240, [REDACTED] & respectively

[REDACTED] ^{disturbed the place} [REDACTED] or
The defendant is guilty of murder if you decide that the defendant conspired to commit ^{disturbing the place or assault} [REDACTED] and that murder was the natural and probable result of one of these crimes. However, you do not need to agree about which of these crimes the defendant ^{committed or} conspired to commit.

CALCRIM 416. EVIDENCE OF UNCHARGED CONSPIRACY

Requested by Plaintiff	<input checked="" type="checkbox"/>	Requested by Defendant	<input type="checkbox"/>	Requested by	<input type="checkbox"/>
Given as Requested	<input type="checkbox"/>	Given as Modified	<input checked="" type="checkbox"/>	Given on Court's Motion	<input type="checkbox"/>
Refused	<input type="checkbox"/>	 CARLA M. SINGER Judge			
Withdrawn	<input type="checkbox"/>				

Print date: 1/2006

The People have presented evidence of a conspiracy. A member of a conspiracy is criminally responsible for the acts or statements of any other member of the conspiracy done to help accomplish the goal of the conspiracy.

To prove that [REDACTED] (the) defendant was a member of a conspiracy in this case, the People must prove that:

1. The defendant intended to agree and did agree with one or more of [REDACTED] *FRANK LOPEZ*
ISRAEL LOPEZ, SEVERO DELARIVA, and LOUIS PEREZ, and JESUS LOPEZ
to commit disturbing the peace, assault, [REDACTED]

2. At the time of the agreement, the defendant and one or more of the other alleged members of the conspiracy intended that one or more of them would commit disturbing the peace, assault, [REDACTED]

3. (The defendant or [REDACTED] *FRANK LOPEZ, ISRAEL LOPEZ,*
[REDACTED] committed at least one overt act to accomplish disturbing the peace, assault, [REDACTED] *SEVERO DELARIVA, LOUIS PEREZ and JESUS LOPEZ*

AND

4. At least one [REDACTED] overt act, was committed in California.

To decide whether the defendant and one or more of the other alleged members of the conspiracy intended to commit disturbing the peace, assault, [REDACTED]
please refer to the separate instructions that I (have given) you on (those) crimes.

The People must prove that the members of the alleged conspiracy had an agreement and intent

to commit disturbing the peace, assault, [REDACTED] The People do not have to prove that any of the members of the alleged conspiracy actually met or came to a detailed or formal agreement to commit one or more of those crimes. An agreement may be inferred from conduct if you conclude that members of the alleged conspiracy acted with a common purpose to commit the crime.

An overt act is an act by one or more of the members of the conspiracy that is done to help accomplish the agreed upon crime. The overt act must happen after the defendant has agreed to commit the crime. The overt act must be more than the act of agreeing or planning to commit the crime, but it does not have to be a criminal act itself.

You must all agree that at least one overt act was committed in California by at least one alleged member of the conspiracy, but you do not have to all agree on which specific overt act or acts were committed or who committed the overt act or acts.

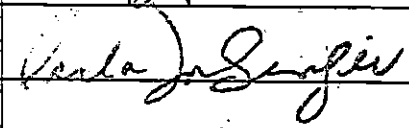
The People contend that the defendant conspired to commit one of the following crimes: disturbing the peace, assault, [REDACTED]. You may not find the defendant guilty under a conspiracy theory unless all of you agree that the People have proved that the defendant conspired to commit at least one of these crimes, and you all agree which crime (he) conspired to commit.

A member of a conspiracy does not have to personally know the identity or roles of all the other members.

Someone who merely accompanies or associates with members of a conspiracy but who does not intend to commit the crime is not a member of the conspiracy.


Evidence that a person did an act or made a statement that helped accomplish the goal of the conspiracy is not enough, by itself, to prove that the person was a member of the conspiracy.

CALCRIM 417. LIABILITY FOR COCONSPIRATORS' ACTS

Requested by Plaintiff	<input checked="" type="checkbox"/>	Requested by Defendant	<input type="checkbox"/>	Requested by	<input type="checkbox"/>
Given as Requested	<input type="checkbox"/>	Given as Modified	<input checked="" type="checkbox"/>	Given on Court's Motion	<input type="checkbox"/>
Refused	<input type="checkbox"/>	 Judge			
Withdrawn	<input type="checkbox"/>				

CARLA M. SINGER

Print date: 1/2006

A member of a conspiracy is criminally responsible for the crimes that he  conspires to commit, no matter which member of the conspiracy commits the crime.


A member of a conspiracy is also criminally responsible for any act of any member of the conspiracy if that act is done to further the conspiracy and that act is a natural and probable consequence of the common plan or design of the conspiracy. This rule applies even if the act was not intended as part of the original plan. Under this rule, a defendant who is a member of the conspiracy does not need to be present at the time of the act.

A natural and probable consequence is one that a reasonable person would know is likely to happen if nothing unusual intervenes. In deciding whether a consequence is natural and probable, consider all of the circumstances established by the evidence.

A member of a conspiracy is not criminally responsible for the act of another member if that act does not further the common plan or is not a natural and probable consequence of the common plan.

To prove that the defendant is guilty of the crimes charged in Count 1, the People must prove that:

1. The defendant conspired to commit one of the following crimes: disturbing the peace or assault

2. A member of the conspiracy committed murder  to further the conspiracy;

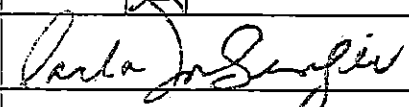
AND

3. Murder [REDACTED] (was/ [REDACTED] a natural and probable consequence of the common plan or design of the crime that the defendant conspired to commit.

The defendant is not responsible for the acts of another person who was not a member of the conspiracy even if the acts of the other person helped accomplish the goal of the conspiracy.

A conspiracy member is not responsible for the acts of other conspiracy members that are done after the goal of the conspiracy had been accomplished.

CALCRIM 418. COCONSPIRATOR'S STATEMENTS

Requested by Plaintiff	<input checked="" type="checkbox"/>	Requested by Defendant	<input type="checkbox"/>	Requested by	<input type="checkbox"/>
Given as Requested	<input type="checkbox"/>	Given as Modified	<input checked="" type="checkbox"/>	Given on Court's Motion	<input type="checkbox"/>
Refused	<input type="checkbox"/>	 CARLA M. SINGER Judge			
Withdrawn	<input type="checkbox"/>				

Print date: 1/2006

In deciding whether the People have proved that (the defendant [REDACTED])

[REDACTED] committed any of the crimes charged, you may not consider any statement made out of court by [REDACTED] unless the People have proved by a

preponderance of the evidence that:

1. Some evidence other than the statement itself establishes that a conspiracy to commit a crime existed when the statement was made;

2. [REDACTED] (were) members of and participating in the

conspiracy when [REDACTED] (they) made the statement;

FRANK LOPEZ, ISRAEL LOPEZ, SEVERO DE LA RIVA, LOUIS PEREZ and JESUS LOPEZ made the statement in order to further the goal of the conspiracy; AND

4. The statement was made before or during the time that (the defendant [REDACTED])

[REDACTED] (was) participating in the conspiracy.

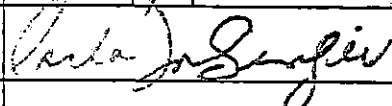
A statement means an oral or written expression, or nonverbal conduct intended to be a substitute for an oral or written expression.

Proof by a preponderance of the evidence is a different standard of proof than proof beyond a reasonable doubt. A fact is proved by a preponderance of the evidence if you conclude that it is more likely than not that the fact is true.

You may not consider statements made by a person who was not a member of the conspiracy even if the statements helped accomplish the goal of the conspiracy.

You may not consider statements made after the goal of the conspiracy had been accomplished.


CALCRIM 1400. ACTIVE PARTICIPATION IN CRIMINAL STREET GANG

Requested by Plaintiff	<input checked="" type="checkbox"/>	Requested by Defendant	<input type="checkbox"/>	Requested by	<input type="checkbox"/>
Given as Requested	<input type="checkbox"/>	Given as Modified	<input checked="" type="checkbox"/>	Given on Court's Motion	<input type="checkbox"/>
Refused	<input type="checkbox"/>	 CARLA M. SINGER Judge			
Withdrawn	<input type="checkbox"/>				

Print date: 1/2006

The defendant is charged in Count 2 with participating in a criminal street gang.



To prove that the defendant is guilty of this crime, the People must prove that:




1. The defendant actively participated in a criminal street gang;
2. When the defendant participated in the gang, (he/ ) knew that members of the gang engage in or have engaged in a pattern of criminal gang activity;

AND

3. The defendant willfully assisted, furthered, or promoted felonious criminal conduct by members of the gang.

Active participation means involvement with a criminal street gang in a way that is more than passive or in name only.

The People do not have to prove that the defendant devoted all or a substantial part of (his/ ) time or efforts to the gang, or that (he/ ) was an actual member of the gang.

A criminal street gang is any ongoing organization, association, or group of three or more persons, whether formal or informal:

1. That has a common name or common identifying sign or symbol;
2. That has, as one or more of its primary activities, the commission of murder, assault w/ firearm, possession of narcotic for sale



AND

3. Whose members, whether acting alone or together, engage in or have engaged in a pattern of criminal gang activity.

In order to qualify as a primary activity, the crime must be one of the group's chief or principal activities rather than an occasional act committed by one or more persons who happen to be members of the group.

A pattern of criminal gang activity, as used here, means:

1. The (commission of, or attempted commission of, [REDACTED] any
[REDACTED], or conviction of, or ([REDACTED]) any
combination of two or more of the following crimes: *murder, attempted murder, manslaughter*
[REDACTED]

2. At least one of those crimes was committed after September 26, 1988;
3. The most recent crime occurred within three years of one of the earlier crimes;

AND

4. The crimes were committed on separate occasions or were personally committed by two or more persons.

The People need not prove that every perpetrator involved in the pattern of criminal gang activity, if any, was a member of the alleged criminal street gang at the time when such activity was taking place.

The crimes, if any, that establish a pattern of criminal gang activity, need not be gang-related.

If you find the defendant guilty of a crime in this case, you may consider that crime in deciding whether one of the group's primary activities was commission of that crime and whether a pattern of criminal gang activity has been proved.

You may not find that there was a pattern of criminal gang activity unless all of you agree that two or more crimes that satisfy these requirements were committed, but you do not have to all agree on which crimes were committed.

As the term is used here, a willful act is one done willingly or on purpose.

Felonious criminal conduct means committing or attempting to commit any of the following

crimes: _____

murder

To decide whether a member of the gang or the defendant committed _____

murder

_____, please refer to the separate instructions that I (_____) have given) you on (that _____) crime.

To prove that the defendant willfully assisted, furthered, or promoted a crime, the People must prove that:

1. A member of the gang committed the crime;
2. The defendant knew that the gang member intended to commit the crime;
3. Before or during the commission of the crime, the defendant intended to aid and abet the gang member in committing the crime;

AND

4. The defendant's words or conduct did in fact aid and abet the commission of the crime.

Someone aids and abets a crime if he or she knows of the perpetrator's unlawful purpose and he or she specifically intends to, and does in fact, aid, facilitate, promote, encourage, or instigate the perpetrator's commission of that crime.

If you conclude that defendant was present at the scene of the crime or failed to prevent the crime, you may consider that fact in determining whether the defendant was an aider and abettor.

However, the fact that a person is present at the scene of a crime or fails to prevent the crime does not, by itself, make him or her an aider and abettor.

A person who aids and abets a crime is not guilty of that crime if he or she withdraws before the crime is committed. To withdraw, a person must do two things:

1. He or she must notify everyone else he or she knows is involved in the commission of the crime that he or she is no longer participating. The notification must be made early enough to prevent the commission of the crime;

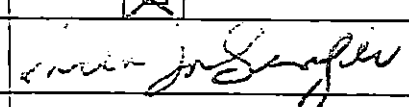
AND

2. He or she must do everything reasonably within his or her power to prevent the crime from

being committed. He or she does not have to actually prevent the crime.

The People have the burden of proving beyond a reasonable doubt that the defendant did not withdraw. If the People have not met this burden, you may not find the defendant guilty under an aiding and abetting theory.

**CALCRIM 1401. FELONY COMMITTED FOR BENEFIT OF CRIMINAL
STREET GANG**

Requested by Plaintiff	<input checked="" type="checkbox"/>	Requested by Defendant	<input type="checkbox"/>	Requested by	<input type="checkbox"/>
Given as Requested	<input type="checkbox"/>	Given as Modified	<input checked="" type="checkbox"/>	Given on Court's Motion	<input type="checkbox"/>
Refused	<input type="checkbox"/>	 CARLA M. SINGER Judge			
Withdrawn	<input type="checkbox"/>				

Print date: 1/2006

If you find the defendant guilty of the crime charged in Count 1, [REDACTED], you must then decide whether, [REDACTED], the People have proved the additional allegation that the defendant committed that crime (for the benefit of, at the direction of, or in association with) a criminal street gang. You must decide whether the People have proved this allegation [REDACTED] and return a [REDACTED] finding [REDACTED].

~~You must also decide whether the crime charged in Counts ____ (was/were) committed on the grounds of, or within 1,000 feet of a public or private (elementary, vocational, junior high, or middle school or high) school open or being used by _____ for classes or school-related programs at the time.~~

To prove this allegation, the People must prove that:

1. The defendant (committed [REDACTED]) the crime (for the benefit of, at the direction of, or in association with) a criminal street gang;

AND

2. The defendant intended to assist, further, or promote criminal conduct by gang members.

[REDACTED]
A criminal street gang is defined in another instruction to which you should refer.
[REDACTED]
[REDACTED]

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- ~~That has a common name or common identifying sign or symbol;~~
2. That has, as one or more of its primary activities, the commission of _____ <insert one or more crimes listed in Pen. Code, § 186.22(e)(1)-(25)>;

AND

3. Whose members, whether acting alone or together, engage in or have engaged in a pattern of criminal gang activity.

In order to qualify as a primary activity, the crime must be one of the group's chief or principal activities rather than an occasional act committed by one or more persons who happen to be members of the group.

A pattern of criminal gang activity, as used here, means:

1. The (commission of, or/attempted commission of, or/conspiracy to commit, or/solicitation to commit, or/conviction of, or/having/having) juvenile petition sustained for commission of) any combination of two or more of the following crimes: _____ <insert one or more crimes listed in Pen. Code, § 186.22(e)(1)-(25)>;

2. At least one of those crimes was committed after September 26, 1988;

3. The most recent crime occurred within three years of one of the earlier crimes;

AND

4. The crimes were committed on separate occasions or were personally committed by two or more persons.

~~That has a common name or common identifying sign or symbol;~~

The People need not prove that the defendant is an active or current member of the alleged criminal street gang.

If you find the defendant guilty of a crime in this case, you may consider that crime in deciding whether one of the group's primary activities was commission of that crime and whether a pattern of criminal gang activity has been proved.


You may not find that there was a pattern of criminal gang activity unless all of you agree that two or more crimes that satisfy these requirements were committed, but you do not have to all

agree on which crimes were committed.

To decide whether a member of the gang or the defendant committed murder [REDACTED]
[REDACTED] please refer to the separate instructions
that I [REDACTED] /have given) you on (that/[REDACTED]) crime.

The People have the burden of proving each allegation beyond a reasonable doubt. If the
People have not met this burden, you must find that the allegation has not been proved.

CALCRIM 1402. GANG-RELATED FIREARM ENHANCEMENT

Requested by Plaintiff	<input checked="" type="checkbox"/>	Requested by Defendant	<input type="checkbox"/>	Requested by	<input type="checkbox"/>
Given as Requested	<input type="checkbox"/>	Given as Modified	<input checked="" type="checkbox"/>	Given on Court's Motion	<input type="checkbox"/>
Refused	<input type="checkbox"/>	 CARLA M. SINGER Judge			
Withdrawn	<input type="checkbox"/>				

Print date: 1/2006

If you find the defendant guilty of the crime charged in Count 1

and you find that the defendant committed (that/this) crime for the benefit of, at the direction of, or in association with a criminal street gang with the intent to promote, further, or assist in any criminal conduct by gang members, you must then decide whether, the People have proved the additional allegation that one of the principals (personally and intentionally discharged) a firearm during that crime and caused death). You must decide whether the People have proved this allegation and return a finding

To prove this allegation, the People must prove that:

1. Someone who was a principal in the crime personally discharged) a firearm during the commission or attempted commission of the crime (./;)

AND

2. That person intended to discharge the firearm (./;)

AND

3. That person's act caused (the death of) another person who was not an accomplice to the crime.

A person is a principal in a crime if he directly commits or attempts to commit the crime or if he aids and abets someone else who commits or attempts to commit the crime.

A firearm is any device designed to be used as a weapon, from which a projectile is discharged

or expelled through a barrel by the force of an explosion or other form of combustion.

[REDACTED]
[REDACTED] and appears capable
[REDACTED]

A principal personally uses a firearm if he or she intentionally does any of the following:

1. Displays the firearm in a menacing manner.
2. Hits someone with the firearm.

OR

3. Fires the firearm.
- [REDACTED]
[REDACTED]

An act causes ([REDACTED] death) if the ([REDACTED] death) is the direct, natural, and probable consequence of the act and the ([REDACTED] death) would not have happened without the act. A natural and probable consequence is one that a reasonable person would know is likely to happen if nothing unusual intervenes. In deciding whether a consequence is natural and probable, consider all the circumstances established by the evidence.

[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]

A person is an accomplice if he or she is subject to prosecution for the identical crime charged against the defendant. A person is subject to prosecution if he or she committed the crime or if:

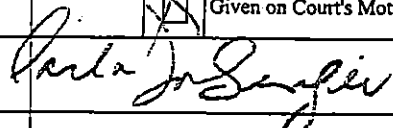
1. He or she knew of the criminal purpose of the person who committed the crime;

AND

2. He or she intended to, and did in fact, (aid, facilitate, promote, encourage, or instigate the commission of the crime/or participate in a criminal conspiracy to commit the crime).
- [REDACTED]
[REDACTED]

The People have the burden of proving each allegation beyond a reasonable doubt. If the People have not met this burden, you must find that the allegation has not been proved.

CALCRIM 1403. LIMITED PURPOSE OF EVIDENCE OF GANG ACTIVITY

Requested by Plaintiff	<input checked="" type="checkbox"/>	Requested by Defendant	<input type="checkbox"/>	Requested by	<input type="checkbox"/>
Given as Requested	<input type="checkbox"/>	Given as Modified	<input checked="" type="checkbox"/>	Given on Court's Motion	<input type="checkbox"/>
Refused	<input type="checkbox"/>	 CARLA M. SINGER Judge			
Withdrawn	<input type="checkbox"/>				

Print date: 1/2006

You may consider evidence of gang activity only for the limited purpose of deciding whether:

> The defendant acted with the intent, purpose, and knowledge that are required to prove the gang-related (crimes/and enhancements/as [REDACTED] charged (;/.)

OR

> The defendant had a motive to commit the crimes charged (;/.)

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

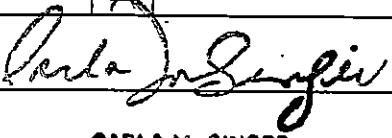
[REDACTED]

[REDACTED]

You may also consider this evidence when you evaluate the credibility or believability of a witness and when you consider the facts and information relied on by an expert witness in reaching his [REDACTED] opinion.

You may not consider this evidence for any other purpose. You may not conclude from this evidence that the defendant is a person of bad character or that (he [REDACTED]) has a disposition to commit crime.

CALCRIM 3550. PRE-DELIBERATION INSTRUCTIONS

Requested by Plaintiff	<input checked="" type="checkbox"/>	Requested by Defendant	<input type="checkbox"/>	Requested by	<input type="checkbox"/>
Given as Requested	<input type="checkbox"/>	Given as Modified	<input checked="" type="checkbox"/>	Given on Court's Motion	<input type="checkbox"/>
Refused	<input type="checkbox"/>	 Judge			
Withdrawn	<input type="checkbox"/>				

CARLA M. SINGER

Print date: 1/2006

When you go to the jury room, the first thing you should do is choose a foreperson. The foreperson should see to it that your discussions are carried on in an organized way and that everyone has a fair chance to be heard.

It is your duty to talk with one another and to deliberate in the jury room. You should try to agree on a verdict if you can. Each of you must decide the case for yourself, but only after you have discussed the evidence with the other jurors. Do not hesitate to change your mind if you become convinced that you are wrong. But do not change your mind just because other jurors disagree with you.

Keep an open mind and openly exchange your thoughts and ideas about this case. Stating your opinions too strongly at the beginning or immediately announcing how you plan to vote may interfere with an open discussion. Please treat one another courteously. Your role is to be an impartial judge of the facts, not to act as an advocate for one side or the other.

As I told you at the beginning of the trial, do not talk about the case or about any of the people or any subject involved in it with anyone, including, but not limited to, your spouse or other family, or friends, spiritual leaders or advisors, or therapists. You must discuss the case only in the jury room and only when all jurors are present. Do not discuss your deliberations with anyone.

During the trial, several items were received into evidence as exhibits. You may examine whatever exhibits you think will help you in your deliberations. (These exhibits will be sent into the jury room with you when you begin to deliberate. If you wish to see ^{the gun or the bullet} ~~any of the exhibits~~, please request them in writing.)

If you need to communicate with me while you are deliberating, send a note through the bailiff, signed by the foreperson or by one or more members of the jury. To have a complete record of this trial, it is important that you not communicate with me except by a written note. If you have questions, I will talk with the attorneys before I answer so it may take some time. You should continue your deliberations while you wait for my answer. I will answer any questions in writing or orally here in open court.

Do not reveal to me or anyone else how the vote stands on the (question of guilt/or issues in this case) unless I ask you to do so.


Your verdict on each count and any special findings must be unanimous. This means that, to return a verdict, all of you must agree to it.

It is not my role to tell you what your verdict should be. Do not take anything I said or did during the trial as an indication of what I think about the facts, the witnesses, or what your verdict should be.

You will be given ~~a~~ verdict forms. As soon as all jurors have agreed on a verdict, the foreperson must date and sign the appropriate verdict forms and notify the bailiff. If you are able to reach a unanimous decision on only one or only some of the (charges [REDACTED], fill in [REDACTED] those) verdict forms only, and notify the bailiff. Return any unsigned verdict form.

62

**CALCRIM 3577. INSTRUCTIONS TO ALTERNATE ON SUBMISSION OF CASE
TO JURY**

Requested by Plaintiff	<input checked="" type="checkbox"/>	Requested by Defendant	<input type="checkbox"/>	Requested by	<input type="checkbox"/>
Given as Requested	<input type="checkbox"/>	Given as Modified	<input checked="" type="checkbox"/>	Given on Court's Motion	<input type="checkbox"/>
Refused	<input type="checkbox"/>	 CARLA M. SINGER Judge			
Withdrawn	<input type="checkbox"/>				

Print date: 1/2006

Alternate Jurors # 2 and 3
 _____ the jury is now deliberating, but you are still ~~an~~ alternate jurors and are bound by my earlier instructions about your conduct.


Do not talk about the case or about any of the people or any subject involved in it with anyone, not even your family or friends, and not even with each other. Do not have any contact with the deliberating jurors. Do not decide how you would vote if you were deliberating. Do not form or express an opinion about the issues in this case, unless you are substituted for one of the deliberating jurors.

103

CALCRIM 3590. FINAL INSTRUCTION ON DISCHARGE OF JURY

JUN 7 2006

ALAN SLATER, Clerk of the Court

Requested by Plaintiff	<input checked="" type="checkbox"/>	Requested by Defendant	<input type="checkbox"/>	Requested by	<input type="checkbox"/>
Given as Requested	<input checked="" type="checkbox"/>	Given as Modified	<input type="checkbox"/>	Given on Court's Motion	<input type="checkbox"/>
Refused	<input type="checkbox"/>	 CARLA M. SINGER Judge			
Withdrawn	<input type="checkbox"/>				

Print date: 1/2006

You have now completed your jury service in this case. On behalf of all the judges of the court, please accept my thanks for your time and effort.

Now that the case is over, you may choose whether or not to discuss the case and your deliberations with anyone.

I remind you that under California law, you must wait at least 90 days before negotiating or agreeing to accept any payment for information about the case.

Let me tell you about some rules the law puts in place for your convenience and protection.

The lawyers in this case, the defendants, or their representatives may now talk to you about the case, including your deliberations or verdict. Those discussions must occur at a reasonable time and place and with your consent.

Please immediately report to the court any unreasonable contact, made without your consent, by the lawyers in this case, their representatives, or the defendants.

A lawyer, representative, or defendant who violates these rules violates a court order and may be fined.

I order that the court's record of personal juror identifying information, including names, addresses, and telephone numbers, be sealed until further order of this court.

If, in the future, the court is asked to decide whether this information will be released, notice will be sent to any juror whose information is involved. You may oppose the release of this information and ask that any hearing on the release be closed to the public. The court will decide whether and under what conditions any information may be disclosed.

64

Again, thank you for your service. You are now excused.

65

SUPERIOR COURT OF CALIFORNIA
COUNTY OF ORANGE, CENTRAL JUSTICE CENTER

PEOPLE OF THE STATE OF CALIFORNIA,

Plaintiff,

vs.

ANDRES QUINONEZ REYES, Defendant.

FILED

SUPERIOR COURT OF CALIFORNIA
COUNTY OF ORANGE
CENTRAL JUSTICE CENTER

JUN 7 2006

ALAN SLATER, Clerk of the Court

By: R. Healy Deputy

Case No.04CF2780

JURY INSTRUCTIONS WITHDRAWN/REFUSED

CALCRIM 3500. UNANIMITY

Requested by Plaintiff	<input type="checkbox"/>	Requested by Defendant	<input type="checkbox"/>	Requested by	<input type="checkbox"/>
Given as Requested	<input type="checkbox"/>	Given as Modified	<input type="checkbox"/>	Given on Court's Motion	<input type="checkbox"/>
Refused	<input type="checkbox"/>	Judge			
Withdrawn	<input type="checkbox"/>				

Print date: 1/2006

The defendant is charged with murder <insert description of alleged offense> in Count 1
sometime during the period of _____ to _____

The People have presented evidence of more than one act to prove that the defendant committed this offense. You must not find the defendant guilty unless you all agree that the People have proved that the defendant committed at least one of these acts and you all agree on which act (he/she) committed.

CALCRIM 3575. SUBSTITUTION OF ALTERNATE JUROR: DURING DELIBERATIONS

Requested by Plaintiff	<input type="checkbox"/>	Requested by Defendant	<input type="checkbox"/>	Requested by	<input type="checkbox"/>
Given as Requested	<input type="checkbox"/>	Given as Modified	<input type="checkbox"/>	Given on Court's Motion	<input type="checkbox"/>
Refused	<input type="checkbox"/>	Judge			
Withdrawn	<input type="checkbox"/>				

Print date: 1/2006

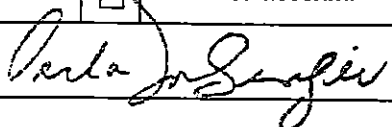
One of your fellow jurors has been excused and an alternate juror has been selected to join the jury.

Do not consider this substitution for any purpose.

The alternate juror must participate fully in the deliberations that lead to any verdict. The People and the defendants have the right to a verdict reached only after full participation of the jurors whose votes determine that verdict. This right will only be assured if you begin your deliberations again, from the beginning. Therefore, you must set aside and disregard all past deliberations and begin your deliberations all over again. Each of you must disregard the earlier deliberations and decide this case as if those earlier deliberations had not taken place.

Now, please return to the jury room and start your deliberations from the beginning.

CALCRIM 106. JURORS ASKING QUESTIONS

Requested by Plaintiff	<input type="checkbox"/>	Requested by Defendant	<input type="checkbox"/>	Requested by	<input type="checkbox"/>
Given as Requested	<input type="checkbox"/>	Given as Modified	<input type="checkbox"/>	Given on Court's Motion	<input type="checkbox"/>
Refused	<input type="checkbox"/>	 Judge CARLA J. SINGER			
Withdrawn	<input type="checkbox"/>				

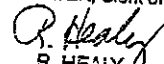
Print date: 1/2006

If, during the trial, you have a question that you believe should be asked of a witness, you may write out the question and send it to me through the bailiff. I will discuss the question with the attorneys and decide whether it may be asked. Your question may not be asked for a variety of reasons, including the reason that the question may call for an answer that is inadmissible for legal reasons. Do not feel slighted or disappointed if your question is not asked. Also, do not guess the reason your question was not asked or speculate about what the answer might have been. Always remember that you are not advocates for one side or the other in this case. You are impartial judges of the facts.

FILED
 SUPERIOR COURT OF CALIFORNIA
 COUNTY OF ORANGE
 CENTRAL JUSTICE CENTER

MAY 25 2006

ALAN SLATER, Clerk of the Court

By: 
 R. HEALY, Deputy

04CF2780
 Rlyls

Refused


SUPERIOR COURT CALIFORNIA
COUNTY OF ORANGE, CENTRAL JUSTICE CENTER

FILED

SUPERIOR COURT OF CALIFORNIA
COUNTY OF ORANGE
CENTRAL JUSTICE CENTER

JUN 7 2006

ALAN SLATER, Clerk of the Court

By: R. Healy Deputy *PH*

THE PEOPLE OF THE STATE OF CALIFORNIA,)

PLAINTIFF.)

VS.)

ANDRES QUINONEZ REYES,)

DEFENDANT.)

CASE NO. 04CF2780

VERDICT

We the Jury in the above-entitled action find the Defendant, ANDRES QUINONEZ REYES, GUILTY of the crime of FELONY, to-wit: Violation of Section 187(a) of the Penal Code of the State of California (Murder) as charged in COUNT 1 of the Information, in the Second Degree.

VICTIM: Pedro Javier Rosario

Date: 6-7-06

Juror #8
Foreperson

SUPERIOR COURT OF CALIFORNIA
COUNTY OF ORANGE, CENTRAL JUSTICE CENTER

FILED

SUPERIOR COURT OF CALIFORNIA
COUNTY OF ORANGE
CENTRAL JUSTICE CENTER

JUN 7 2006

ALAN SLATER, Clerk of the Court

By: R. Healy Deputy *CH*

THE PEOPLE OF THE STATE OF CALIFORNIA,

PLAINTIFF.

VS.

ANDRES QUINONEZ REYES,

DEFENDANT.

CASE NO. 04CF2780

FINDING

We the Jury in the above-entitled action FIND IT TO BE TRUE that the Defendant, ANDRES QUINONEZ REYES, during the commission of the crime as alleged in Count 1 of the Information, to-wit: Violation of Section 187(a) of the Penal Code, (Murder), committed that crime for the benefit of, at the direction of, and in association with a criminal street gang, to wit: F-Troop, with the specific intent to promote, further and assist in criminal conduct by members of that gang, within the meaning of Penal Code Section 186.22(b)(1).

Date: 6-7-06

Juror #8
Foreperson

SUPERIOR COURT OF CALIFORNIA
COUNTY OF ORANGE, CENTRAL JUSTICE CENTER

FILED

SUPERIOR COURT OF CALIFORNIA
COUNTY OF ORANGE
CENTRAL JUSTICE CENTER

JUN 7 2006

ALAN SLATER, Clerk of the Court

By: R. Healy, Deputy *ca*

THE PEOPLE OF THE STATE OF CALIFORNIA,

PLAINTIFF.

VS.

ANDRES QUINONEZ REYES,

DEFENDANT.

CASE NO. 04CF2780

FINDING

We the Jury in the above-entitled action FIND IT TO BE TRUE that the Defendant, ANDRES QUINONEZ REYES, who was a principal, vicariously discharged a firearm causing great bodily injury or death, during the commission of the offense alleged in COUNT 1 of the Information, Violation of Section 187(a) of the Penal Code of the State of California (Murder), within the meaning of Penal Code Section 12022.53(d)(e)(1).

Date: 6-7-06

Juror #8
Foreperson

SUPERIOR COURT CALIFORNIA
COUNTY OF ORANGE, CENTRAL JUSTICE CENTER

FILED

SUPERIOR COURT OF CALIFORNIA
COUNTY OF ORANGE
CENTRAL JUSTICE CENTER

JUN 7 2006

ALAN SLATER, Clerk of the Court

By: R. HEALY Deputy *PH*

THE PEOPLE OF THE STATE OF CALIFORNIA,

PLAINTIFF.

VS.

ANDRES QUINONEZ REYES,

DEFENDANT.

CASE NO. 04CF2780

VERDICT

We the Jury in the above-entitled action find the Defendant, ANDRES QUINONEZ REYES,
GUILTY of the crime of FELONY, to-wit: Violation of Section 186.22(a) of the Penal Code
of the State of California (Street Terrorism) as charged in COUNT 2 of the Information.

Date: 6-7-06

Juror #8
Foreperson

SUPERIOR COURT OF CALIFORNIA
COUNTY OF ORANGE, CENTRAL JUSTICE CENTER JUN 7 2006

FILED
SUPERIOR COURT OF CALIFORNIA
COUNTY OF ORANGE
CENTRAL JUSTICE CENTER

ALAN SLATER, Clerk of the Court

By: R. Healy Deputy ky

THE PEOPLE OF THE STATE OF CALIFORNIA,

PLAINTIFF.

VS.

ANDRES QUINONEZ REYES,

DEFENDANT.

CASE NO. 04CF2780

VERDICT

We the Jury in the above-entitled action find the Defendant, ANDRES QUINONEZ REYES,
NOT GUILTY of the crime of FELONY, to-wit: Violation of Section 187(a) of the Penal
Code of the State of California (Murder) as charged in COUNT 1 of the Information, in the
Second Degree.

VICTIM: Pedro Javier Rosario

Date: _____

Foreperson

SUPERIOR COURT OF CALIFORNIA
COUNTY OF ORANGE, CENTRAL JUSTICE CENTER

FILED
SUPERIOR COURT OF CALIFORNIA
COUNTY OF ORANGE
CENTRAL JUSTICE CENTER

JUN 7 2006

ALAN SLATER, Clerk of the Court

By: R. Healy Deputy
R. HEALY

THE PEOPLE OF THE STATE OF CALIFORNIA,

PLAINTIFF.

VS.

ANDRES QUINONEZ REYES,

DEFENDANT.

CASE NO. 04CF2780

FINDING

We the Jury in the above-entitled action DO NOT FIND IT TO BE TRUE that the Defendant, ANDRES QUINONEZ REYES, during the commission of the crime as alleged in COUNT 1 of the Information, to-wit: Violation of Section 187(a) of the Penal Code, (Murder), committed that crime for the benefit of, at the direction of, and in association with a criminal street gang, to wit: F-Troop, with the specific intent to promote, further and assist in criminal conduct by members of that gang, within the meaning of Penal Code Section 186.22(b)(1).

Date: _____

Foreperson

SUPERIOR COURT OF CALIFORNIA
COUNTY OF ORANGE, CENTRAL JUSTICE CENTER

FILED
SUPERIOR COURT OF CALIFORNIA
COUNTY OF ORANGE
CENTRAL JUSTICE CENTER

ALAN SLATER, Clerk of the Court

By: R. Healy Deputy

THE PEOPLE OF THE STATE OF CALIFORNIA,

PLAINTIFF.

VS.

ANDRES QUINONEZ REYES,

DEFENDANT.

CASE NO. 04CF2780

FINDING

We the Jury in the above-entitled action DO NOT FIND IT TO BE TRUE that the Defendant, ANDRES QUINONEZ REYES, who was a principal, vicariously discharged a firearm causing great bodily injury or death, during the commission of the offense alleged in COUNT 1 of the Information, Violation of Section 187(a) of the Penal Code of the State of California (Murder), within the meaning of Penal Code Section 12022.53(d)(e)(1).

Date: _____

Foreperson

SUPERIOR COURT OF CALIFORNIA
COUNTY OF ORANGE, CENTRAL JUSTICE CENTER

FILED
SUPERIOR COURT OF CALIFORNIA
COUNTY OF ORANGE
CENTRAL JUSTICE CENTER
JUN 7 2006

ALAN SLATER, Clerk of the Court

By: R. Healy, Deputy
R. HEALY *RH*

THE PEOPLE OF THE STATE OF CALIFORNIA,

PLAINTIFF.

VS.

ANDRES QUINÓNEZ REYES,

DEFENDANT.

CASE NO. 04CF2780

VERDICT

We the Jury in the above-entitled action find the Defendant, ANDRES QUINONEZ REYES,
NOT GUILTY of the crime of FELONY, to-wit: Violation of Section 186.22(a) of the Penal
Code of the State of California (Street Terrorism) as charged in COUNT 2 of the
Information.

Date: _____

Foreperson

SUPERIOR COURT CALIFORNIA
COUNTY OF ORANGE, CENTRAL JUSTICE CENTER

FILED
SUPERIOR COURT OF CALIFORNIA
COUNTY OF ORANGE
CENTRAL JUSTICE CENTER

JUN 7 2006

ALAN SLATER, Clerk of the Court

By: R. Healy Deputy *RH*

THE PEOPLE OF THE STATE OF CALIFORNIA,

PLAINTIFF.

VS.

ANDRES QUINONEZ REYES,

DEFENDANT.

CASE NO. 04CF2780

VERDICT

We the Jury in the above-entitled action find the Defendant, ANDRES QUINONEZ REYES, GUILTY of the crime of FELONY, to-wit: Violation of Section 187(a) of the Penal Code of the State of California (Murder) as charged in COUNT 1 of the Information, in the First Degree.

VICTIM: Pedro Javier Rosario

Date: _____

Foreperson

SUPERIOR COURT OF CALIFORNIA
COUNTY OF ORANGE, CENTRAL JUSTICE CENTER

FILED
SUPERIOR COURT OF CALIFORNIA
COUNTY OF ORANGE
CENTRAL JUSTICE CENTER

JUN 7 2006

ALAN SLATER, Clerk of the Court

By: R. Healy Deputy *cl*
R. HEALY

THE PEOPLE OF THE STATE OF CALIFORNIA,

PLAINTIFF.

VS.

ANDRES QUINONEZ REYES,

DEFENDANT.

CASE NO. 04CF2780

VERDICT

We the Jury in the above-entitled action find the Defendant, ANDRES QUINONEZ REYES,
NOT GUILTY of the crime of FELONY, to-wit: Violation of Section 187(a) of the Penal
Code of the State of California (Murder) as charged in COUNT 1 of the Information, in the
First Degree.

VICTIM: Pedro Javier Rosario

Date: _____

Foreperson

MINUTE ORDER

Case Number 04CF2780 F A

People Vs Reyes, Andres Quinonez

Report Request Criteria

1. Docket Date Range : >= 06/07/2006 00:00:00 and <= 06/07/2006 23:59:59
2. Sequence Number Range : No sequence number range specified.
3. Docket Category : Minute Order

<u>Docket Dt</u>	<u>Seq</u>	<u>Text</u>
6/7/2006	1	Hearing held on 06/07/2006 at 09:00:00 AM in Department C36 for Jury Trial.
	2	Officiating Judge: Carla M. Singer, Judge
	3	Clerk: B. Healy
	4	Bailiff: J. Hanson
	5	Court Reporter: Lynn Peterson
	6	Defendant remains in holding cell, not brought into courtroom.
	7	At 09:00 AM, jurors returned to the jury room to resume deliberations.
	8	At 10:35 AM, the jury submitted the following written request: "We, the jury in the above entitled action request the following: "Definition of vicariously (sic) discharged a firearm... as it relates to our verdict sheet (Section Violation 187(a))", /s/Juror # 8, Foreperson." Counsel were notified.
	9	At 10:35 AM, the jury submitted the following written request: "We, the jury in the above entitled action request the following: "Clarification regarding the process to determine the verdicts and supporting findings", /s/Juror # 8, Foreperson." Counsel were notified.
	10	At 10:35 AM, jurors left the jury room for break.
	11	At 10:55 AM, jurors returned to the jury room to resume deliberations.
	12	Off record in chambers, the Court conferred re Juror Requests #6 and #7 with Deputy District Attorney Mark Geller present and defendant's attorney James Brott on phone loud speaker. Counsel agreed to the responses drafted by the Court which referred the jury to certain jury instructions. Printed response signed by the Court and sent into the jury by the bailiff.

MINUTE ORDER

Case Number 04CF2780 F A

People Vs Reyes, Andres Quinonez

Report Request Criteria

1. Docket Date Range : >= 06/07/2006 00:00:00 and <= 06/07/2006 23:59:59
2. Sequence Number Range : No sequence number range specified.
3. Docket Category : Minute Order

Docket Dt Seq Text

6/7/2006	13	At 11:20 AM the following written response was sent to the jury: The answers to your questions are in the jury instructions that have been provided to you. For the definition of vicarious discharge of a firearm, please read Instruction no. 1402 at pages 57, 58 and 59 of your packet of instructions. For how to report your verdicts and findings, please read Instruction No. 640 at pages 37 and 38 of your packet of instructions. Reading all the verdict forms may also be helpful. If you find the defendant guilty of murder in the first degree or murder in the second degree, you must then determine whether the allegations of crime committed for the benefit of, at the direction of, or in association with a criminal street gang (Instruction No. 1401 at pages 54, 55 and 56 of your packet), and vicarious discharge of a firearm in a crime for the benefit of, at the direction of, or in association with a criminal street gang (Instruction No. 1402 at pages 57, 58 and 59 of your packet) are true or not true. If you find the defendant not guilty of murder in the first degree, and not guilty of murder in the second degree, you do not need to determine whether the special allegations are true or not true and those verdict forms should be returned unsigned. /s/ CMSinger.
	14	At 11:55 AM, jurors left the jury room for lunch recess.
	15	At 01:30 PM, jurors returned to the jury room to resume deliberations.
	16	At 03:20 PM, the jury submitted the following written request: "We, the jury in the above entitled action request the following: "We have agreed on count 1, but we are unable to agree on the degree.", /s/Juror # 8, Foreperson." Counsel were notified.
	17	Before session, the Court and both counsel conferred in chambers off record about the jury's last written communication.
	18	In open court at 03:55 PM
	19	Defendant present in Court with counsel Brott, James, Conflict Attorney.
	20	People represented by Mark Geller, Deputy District Attorney, present.
	21	Sworn jurors are present and in their proper places.
	22	Alternate jurors not present, but remain on-call.

MINUTE ORDER

Case Number 04CF2780 F A

People Vs Reyes, Andres Quinonez

Report Request Criteria

- | | |
|--------------------------|--|
| 1. Docket Date Range | : >= 06/07/2006 00:00:00 and <= 06/07/2006 |
| 2. Sequence Number Range | : No sequence number range specified. |
| 3. Docket Category | : Minute Order |

<u>Docket Dt</u>	<u>Seq</u>	<u>Text</u>
------------------	------------	-------------

6/7/2006	23	The Court inquired of Juror #8, the Foreperson, using questions agreed upon in chambers conference before session. The Foreperson informed the Court and counsel that deliberations on Count 2 and the Findings for Count 1 have been concluded. The jury was returned to the jury room at 3:58 p.m. while the Court and counsel discussed the situation. Motion by the People to dismiss the charge of murder in the first degree granted, leaving the murder second degree charge before the Jury. At 4:00 p.m., the jury was returned to the box and informed that murder in the first degree had been dismissed. The Court instructed the jury to return to deliberations in the jury re the remaining charge of murder in the second degree. Court in recess.
	24	At 04:05 PM, jurors returned to the jury room to resume deliberations.
	25	Again in open court at 04:18 PM, Defendant present with counsel. People duly represented. Sworn Jurors present in their proper places.
	26	VERDICT: We the jury in the above entitled action find the defendant GUILTY of Penal Code 187(a) - Murder - in the 2nd degree as to count 1 of the Original Information. Juror #8, Foreperson. Verdict read, filed, and incorporated herein by reference.
	27	FINDING: We the jury in the above-entitled action FIND IT TO BE TRUE that the defendant vicarious discharge of firearm within the meaning of 12022.53(d)(e)(1) PC. /s/ Juror # 8, Foreperson. Finding read, filed, and incorporated herein by reference.
	28	FINDING: We the jury in the above-entitled action FIND IT TO BE TRUE that the defendant for criminal street gang within the meaning of 186.22(b)(1) PC. /s/ Juror # 8, Foreperson. Finding read, filed, and incorporated herein by reference.
	29	VERDICT: We the jury in the above entitled action find the defendant GUILTY as to count 2 as charged in the Original Information. Juror # 8, Foreperson. Verdict read, filed, and incorporated herein by reference.
	30	Polling waived and the clerk was ordered to record the verdicts and findings.
	31	Copy of CALCRIM 3590 that Court read to jury this date filed.
	32	Court thanked and excused the Jury.
	33	Pursuant to Code of Civil Procedure 237(a)(2) all juror identifying information is sealed and filed.
	34	Pursuant to a written note from jurors, the Court ordered spectators to remain in C36 until the jury had left the building.

MINUTE ORDER

Case Number 04CF2780 F A

People Vs Reyes, Andres Quinonez

Report Request Criteria

1. Docket Date Range : >= 06/07/2006 00:00:00 and <= 06/07/2006 23:59:59
2. Sequence Number Range : No sequence number range specified.
3. Docket Category : Minute Order

<u>Docket Dt</u>	<u>Seq</u>	<u>Text</u>
6/7/2006	35	Proceedings held outside the presence and hearing of the jurors.
	36	Defendant advised of legal and constitutional rights.
	37	Defendant waives statutory time for Sentencing.
	38	Counsel joins in waivers.
	39	Probation Department ordered to prepare a Probation & Sentencing report to be made available to court and counsel 5 days prior to Sentencing.
	40	Sentencing set on 07/21/2006 at 09:00 AM in Department C36.
	41	Defendant ordered to return.
	42	Defendant remanded to the custody of the Sheriff.
	43	Current bail set for defendant to remain.
	44	Notice to Sheriff issued.
	45	Court orders bail set at NO BAIL.
	46	Notice to Sheriff issued.

Exhibit List of: **People**
Case Name: **People of the State of California**
VS ANDRES QUINONEZ REYES, Defendant.
Case Number: **04CF2780** Dept. **C36**
Type of Hearing: **Jury Trial**
Date(s) of Trial: **May/June 2006**
Clerk: **Bobbie Healy**

FILED
SUPERIOR COURT OF CALIFORNIA
COUNTY OF ORANGE
CENTRAL JUSTICE CENTER

JUL 5 2006

ALAN SLATER, Clerk of the Court

By: *B. Healy* Deputy *Healy*

#	ID	EV	DESCRIPTION (Photo's must be described in detail)		Returned to submitting party	Prior Hrg #
1	X	x	Large map of section of Santa Ana			
2	X	x	Large aerial map of Willits and Sullivan Streets, Santa Ana			
3	X	x	Large color caricature of Willits and Sullivan Streets			
4	X	x	8.5x11" color photo: intersection of Willits and Sullivan southbound direction and showing victim's Honda Civic			
5	X	x	8.5x11" color photo: intersection of Willits and Sullivan northbound direction showing school and stop sign			
6	X	x	8.5x11" color photo: victim's car covered by yellow tarp			
7	X	x	8.5 x11" color photo: front windshield of victim's car			
8	X	x	8.5x11" color photo: rear view of victim's car			
9	X	x	8.5 x11" color photo: shattered rear window of victim's car			
10	X	X	8.5x11" color photo: side view of victim's car			
11	X	x	8.5x11" color photo: victim in car, viewed from the front			
12	X	x	8.5x11" color photo: victim in car, side view			
13	X	x	8.5x11" color photo of revolver with open chamber, showing bullets			
14	X	x	.357 magnum blue-steel revolver in evidence box (serial # 843143 visible only by removing handle grips)			
<i>Sub</i> 14 A, B C, D E	X		(5) small evidence envelopes, each containing a bullet			

page 1 of 2

People's Exhibit List from trial

Reys Oct 27 80

15	X	x	Evidence envelope with tags , containing autopsy bullet			
16	X	x	Stipulation re firearms' examiner testimony			
17 A-L	X	x	(12) polaroid snapshots of victim			
18	X	x	1-page photocopy of (3) small black&white photos of (3) males			
19	X	x	Certified copies of documents from People vs Melgoza 02CF0135 (23 pages)			

Date Received: _____
Revised 1/04 DS

JUL 05 2006

Received by: _____

[Signature]

page 2 of 2

MINUTE ORDER

Case Number 04CF2780 F A

People Vs Reyes, Andres Quinonez

Report Request Criteria

1. Docket Date Range : Date filter
2. Sequence Number Range : Sequence filter
3. Docket Category : Category filter

<u>Docket Dt</u>	<u>Seq</u>	<u>Text</u>
7/21/2006	1	Hearing held on 07/21/2006 at 09:00:00 AM in Department C36 for Sentencing.
	2	Officiating Judge: Carla M. Singer, Judge
	3	Clerk: B. Healy
	4	Bailiff: J. Hanson
	5	Court Reporter: Lynn Peterson
	6	In open court at 10:55 AM
	7	Defendant not present in Court represented by James Brott, Conflict Attorney.
	8	Defendant now housed at Juvenile Hall who did not receive order to transport defendant to court this date.
	9	People represented by Mark Geller, Deputy District Attorney, present.
	10	Court and both counsel conferred off record in chambers before session regarding need for evaluation by California Youth Authority before sentencing; all agreed there is no need for that report in this case.
	11	Sentencing continued to 07/25/2006 at 09:00 AM in Department C36 by stipulation of all parties.
	12	Defendant ordered to appear.
	13	Current bail set for defendant to remain.
	14	Notice to Sheriff issued.
	16	Copy of this minute order and the Notice to Sheriff forwarded to Juvenile Hall Transportation by FAX.

07/19/2006 10:19 714-834-4344

OCDA NET

PAGE 81/82

FILED
 SUPERIOR COURT OF CALIFORNIA
 COUNTY OF ORANGE
 CENTRAL JUSTICE CENTER

JUL 25 2006

ALAN SLATER, Clerk of the Court

By: R. Healy Deputy

RJ

1 TONY RACKAUCKAS, DISTRICT ATTORNEY
 2 COUNTY OF ORANGE, STATE OF CALIFORNIA
 3 BY: MARK GELLER
 4 Deputy District Attorney
 5 State Bar Number 181119
 6 POST OFFICE BOX 808
 7 SANTA ANA, CALIFORNIA 92702
 8 TELEPHONE: (714) 834-3600

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IN THE SUPERIOR COURT OF THE STATE OF CALIFORNIA
 IN AND FOR THE COUNTY OF ORANGE, CENTRAL JUSTICE CENTER

THE PEOPLE OF THE STATE OF CALIFORNIA,

Plaintiff,

vs.

ANDRES QUINONEZ REYES

Defendant(s)

Case No.: 04CF2780

SENTENCING BRIEF

On June 7, 2006, a jury found Defendant Reyes guilty of a violation of Penal Code section 187, Murder in the second degree and a violation of Penal code section 186.22(a), Street Terrorism. Additionally, the jury found true the 186.22(b) and 12022.53(d)(e)(1) enhancements.

The People respectfully ask this Court to sentence Defendant to a term of 40 years to life. This is calculated as 15-life for the murder and an additional 25-life consecutive for the vicarious use of a firearm enhancement.

Even though the defendant was 15 years old at the time of the offenses, he is statutorily ineligible for a CYA commitment. Murder is a violent felony as defined in Penal Code §667.5(c). The punishment for Murder in the second degree is 15 years to life. A true finding under Penal Code §12022.53 is also deemed a violent felony under the same code section. As the probation officer pointed out in his probation and sentence report, the defendant is statutorily

1

PEOPLE'S SENTENCING BRIEF
 07/19/2006 10:18AM

07/19/2006 10:19 714-834-4344

OCDA NET

PAGE 02/02

1 ineligible for probation pursuant to 12022.53(g). The vicarious use of a firearm causing death
2 mandates a consecutive 25 years to life sentence. Welfare & Institutions Code § 1732.6 requires
3 this court to impose the above sentence because the defendant has been convicted of a violent
4 felony which carries an indeterminate sentence of life in prison

5

6 July 21, 2006

7

8

9

10

TONY RACKAUCKAS, DISTRICT ATTORNEY
COUNTY OF ORANGE, STATE OF CALIFORNIA

11

By: 

12

MARK GELLER

13

Deputy District Attorney

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07/19/2006 10:18AM
DEPUTY DISTRICT ATTORNEY

CONFIDENTIAL
Per Sec. 11142 P.C., the furnishing of
this report or information contained
within, to an unauthorized person is a
misdemeanor.

FILED
SUPERIOR COURT OF CALIFORNIA
COUNTY OF ORANGE
CENTRAL JUSTICE CENTER

ORANGE COUNTY PROBATION DEPARTMENT

JUL 25 2006

PROBATION AND SENTENCING
SUPERIOR COURT OF CALIFORNIA
CENTRAL JUSTICE CENTER, C36
JULY 21, 2006 9:00A.M.

ALAN SLATER, Clerk of the Court

Sy: R. Healy, Deputy

Defendant: REYES, ANDRES QUINONEZ

Court #: 04CF2780

AKA: NO AKAS

Probation #: A-313513

Address: 3261 BERNARD ST., RIVERSIDE, CA 92504

Telephone: 714-618-2502

Present Whereabouts: JAIL

DPO: GERARD BERGERON

Attorney: JAMES BROTT, CON P.D.

COURT STATUS

Present Offense: CT. 1: 187(a) PC (MURDER-2ND DEGREE), FEL., PLUS CONDUCT
ENHANCEMENTS.

Off. Date: 8/10/04

Arr Date: 8/11/04

Arr Agn: SANTA ANA PD

Filed: INF. 5/9/05

Guilty by: JURY

Date: 6/7/06

Days Custody: 710

Custody Info:

Codefendants: SEVERO JOSE DE LA RIVA, JURY TRIAL 8/14/06; FRANCISCO JOSE LOPEZ,
JURY TRIAL 8/14/06; ISRAEL LOPEZ, JURY TRIAL 8/14/06; LOUIS PEREZ, JURY TRIAL
8/14/06.

DESCRIPTION

Age: 17 DOB: 01/14/1989

POB: SANTA ANA, CA

Sex: MALE Ethnicity: HISPANIC

Arrival in CA: BIRTH

Height: 5- 6 Weight: 110

Hair: BLACK Eyes: BROWN

Citizenship: U.S. CITIZEN

ID Marks: SEE ADDITIONAL INFORMATION

DMV: NONE

Expires: N/A

SSN: NONE

CDC: N/A

FBI: 59932FC1

CII: A25727457

OCSO: N/A

Booking #: 0500119

EMPLOYMENT HISTORY

Last or Present Employer: N/A

Date Began: N/A

Date Term: N/A

Reason: N/A

Type of Work: N/A

Work Phone: N/A

Salary: N/A

Job Skills Possessed: N/A

PREVIOUS EMPLOYMENT

From

To

Employer

Type of Work

Salary

Reason

N/A

MARITAL HISTORY

<u>Current Spouse</u>	<u>Home Address</u>	<u>DOB</u>	<u>Date/Place Marriage</u>	<u>Status</u>
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N/A

Occupation:

Employment Address:

Phone:

Children

Address

DOB

Sex

Other Parent

N/A

Previous Spouse

Address

Date Married

Date Terminated

N/A

FAMILY DATA

Father: MOSES REYES

Age: 32

POB: TEXAS

Occupation: UNK.

Address: NOT STATED

Phone:

Mother: LETICIA RODRIGUEZ

Age: 32

POB: MEXICO

Occupation: DISABILITY

Address: S.A.D.

Phone:

Brothers/Sisters

Age

Address

Phone

Occupation

EDDIE REYES

13

S.A.D.

S.A.D.

STUDENT

CASANDRA REYES

15

S.A.D.

S.A.D.

STUDENT

MOSES REYES

09

S.A.D.

S.A.D.

STUDENT

Former Residences

From

To

NOT STATED

EDUCATIONAL BACKGROUND

Highest Grade Completed: 8TH

Where: SUMMIT CONTINUATION SCHOOL

Degrees Held: NONE

Job Training: NONE

PERSONAL INFORMATION

Health: GOOD

Past Health: NO PROBLEMS REPORTED

Religion: CHRISTIAN

Military Record: N/A

Hobbies and Interests: DRAWING

Alcohol: 1X PER WEEK PER DEFENDANT

Drugs: MARIJUANA-EXPERIMENTAL, DENIES ALL ELSE.

Previous Treatment Programs: N/A

Year

Vehicle(s) Owned/Model

Color

NONE

Firearms Owned/Possessed: N/A

REYES, Andres Quinonez

Court No. 04CF2780; A-313513

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1 Identifying Marks (cont'd.): - "SP" on Middle finger, left hand, and "FT" on
2 middle finger, right hand.

3 COURT STATUS

4 On May 9, 2005, an Information was filed in the Central Justice
5 Center of the Orange County Superior Court charging the defendant Andres
6 Quinonez Reyes, with violation of:

7 Count 1: Section 187(a) of the Penal Code (Murder), a Felony.
8 (Victim: Pedro Javier Rosario)

9 Count 2: Section 186.22(a) of the Penal Code (Street
10 Terriorism), a Felony. (To wit: F-Troop)

11 JURISDICTIONAL ALLEGATION

12 As to Count(s) 1, it is further alleged within the
13 meaning of Welfare and Institutions Code Section
14 707(d)(2) (Direct File of Juvenile) that the minor(s)
15 was 14 years-of-age and older when the minor (s)
16 committed 187(a).

17 CONDUCT ENHANCEMENT(s)

18 As to Count(s) 1, it is further alleged pursuant to
19 Penal Code Section 186.22(b)(1) (Criminal Street Gang
20 Activity), that defendant Andres Quinonez Reyes
21 committed the above offense for the benefit of, at
22 the direction of, and in association with F-Troop, a
23 criminal street gang, with the specific intent to
24 promote, further, and assist in criminal conduct by
25 members of that gang.

26 As to Count(s) 1, it is further alleged pursuant to
27 Penal Code Sections 12022.53(d) and (e)(1) (Gang
28 Member Vicarious Discharge Firearm Causing Death),
and within the meaning of Penal Code Sections 1192.7
and 667.5, defendant Andres Quinonez Reyes was a
principal in the commission of a felony, which the
defendants committed for the benefit of, at the
direction of, and in association with a criminal
street gang, with the specific intent to promote,
further, and assist in criminal conduct by gang
members, within the meaning of Penal Code Section
186.22(b), and that during the commission and
attempted commission of the above offense, another
principal intentionally discharged a firearm causing
great bodily injury and death to Pedro Javier
Rosario, who was not an accomplice.

On June 7, 2006, the defendant appeared in court for a jury

REYES, Andres Quinonez

Court No. 04CF2780; A-313513

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1 trial. On said date, a motion by the people to dismiss the charge of
2 murder in the first degree was granted, leaving the murder in the second
3 degree charge before the jury. On said date, the jury found the defendant
4 guilty of Penal Code 187(a) murder in the second degree as to Count 1.
5 The jury also found it to be true that the defendant vicariously
6 discharged a firearm within the meaning of 12022.53(d)(e)(1) PC. In
7 addition, the jury found it to be true that the defendant supported
8 criminal street gang activities within the meaning of 186.22(b)(1) PC. On
9 said date, the jury found the defendant guilty as to Count 2 as charged in
10 the original Information. The Probation Department was ordered to prepare
11 a Probation and Sentencing Report and the matter was continued to July 21,
12 2006. The defendant was remanded to the custody of the Sheriff, and the
13 Court ordered bail set at no bail.

14 CIRCUMSTANCES OF THE OFFENSE

15 As the Court has heard testimony in a Jury Trial, it is noted
16 that the following is a brief synopsis of the police report, and may not
17 exactly reflect testimony as heard at Trial.

18 According to records of the Santa Ana Police Department (DR #04-
19 34206), on August 10, 2004, the defendant participated with his criminal
20 street gang F-Troop in murdering the victim. The victim was shot by co-
21 defendant Francisco Jose Lopez, as the defendant and his five companions
22 rode their bicycles up to the victim's vehicle at an intersection. The
23 victim was shot once through the head.

24 On the above date at approximately 6:22 p.m., Santa Ana police
25 received information regarding the shooting that occurred at Sullivan and
26 Willits Street in Santa Ana. Officers arriving on the scene located the
27 victim, the lone occupant in his car, sitting slumped in the driver's seat
28 of his stopped Honda Civic. The victim had a head injury and was later

REYES, Andres Quinonez

Court No. 04CF2780; A-313513

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1 pronounced dead by Santa Ana Fire Department personnel. Gang detail were
2 requested to investigate.

3 During the ongoing investigation, officers interviewed the
4 defendant who was brought into custody on August 12, 2004 due to a no bail
5 warrant regarding a juvenile probation violation. The defendant was
6 initially interviewed in the morning on August 12, and told officers about
7 a fight he was involved in that occurred within the hour after the murder.
8 At that time the defendant denied having any knowledge of the murder. The
9 defendant did admit to currently being on probation for writing gang
10 graffiti, and indicated that he had been "kicking it" with F-Troop for
11 approximately five months before he was arrested.

12 The defendant was re-interviewed later that evening and at first
13 again denied knowing anything about the shooting and he said to officers
14 that he "didn't shoot anyone." The defendant then admitted to being at
15 the scene and told officers that he "saw the whole thing."

16 The defendant told officers that prior to the shooting several
17 of his friends from F-Troop were riding by his house and he grabbed his
18 bicycle and joined them. They were in the area riding their bicycles when
19 they came upon the victim who was stopped at the stop sign at Sullivan and
20 Willits Street. He indicated that his co-defendant "Frank" was closest to
21 the victim and he heard "Frank" ask the victim "where are you from?" The
22 defendant thought the victim mumbled something, and then took off after
23 stopping at the stop sign. "Frank" then shot the victim as he proceeded
24 through the intersection. The defendant said that all six members of the
25 group then took off on their bicycles northbound on Sullivan Street. The
26 defendant said he did not know where the others went, but he made a left
27 turn and rode towards Fairview.

28 The defendant explained that after the shooting, he and his

REYES, Andres Quinonez

Court No. 04CF2780; A-313513

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1 friends all met up back at the park. At that time, "Frank" told him to go
2 get the gun. He told him the gun was hidden at his aunt's house on
3 Townsend Street. The defendant went to the back yard of the house as
4 instructed and took possession of the gun. After picking it up, he went
5 on his way to "Chewy's" house on Ninth Street to dispose of the weapon as
6 instructed. En route he became involved in a fight on Twelfth Street.
7 During this altercation, he dropped the gun and the other subject grabbed
8 it. The defendant said he then became scared and ran away.

9 VICTIM'S STATEMENT

10 Correspondence was mailed to a surviving relative of the victim,
11 his brother. To date, no response has been received. Should any
12 information be forthcoming, it will be forwarded for the Court's
13 consideration.

14 Victim Witness was contacted in an attempt to contact other
15 surviving relatives of the victim. Victim Witness personnel indicated
16 that the victim's other relatives live in Mexico and they have been unable
17 to contact them. They also indicated that the victim's brother, who lives
18 in Santa Ana, has been reluctant to respond to them regarding this case.
19 Should additional attempts to contact the victim's surviving relatives
20 prove fruitful, that information will be forwarded for the Court's
21 consideration. No requests for restitution have been received.

22 DEFENDANT'S STATEMENT

23 The defendant was interviewed at the Orange County Men's Jail on
24 July 5, 2006. The defendant declined to discuss details of the instant
25 offense per the advice of his attorney. The defendant did not submit a
26 written statement.

27 Regarding an outcome in this case, the defendant stated that he
28 is hoping to be sentenced to a juvenile facility like California Youth

REYES, Andres Quinonez

Court No. 04CF2780; A-313513

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1 Authority, and then to be released at 25-years-of-age. He thinks that
2 would be a fair outcome. The defendant expressed remorse for his actions
3 and remorse for the victim. He indicated he thinks about the person who
4 died when he reads his Bible. He said he also felt sorry for the victim's
5 family and how much they must be grieving for him.

6 STATEMENTS OF REFERENCES AND INTERESTED PARTIES

7 Statement of Arresting Officer

8 Investigating Officers K. Ruiz, B. Herter, and M. Estrada did
9 not respond to written correspondence soliciting their comments in this
10 case. Should any information be forthcoming, it will be forwarded for the
11 Court's consideration.

12 Statement of Deputy District Attorney

13 Mark Geller, Deputy District Attorney, responded by telephone to
14 correspondence soliciting his comments on this case. Attorney Geller
15 indicated that a state commitment is an appropriate sentence in this case
16 based upon the role the defendant played in the homicide and his conduct
17 afterwards. Attorney Geller indicated that the defendant, along with five
18 companions, were present during the homicide and 45 minutes later the
19 defendant was in possession of the murder weapon and lost the gun as he
20 assaulted another gang member. He indicated that witnesses testified
21 during trial that the defendant was the aggressor in the assault.

22 Statement of Defense Attorney

23 James Brott, Conflict Attorney for the defense, responded by
24 telephone to written correspondence soliciting his comments on this case.
25 Attorney Brott stated:

26 "I think it's tragic that a 15-year-old, who was not
27 the shooter in this case, although deeply involved in
28 the incident, should receive a similar sentence as
the shooter. I believe this would be a travesty of
justice. I think the defendant should be sentenced

1 as a juvenile to reflect his level of participation
2 in the crime."

3 Statement Of References

4 The defendant submitted four letters of reference on his behalf.
5 One letter is from a person who identified himself as the defendant's
6 uncle. He wrote that he was present through a large part of the
7 defendant's trial, and is fully convinced that the picture painted of the
8 defendant in trial is not an accurate picture of what the defendant is
9 really like. That letter, which is attached for the Court's
10 consideration, is summarized below and in part reads:

11 "Andres has always been a caring boy who wanted and
12 needed someone to look up to. . . . He grew up in a
13 broken family, observing once how his own father
14 almost overdosed on narcotics. That scared him to
15 the point that several years later he was able to
16 find a group of friends who made him feel like he was
17 part of a group. Unfortunately, this group was
18 headed by an experienced gang member coming from a
19 family with historical ties to gangs. . . . They prey
20 on young men who come from broken and economically
21 hurting families. . . initially offering them
22 friendship and support and eventually turning them
23 into pawns of their criminal activities. While I
24 will not dispute the events that occurred the day of
25 the crime, I do want to express my full confidence
26 that Andres was not aware of the events that were
27 going to take place. What happened afterwards, had
28 more to do with his fear of what was going on rather
than a conscious attempt to willingly hurt someone.
He learned hard his mistake in a rough way. I am
convinced that his actions while in detention are
evidence that corroborate his true personality. He
has continued to study his high school subjects and
has consistently given advice to his younger brothers
when they go visit him. At the same time, his old
friends from the gang have turned on him because he
has told them he will not back them up. He has
realized his costly mistake and is determined to re-
establish his life in a moral and legal way."

25 A second letter of reference was received on behalf of the
26 defendant. This letter is from a person who also identified himself as
27 the defendant's uncle. In part he wrote:
28

1 "Even before his father gave into drugs and abandoned
2 his family, Andres was acting as a father figure to
3 his three younger siblings. Whether it was picking
4 them up from school or making sure they ate their
5 dinner, he made them his priority, helping his single
6 mom raise them. He always made sure there was never
7 a lack of respect toward their mother. . . . He went
8 through his different phases while growing up. He
9 acquired an addiction to skate boarding, and his two
10 younger brothers followed directly under his
11 footsteps. This newly-acquired passion served as an
12 escape from any problems that his mom had, whether
13 they were financial or with relationships.
14 Tragically, he ended up following the wrong crowd and
15 within a few months, he had made the biggest mistake
16 of his life. His portrayal of being a hard core gang
17 member couldn't be further from the truth. His major
18 mistake was not contacting the authorities right
19 after the crime was committed. Through his
20 cooperation with the authorities after he was
21 detained has made him a constant target for beatings
22 and harassment. I ask that you put in consideration
23 the type of person Andres was before he made the
24 mistake of hanging out with gang members, and the
25 person that he is right now, one that is being a
26 model inmate, focusing on learning, and more
27 importantly, one that regrets every action that he
28 took that led to that tragic event two years ago. If
given the chance to repay society for his wrongful
deeds, through our family support, I believe he could
one day serve his community."

17 A third letter of reference was submitted by the defendant from
18 a friend of the family. In her letter, she wrote that she has observed
19 the defendant along with his two brothers and sister, and indicated that
20 the defendant has been like a father for them, especially the little one.
21 She described the defendant as a responsible child, always doing the best
22 for others along with family and friends. She never saw the defendant
23 getting into trouble or being with people who were bad influences.

24 A fourth letter of recommendation was written by the defendant's
25 mother. In part she wrote:

26 "My boy is a really great kid. You can ask my whole
27 family and they will tell you that he has a huge
28 heart. He never disrespected anyone. Andy was
always there for whoever needed his help. When his
father left seven years ago, Andy took over the role

REYES, Andres Quinonez

Court No. 04CF2780; A-313513

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1 of the man of the house at age 10. My son was always
2 making sure his brothers and sister were taken care
3 of very well. He took them under his wings. Andres
4 was my strength. He helped me so much, I wouldn't
5 have survived if I wouldn't have had my boy next to
6 me. . . . He started hanging around with the wrong
7 crowd. The gang made him forget all his troubles and
8 it helped him release his stress. Literally. Even
9 when he was starting to hang around with the wrong
10 crowd, he was still there for me and the kids. He
11 wouldn't leave with his friends until he knew the
12 kids had dinner and finished all his chores. Andres
13 never disrespected me. . . . If anyone should be
14 blamed for what's happened, it should be me. I was
15 very young when I had Andy. It was my responsibility
16 to take them all under my wings, but I had to work a
17 lot to support my kids. Please don't take the
18 opportunity away from my son. He is so young. He
19 didn't know right from wrong. I ask you as a mother
20 to please don't take my son Andres away from me for a
21 long time. . . . This letter is from my heart. Give
22 Andres an opportunity to be someone in life."

23 PRIOR RECORD

24 Juvenile Record

<u>Date</u>	<u>Agency</u>	<u>Offense</u>	<u>Disposition</u>
5/21/01 (Age 12)	Santa Ana PD (DR #01-22197)	Ct. 1: 11357(c) HS	12/14/01, Orange County Superior Court, Pet. 1 sust. Informal Probation, diversion, counseling, 40 hours CS 1/14/02, Informal Prob terminated, i.e. failure to comply with sanctions 6/14/02, 654 ordered, 1/18/03, Petition dis.

21 Police records indicate that officers responded to McFadden
22 Intermediate School in reference to a sixth-grade boy in possession of
23 marijuana. Upon arrival, school staff told them that a student reported
24 to them that the defendant was smoking marijuana in the boy's bathroom.
25 Officers detained and questioned the defendant and found one gram of
26 marijuana in the defendant's shoes. The defendant admitted to smoking
27 marijuana, and stated he had received the marijuana from another student
28 one week earlier. The defendant was released to his mother and referred
to the Short Stop diversion program.

26 When questioned during the probation interview, the defendant
acknowledged this incident, and admitted guilt.

3/16/04 (Age 15)	Santa Ana PD (Dr #04-11555)	Ct. 1: 594(a)/(b) (2) (A)	5/12/04 Orange County Superior Court, Pet. 2
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REYES, Andres Quinonez

Court No. 04CF2780; A-313513

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sust., declared ward, 20
days Juvenile Court work
program, formal probation,
counseling
7/28/04 Warrant issued.

Police records indicate officers were dispatched to El Salvador Park on Civic Center in Santa Ana regarding several male juveniles tagging on park benches and in the rest rooms. Upon arrival, officers contacted the defendant and two companions seated on a bench. Officers questioned each of the suspects and the defendant's companions denied participating in putting graffiti in the park. The graffiti in the park included the words "F-Troop," "Artesia," and letters such as "FXTN," "FTP." This was written on benches as well as in the restroom. Officers also noted the words "Fuck the rest" on the floor of the restroom below the graffiti. When questioned, the defendant claimed to know several members of the F-Troop gang, but stated he was not a member himself. He indicated he had gone to the park with his companions to "just kick it" and at that time the three began "tagging" on the benches with crayons and a marker they had taken from the school. He admitted he wrote the letters "FXT" and "FT" in block letters on the benches. When asked if he knew what these meant, the defendant stated "It's for F-Troop." He told officers F-Troop was a gang but he was not a member.

When questioned, the defendant recalled this arrest and admitted guilt.

DMV History

A record check with the California Department of Motor Vehicles indicated they have no record for this defendant.

PROGRESS ON PROBATION

Records of the Orange County Probation Department reflect that the defendant was first placed on informal probation by the Juvenile Court on December 14, 2001. The defendant's informal probation was terminated on February 15, 2002 due to a failure to comply with said terms and conditions. On June 14, 2002, 654 Welfare and Institutions Code was ordered, and on January 8, 2003, the petition was dismissed.

On May 12, 2004, the defendant was declared a ward of the Orange County Juvenile Court. In a second petition, he was ordered to complete 20 days on the Juvenile Court Work Program and abide by the usual terms and conditions of formal probation.

REYES, Andres Quinonez

Court No. 04CF2780; A-313513

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1 On July 21, 2004, the defendant failed to report as directed by
2 his Probation Officer. The defendant's mother reported at that time that
3 the defendant had violated his curfew of 10:00p.m. on nine consecutive
4 days in mid-July of 2004. The defendant changed his residence on July 19,
5 2004 without permission and his whereabouts remained unknown at the time.

6 Juvenile Court Work Program records indicate that the minor was
7 suspended due to unexcused absences on May 30, 2004. Additionally, the
8 minor had 6 unexcused absences at the English Education Center which was
9 part of his Court-ordered requirements. Overall, the Probation Officer
10 assigned to the case indicated the minor's progress on Probation was poor.
11 At that time it appeared to the Probation Officer that the Court and
12 Probation intervention had done little to impact the minor's behavior. It
13 was respectfully recommended at the time that the minor be continued a
14 ward of the court.

15 A warrant was issued for the minor's arrest on July 28, 2004 as
16 he had absconded from Probation supervision and his whereabouts were
17 unknown. After his arrest on August 12, 2004, the minor was interviewed
18 at Juvenile Hall. He indicated he ran away from home because he had
19 problems with his mother and other family members. He indicated he stayed
20 with different friends and admitted failing to attend the Court Work
21 Program and not attending school. He indicated he had been consuming
22 alcoholic beverages, drinking two or three times per week. He stated he
23 was smoking marijuana six to eight times per week, and used cocaine two
24 months prior.

25 The minor's mother reported that she had "lost control of the
26 minor" in January of 2004 when he started associating with gang members.
27 The minor's mother told the officer the minor was staying out late and
28 refused to participate in the Juvenile Court Work Program. She indicated

REYES, Andres Quinonez

Court No. 04CF2780; A-313513

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1 he came home the week prior to this conversation because he was involved
2 in a gang fight and his finger was badly cut with a knife.

3 On December 16, 2004, while housed in Unit T of Juvenile Hall,
4 the minor was found to have placqued numerous gang related placquings on
5 the walls. The placquing read "EFE TE ERE" which spells out the letters
6 "FTR" in Spanish. In Spanish the defendant also placqued "FTR RULES AND
7 CONTROLS" and near the door frame, the defendant placqued "F-Troop
8 Standing Tall, Refusing to Fall. . . Loved by few, hated by most" and
9 "click, click, bang, bang, here comes big bad F-Troop gang . . . Fuck the
10 rest."

11 On November 18, 2004 the minor was noted as assaulting another
12 minor by hitting him from behind with a closed fist in the face. The
13 victim minor had been sitting at the tables, visiting with clinical
14 evaluation guidance student staff when the defendant came up from behind
15 and assaulted him. As he assaulted him, the defendant yelled "Troopa
16 Reefa," which according to Deputy C. Gomez means "F-Troop rules."

17 BEHAVIOR WHILE INCARCERATED

18 Correctional Supervisor Ed Martinez, Santa Ana Jail Personnel
19 who is familiar with the defendant, was contacted by telephone. He
20 indicated that the defendant is an average inmate, and stated the
21 defendant does what he is told, but has some issues with authority. "He
22 sometimes will make smart remarks when spoken to." Over all, he said the
23 defendant follows direction and is a "quiet kid that goes with the
24 program."

25 SOCIAL HISTORY

26 The following information was provided by the defendant during
27 the probation interview conducted on July 6, 2006. Some information was
28 also provided by the records of the Orange County Probation Department.

REYES, Andres Quinonez

Court No. 04CF2780; A-313513

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1 The defendant was the oldest of four children born in Santa Ana.
2 The defendant indicated for the most part of his life he has been raised
3 by his mother. His parents divorced when he was seven years-of-age due to
4 money problems, and he has had little contact with his father since that
5 time. He indicated his mother is a good person, and she did the best that
6 she could for him and his siblings. He reported enjoying a good
7 relationship with his brothers and sister, and was happy as a child. He
8 denies ever being abused.

9 The defendant attended four different elementary schools and
10 stated, "we kept moving" because his mother had very little money. He
11 denies having a learning problem, and denies ever being in special
12 classes. He was caught smoking marijuana and was expelled from school
13 when he was 11 years old. The defendant enjoyed playing one year of flag
14 football and stated that "it was great and I wanted to play again but the
15 next year came around and I forgot all about it."

16 The defendant thought school was boring and sometimes he had
17 difficulty making friends because he was shy. He struggled with his
18 school work, but did get fairly decent grades, "B's and C's."

19 After the sixth grade he "started going down" and began ditching
20 school in order to ride his skateboard. He became intensely interested in
21 skateboarding and was soon skateboarding "all the time." All his friends
22 skateboarded and he spent the next three years pursuing that hobby.

23 One day he attempted to jump up a handrail and he was seriously
24 injured. He ceased riding his skateboard and, soon after, he began
25 smoking marijuana and started buying it from F-Troop gang members. He
26 began "hanging out" with them, and indicated he continued hanging out with
27 the F-Troop gang up until the instant offense.

28 The defendant explained that he had been "just kicking it" with

REYES, Andres Quinonez

Court No. 04CF2780; A-313513

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1 the gang, but that he had never been "jumped in." He stated the extent of
2 his involvement was going to parties, meeting the girls, playing hand ball
3 and "stuff like that." He explained he was associating with the Salvador
4 Park Division of F-Troop, and explained that he lived right across the
5 street. He stated that "I was only hanging with them seven or eight
6 months when this happened."

7 Regarding the tattoos on his fingers, he said that one day one
8 of the gang members was getting one on his arm and "they asked me if I
9 wanted one." He stated, "I hesitated. They drew it on my fingers and
10 said it looked nice, so I let them put it on. When I got home that day,
11 my mom slapped me and told me I was stupid and I realized I had probably
12 made a big mistake."

13 The defendant reported using alcohol for the first time at 15-
14 years-of-age. He indicated he drinks three to seven drinks at a time two
15 or three times a week. The defendant started smoking marijuana in 2001
16 and "takes a hit or two every couple of days." He denied using any other
17 illegal drugs.

18 The defendant said he no longer claims the gang and explained
19 that "now they want to get me." He said he does not "claim" anything.

20 He deeply regrets becoming involved in a gang and committing the
21 crime. He stated that he is a target for getting beat up every day, and
22 explained that "I told investigators what happened in my case and now
23 there are people after me here in jail." He said, "I have stitches in the
24 back of my head and stitches in my lip." The defendant stated "I'm going
25 through a lot in here because I talked about my case. It's a very tough
26 place to be when everyone wants to get you."

27 Since being arrested, the defendant said he reads his Bible "a
28 lot" and said "sometimes I wonder, I would never have done this (read the

REYES, Andres Quinonez

Court No. 04CF2780; A-313513

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1 Bible) if I hadn't been busted." Regarding plans for the future, the
2 defendant said "if I ever get out, I want to get a job and help my mom,
3 and help my little brothers and sister."

4 EVALUATION

5 CIRCUMSTANCES IN AGGRAVATION

6 The Crime

7 4.421(a) - 1 The crime involved violence and great bodily harm
8 to the point of death. These acts disclose a
9 high degree of cruelty, viciousness, and
10 callousness.

11 4.421(a) - 2 A weapon was used at the time of the commission
12 of the crime.

13 The Defendant

14 4.421(b) - 1 He has engaged in violent conduct which indicates
15 a danger to society.

16 4.421(b) - 4 The defendant was on probation when he committed
17 the crime.

18 4.421(b) - 5 The defendant's prior performance on probation
19 was unsatisfactory.

20 CIRCUMSTANCES IN MITIGATION

21 The Crime

22 4.423(a) - None apparent.

23 The Defendant

24 4.423(b) - 3 The defendant acknowledged wrongdoing prior to
25 arrest and at an early stage of the criminal
26 process.

27 PROBATION ELIGIBILITY

REYES, Andres Quinonez

Court No. 04CF2780; A-313513

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1 4.413(a) - The defendant is statutorily ineligible for a
2 grant of probation pursuant to Penal Code Section
3 12022.53(g).

4 DISCUSSION

5 Appearing before the Court is the now 17-year-old defendant who
6 has been found guilty by a Jury of Murder in the 2nd degree and street
7 terrorism, both felonies. In addition, the Jury found it to be true the
8 defendant vicariously discharged a firearm, and committed his crimes in
9 support of a criminal street gang, both conduct enhancements. In this
10 case, the defendant was riding bicycles with 5 members of his street gang,
11 F-Troop, when they came upon the victim in his vehicle. The defendant's
12 companion withdrew a revolver and killed the victim with a gunshot to the
13 head. The shooter then gave the weapon to the defendant with instructions
14 on where to dispose of it. En route, the defendant became involved in
15 assaulting another rival gang member, who took the weapon after the
16 defendant dropped it. The defendant then fled the scene.

17 The young victim died at the scene. As family members did not
18 respond to correspondence, a lot of information about the victim was not
19 available for the purpose of this report. It appears this victim did not
20 present a threat to the shooter, but was only driving in the area of his
21 assailants when he was shot in the head. He did not have any weapons on
22 him. What is known, is that this victim was a young man in his 20's who
23 will not have the opportunity to grow older and experience a full and long
24 life in this world. He will likely be grieved and missed by family
25 members, who will never be able to replace the unique place he held in his
26 family. No request for restitution was indicated.

27 The defendant cooperated with the probation interview in that he
28 presented himself as polite, and answered questions regarding his social

REYES, Andres Quinonez

Court No. 04CF2780; A-313513

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1 history. He declined to discuss details of the instant offense per the
2 advice of his attorney. He did express remorse for the victim, and
3 expressed regret over having become involved in the gang, and the instant
4 offense. He indicated he no longer claims to be a part of the gang. He
5 said he is a marked person in custody, as he cooperated with
6 investigators, and now constantly has to be on guard against other inmates
7 who want to harm him. While his initial custody record indicated
8 continued gang involvement and negative behavior, his current record of
9 behavior (in the Santa Ana Jail) was reported to be acceptable.

10 The crime involved violence that resulted in the death of the
11 victim, indicating cruelty, viciousness and callousness. A gun was used
12 to kill the victim, and after the murder the defendant sought to dispose
13 of the gun. While armed and en route to dispose of it, he became involved
14 in another assault and subsequently lost control of the gun. The manner
15 in which the crime was carried out indicates planning and criminal
16 sophistication. The defendant was also on probation at the time of the
17 instant offense. To his credit, the defendant did eventually cooperate
18 with authorities as they investigated the crime.

19 This young defendant came to the attention of the criminal
20 justice system when he was 11 years of age. Repeated attempts by the
21 courts and probation to assist him in avoiding further criminal behavior
22 failed, and it is noted he was on probation when he participated in the
23 instant offense. While the defendant was not the shooter, his actions
24 immediately following the murder indicate his support of and allegiance to
25 the gang's activities in this case. His behavior while incarcerated at
26 Juvenile Hall immediately following his arrest also indicated his
27 continued support of the F-troop gang. While this defendant appears to
28 presently realize the serious mistakes he has made, he none-the-less

REYES, Andres Quinonez

Court No. 04CF2780; A-313513

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1 deserves to be punished for his role in these crimes.

2 Considering the defendant is youthful, expressed remorse, and
3 cooperated with authorities, it appears that it would be in the interests
4 of justice for the Court to consider allowing the defendant to be housed
5 at the California Youth Authority until he is 25 years of age, as he
6 appears to meet the criteria as indicated in W&I code 1731.5. It appears
7 this defendant could benefit from their reformatory and educational
8 programs.

9 The following recommendation is respectfully submitted for the
10 Court's consideration.

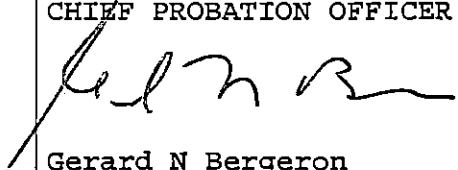
11 RECOMMENDATION

12 In view of the foregoing, it is respectfully recommended that
13 probation be denied and sentence imposed. Further, the defendant be
14 ordered to pay a restitution fine pursuant to Penal Code 1202.4(b)(1), in
15 the amount of \$1000.

16 In addition to the terms of probation, it is further recommended
17 that the Court determine that the defendant has the ability to pay for the
18 cost of the felony presentence report in the amount of \$2,762.17 pursuant
19 to Penal Code 1203.1b, payable at a monthly rate determined by the
20 probation officer.

21 Respectfully submitted,

22 COLLEENE PRECIADO
23 CHIEF PROBATION OFFICER

24  MB
25 Gerard N Bergeron
26 Deputy Probation Officer
27 (714) 569-2084
28

REYES, Andres Quinonez

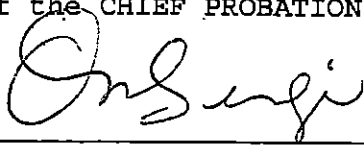
Court No. 04CF2780; A-313513

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1 Dated this 21st day of July, 2006.

2 I have read and considered the foregoing
3 report of the CHIEF PROBATION OFFICER.

4



5 JUDGE OF THE SUPERIOR COURT

CARLA M. SINGER

6 GNB:sgd

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July 10, 2006

To Whom It May Concern:

I am writing this letter to provide some insight into what type of person my nephew, Andres Reyes is. Unfortunately during his trial, this is a side that was not brought up to light.

Even before his father gave into drugs and abandoned his family, Andres was acting as a father figure to his three younger siblings. Whether it was picking them up from school, or making sure they ate their dinner, he made them his priority, helping his single mom raise them. He always made sure that there was never a lack of respect towards their mother. Just like all teenagers, he went through his different phases while growing up. He acquired an addiction to skateboarding, and his two younger brothers followed directly under his footsteps. This newly acquired passion served as an escape from any problems that his mom had, whether they were financial or with relationships. Tragically, he ended up following the wrong crowd, and within a few months, he had made the biggest mistake of his life. His portrayal of being a hardcore gang member couldn't be farther from the truth. His major mistake was not contacting the authorities' right after the crime was committed. Through his cooperation with the authorities after he was detained, has made him a constant target for beatings and harassment.

I ask that you put in consideration the type of person Andres was before he made the mistake of hanging out with gang members, and the person that he is right now, one that is being a model inmate, focusing on learning, and more importantly one that regrets every action that he took that led to that tragic event 2 years ago. If given the chance to repay society for his wrongful deeds, through our family support I believe that he could one day serve his community.

Sincerely,

Raul Quinonez



10 July 2006

To Whom It May Concern:

I am writing this on behalf of Andres Reyes. I am aware that he has been sentenced for several crimes which occurred while spending time with his friends last summer. I sat through a large part of his trial and am fully convinced that the picture painted of him is not an accurate picture of what Andres is really like.

Andres had always been a caring boy who wanted and needed someone to look up to as he was growing up. Unfortunately he grew up in a broken family, observing once how his own father almost overdosed on narcotics. That scarred him to the point that several years later he was able to find a group of friends who made him feel like he was part of a group. Unfortunately, this group was headed by an experienced gang member coming from a family with historical ties to gangs.

I have studied organized crime both domestically and internationally as part of my job and educational background. I clearly noticed how the senior gang members of the organization recruited new ones like my nephew Andres. They prey on young men who come from broken and economically hurting families, such as Andres. Initially offering them friendship and support and eventually turning them into pawns of their criminal activities. While I will not dispute the events that occurred the day of the crime, I do want to express my full confidence that Andres was not aware of the events that were to take place. What happened afterwards, had more to do with his fear of what was going on rather than a conscious attempt to willingly hurt someone. He learned hard his mistake in a rough way.

I am convinced that his actions while in detention are evidence that corroborate his true personality. He has continued to study his high school subjects and has consistently given advice to his younger brothers when they go visit him. At the same time, his old friends from the gang have turned on him because he has told them he will not back them up. He has realized his costly mistake and is determined to reestablish his life in a moral and legal way. As for us close to him, we have given him all our support and will work closely with him so that he no longer has to turn towards bad influences for support. I humbly ask that you take this into consideration when deciding what type of sentence to hand him.

Respectfully,

Francisco Quinones



114-558-2000
Attn: Gerard
Bergeron

7/10/06

My name is Leticia Rodriguez, mother
of Andres Reyes.

I don't even know where to start. My boy is
a really great kid. You can ask my whole family
& they will tell you that he has a huge heart.
He never disrespected anyone. Andy was always
there for whoever needed his help. When his
father left 7 yrs ago, Andy took over the role of
the man of the house at age 10. My son was
always making sure his brothers & sister were
taken care of very well. He took them under
his wings. Andres was my strength. He helped
me so much. I wouldn't of survived if I wouldn't
of had my boy next to me. I think my son started
feeling the pressure at around age 14-15. That
is when he started hanging around with the wrong
crowd. The gang made him forget all his troubles
and it helped him release his stress. Literally, he
became a father at age 10. Even when he was starting
to hang around with the wrong people, he was still
there for me & the kids. He wouldn't leave with his
friends until he knew the kids had dinner and
finished all his chores. Andres NEVER disrespected
me. No matter what, I would get mad at him and
he never talked back to me. Before all this gang
issues, my son used to be a skater. He had so
many friends. Everyone used to think he was
a respectful kid. Andy never disrespected
my family. All his cousins looked up to him,
due to the fact that at a young age, he
society & problems made him grow up very fast.
If anyone should be blamed for what's

7/10/06

happened, it should be me. I was very young when I had Andy. It was my responsibility to take them all under my wings, but I had to work a lot to support my kids.

Please don't take the opportunity away from my son. He is so young. He didn't know right from wrong. I ask you as a mother, please don't take my son Andres away from me for a long time. Andy is my strength. We all miss him and need him in our lives. See it in your heart how my son Andres really is. I might not know how to express myself well, but this letter is from my heart. Give Andres an opportunity to be someone in life. Don't keep him in jail for so long. I really need my boy. My kids need him. Only if you knew how my son Andres really is. You would be surprised & wouldn't understand why he is where he is now.

I would trade places in a heart beat. He is the innocent one & I am the guilty one here!

Thank you for your time,

Leticia Rodriguez

Andres Reyes mother

July 10, 2006

To whom it may concern:

I'd like to give my statement on regards to Andres Reyes, I met his Mother Leticia back in 2000, one thing that kept my eye was that from her 4 children Andy is the one who is been so caring about his 2 brothers and sister, Andy is been like a father for them specially for the little one. As you may know Andy's parents have been divorced for over 7 years. Andy took over responsibilities as if he will it have to do it. He's been such a good kid as far as I remember he always look forward to help his mother and brothers. His priority was his little brother the most he always care about school because he mentioned that he wants to make a good career to become some one important that could help his Mother and give his brothers and sister as much as he could. I consider him as a responsible kid at his earliest age, always doing the best for others along with friends and family. I never knew or see Andy getting in trouble or been with people with bad influence but, if there's anything that my statement could help to let you know how concern I am and how much I believe on his innocence please feel free to contact me. I also believe that a lot of things can happen but to consider that life has many things around you that even mature people who know what they are doing in their life's with out wanted get involve in difficult situations. In few words I know Andy from time ago and all I can say all the damage or danger he can do in life is to Love his family and care for them due to the lack of his Father he always wanted to be one for his 3 brothers.

Olivia Flores

[REDACTED]

JUL 25 2006

ALAN SLATER, Clerk of the Court

BY: S. ARROCHA, DEPUTY

1 ANDRES REYES
2 ORANGE COUNTY ~~JUVENILE~~ HALL
3 IN PRO PER
4

5 SUPERIOR COURT OF THE STATE OF CALIFORNIA
6 CENTRAL JUSTICE CENTER COUNTY OF ORANGE
7

8 PEOPLE OF THE STATE OF CALIFORNIA) CASE NO.04CF2780
9)

10 Plaintiff,

11) NOTICE OF APPEAL
12)

13 vs.

14 ANDRES REYES,

15 Defendant.
16)
17)
18)
19)
20)
21)
22)
23)
24)
25)
26)

15 DEFENDANT, IN PRO PER, hereby appeals from the judgment and
16 sentence of the above-entitled court. Defendant also declares he is
17 indigent and requests appointment of counsel.
18

19 DATED: 7/25/06
20

21 Andy Reyes
22 ANDRES REYES
23
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MINUTE ORDER

Case Number 04CF2780 F A

People Vs Reyes, Andres Quinonez

Report Request Criteria

1. Docket Date Range : Date filter
2. Sequence Number Range : Sequence filter
3. Docket Category : Category filter

<u>Docket Dt</u>	<u>Seq</u>	<u>Text</u>
7/25/2006	1	Hearing held on 07/25/2006 at 09:00:00 AM in Department C36 for Sentencing.
	2	Officiating Judge: Carla M. Singer, Judge
	3	Clerk: B. Healy
	4	Bailiff: J. Hanson
	5	Court Reporter: Lynn Peterson
	6	In open court at 01:55 PM
	7	Defendant present in Court with counsel Brott, James, Conflict Attorney.
	8	People represented by Mark Geller, Deputy District Attorney, present.
	9	The Court stated for the record why sentencing was not done 7-21-06 or 7-24-06, that is, because of transportation problems in getting the defendant from new juvenile housing to court. The defendant waived any time problems in being sentenced; counsel joined.
	10	Court read and considered Probation P&S report with attachments and the People's Sentencing Brief, each filed this date.
	11	Defendant waives arraignment for sentencing.
	12	No legal cause why judgment should not be pronounced and defendant having been convicted of 187(a) PC as charged in count 1, defendant is sentenced to STATE PRISON for a term of 15 years to life.
	13	Court finds enhancement pursuant to 12022.53(d)(e)(1) PC charged and found true in count 1. Court imposes term of 25 Years to life. Sentence to be consecutive to sentence on count 1.
	14	Court finds enhancement pursuant to 186.22(b)(1) PC, sequence # 1 charged and found true in count 1. Court imposes term of 10 Year(s). Punishment Stayed.
	15	Defendant has also Found Guilty by Jury to the additional charge of 186.22(a) PC in count 2 and is sentenced to STATE PRISON for a term of 2 years to life. Sentence imposed to be served concurrent to count 1.
	16	The reason Court pronounced judgment in this matter is as follows: The Court finds Count 1 and 2 not separate acts, independent of each other..
	17	Total time in prison: 40 years to Life with possible parole
	18	Defendant advised that he will remain on parole for life if he is paroled.
	19	Defendant advised of the possible consequences of plea affecting deportation and citizenship.

MINUTE ORDER

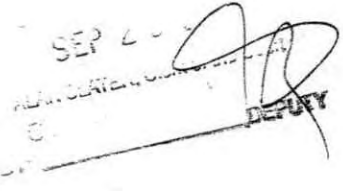
Case Number 04CF2780 F A

People Vs Reyes, Andres Quinonez

Report Request Criteria

1. Docket Date Range : Date filter
2. Sequence Number Range : Sequence filter
3. Docket Category : Category filter

<u>Docket Dt</u>	<u>Seq</u>	<u>Text</u>
7/25/2006	20	Defendant advised of right to appeal.
	21	Credit for time served: 714 actual, 0 conduct, totaling 714 days.
	22	The Court finds housing the defendant until he is age 25 at the California Youth Authority complies with Welfare and Institutions Codes 208 and 1731.5.
	23	Defendant to be housed at California Youth Authority pursuant to Welfare and Institutions Code 1731.5(c).
	24	Pay \$200.00 Restitution Fine pursuant to Penal Code 1202.4 or Penal Code 1202.4(b).
	25	Pay \$200.00 Parole Revocation Restitution Fine pursuant to Penal Code 1202.45. Parole Revocation Restitution Fine suspended unless parole is revoked.
	26	Pay Security Fee(s) pursuant to Penal Code 1465.8 totaling \$40.00.
	27	Court orders all fees payable through the Department of Corrections.
	28	The Court finds the defendant does not have the ability to pay the costs of the P&S report and denies Probation request for payment.
	29	Defendant provided a copy of "Prohibited Persons Notice Form and Power of Attorney for Firearms and Disposal" pursuant to Penal Code 12021(d)(2).
	30	Defendant to submit to DNA testing pursuant to Penal Code 296.
	31	After session and off reporter record, the Court orders defendant to register with police of the city in which he resides, or the sheriff of the county in which he resides, within 10 days of release from custody or within 10 days of his arrival in any city, county, or city and county to reside there, whichever occurs first.
	32	Defendant to register pursuant to Penal Code 186.30.
	33	Sheriff ordered to deliver the defendant to the custody of California Youth Authority reception center forthwith.
	34	Defendant remanded to the custody of the Sheriff.
	35	Notice to Sheriff issued.

SUPERIOR COURT OF CALIFORNIA, COUNTY OF ORANGE 700 CIVIC CENTER DRIVE POST OFFICE BOX 22024 SANTA ANA, CA 92702-2024 CRIMINAL OPERATIONS	FOR COURT USE ONLY
PEOPLE OF THE STATE OF CALIFORNIA VS. DEFENDANT: <i>Reyes, Andres</i>	
FINGERPRINT FORM	CASE NUMBER: <i>040K2780</i>

INSTRUCTIONS

Immediately following arraignment in superior court of a defendant charged with a felony or arraignment of a defendant by a municipal court judge sitting as a superior court judge, the court shall require the defendant to provide a right thumbprint on this form. In the event the defendant is convicted, this form shall be attached to the minute order reflecting the defendant's sentence and shall be permanently maintained in the court file. Please see Penal Code section 992 for further information, including when the defendant is physically unable to give a right thumbprint.

For a proper imprint and durable record, this form should be printed on paper that meets California Department of Justice specifications: a 99 pound white tab card or 100 pound white tab stock 0.0070 inch thick (0.0066 through 0.0074 inch is acceptable). Paper smoothness should be 100-140 sheffield units. The form should be printed with the grain left to right.

1. The box to the right contains the defendant's

- ☒ right thumbprint
- ☐ other print (*specify*):

2. The print was taken on (*date*): *9-23-04*

3. The print was taken by

- a. Name: **K. SPELLERBERG**
- b. Position: **DEPUTY SHERIFF**
- c. Badge or serial No.: **#2434**



ABSTRACT OF JUDGMENT - CYA COMMITMENT - INDETERMINATE
(NOT VALID WITHOUT COMPLETED PAGE TWO OF CR-292 ATTACHED)

CR-292
FILED

<input checked="" type="checkbox"/> SUPERIOR COURT OF CALIFORNIA, COUNTY OF: Orange		SUPERIOR COURT OF CALIFORNIA COUNTY OF ORANGE CENTRAL JUSTICE CENTER JUL 28 2006 ALAN SLATER, Clerk of the Court BY: <u>H. YANG</u> DEPUTY	
MUNICIPAL BRANCH OR JUDICIAL DISTRICT: _____			
PEOPLE OF THE STATE OF CALIFORNIA vs DEFENDANT: Reyes, Andres Quinonez			
DOB: 01-14-89 AKA: Reyes, Andy CII# _____ BOOKING# _____			
COMMITMENT TO STATE PRISON ABSTRACT OF JUDGEMENT		04CF2780 -A _____ -B _____ -C _____ -D	
DATE OF HEARING 07-25-06	DEPT.NO. C36	JUDGE Carla M. Singer	
CLERK Bobbie Healy	REPORTER Lynn Peterson	PROBATION NO. OR PROBATION OFFICER	
COUNSEL FOR PEOPLE Mark Geller		COUNSEL FOR DEFENDANT James Brott, Retained Attorney <input type="checkbox"/> APPTD	

1. Defendant was convicted of the commission of the following felonies:

☐ Additional counts are listed on attachment
 0 (number of pages attached)

CNT.	CODE	SECTION NO.	CRIME	YEAR CRIME COMMITTED	DATE OF CONVICTION (MO/DATE/YEAR)	CONVICTED BY					654 STAY
						JURY	COURT	PLEA	CONCURRENT	CONSECUTIVE	
1A	PC	187(a)**	Murder - second degree	04	06/07/06	X					

2. ENHANCEMENTS charged and found to be true TIED TO SPECIFIC COUNTS (mainly in the PC 12022 series). List each count enhancement horizontally. Enter time imposed for each or 'S' for stayed. DO NOT LIST enhancements stricken under PC 1385.

CNT.	ENHANCEMENT	Y/S	ENHANCEMENT	Y/S	ENHANCEMENT	Y/S	ENHANCEMENT	Y/S	TOTAL
1A	186.22(b)(1) PC	S	12022.53(d)(e)(1) PC	25Y00M					25 0

3. ENHANCEMENTS charged and found to be true FOR PRIOR CONVICTIONS OR PRISON TERMS (mainly in the PC 667 series). List all enhancements horizontally. Enter time imposed for each or 'S' for stayed. DO NOT LIST enhancements stricken under PC 1385.

ENHANCEMENT	Y/S	ENHANCEMENT	Y/S	ENHANCEMENT	Y/S	ENHANCEMENT	Y/S	TOTAL

Defendant was sentenced to State Prison for an INDETERMINATE TERM:

4. ☐ For LIFE WITHOUT POSSIBILITY OF PAROLE on counts _____
5. ☐ For LIFE WITH POSSIBILITY OF PAROLE on counts _____
6. ☒ For 15 years to life, WITH POSSIBLTY OF PAROLE on counts 1
 PLUS enhancement time shown above.
7. ☒ Additional determinate term (see CR-290).

8 defendant was sentenced pursuant to ☐ PC 667(b)-(i) or PC 1170.12 ☐ PC 667.61 ☐ PC 667.7 ☐ PC 667.9
☐ other (specify): _____

This form is prescribed under PC 1213.5 to satisfy the requirements of PC 1213 for indeterminate sentences. Attachments may be used but must be referred to in this document.

(Continued on reverse)

PEOPLE OF THE STATE OF CALIFORNIA vs.			
DEFENDANT: Reyes, Andres Quinonez			
04CF2780	-A	-B	-C
			-D

9 FINANCIAL OBLIGATIONS (including any applicable penalty assessments):

- a. RESTITUTION FINE of: \$ 200.00 per PC 1202.4(b) forthwith per PC 2085.5.
- b. RESTITUTION FINE of: \$ 200.00 per PC 1202.45 suspended unless parole is revoked.
- c. RESTITUTION of: \$ _____ per PC 1202.4(f) to ☐ victim(s) ☐ Restitution Fund
 (* List victim name(s) if known and amount breakdown in item 11, below.)
 (1) ☐ Amount to be determined.
 (2) ☐ Interest rate of: _____ % (not to be exceed 10% per PC 1204.4(f)(3)(F)).
- d. ☐ LAB FEE of: \$ _____ for counts: _____ per H&SC 11372.5(a).
- e. ☐ DRUG PROGRAM FEE of _____ per H&SC 11372.7(a).
- f. ☐ FINE of: \$ _____ per PC 1202.5.

10. TESTING

- a. ☐ AIDS pursuant to ☐ PC 1202.1 ☐ other (specify): _____
- b. ☒ DNA pursuant to ☐ PC 290.2 ☒ other (specify): **PC 296**

11. Other orders (specify):

Total time in prison; 40 Years to Life with possible parole.
 Pay Security Fee(s) pursuant to Penal Code 1465.8 totaling \$40.00.
 Court orders all fees payable through the Department of Corrections.
 Defendant to register pursuant to Penal Code 186.30.

The Court finds housing the defendant until he is age 25 at California Youth Authority pursuant to Welfare and Institutions Codes 208 and 1731.5 and 1731.5(c).

After session and off reporter record, the court orders defendant to register with police of the city in which he resides, or the county in which he resides, within 10 days of release from custody or within 10 days of his arrival in any city, county, or city and county to reside there, whichever occurs first.

12. Execution of sentence imposed

- a. ☒ at initial sentencing hearing.
- b. ☐ at resentencing per decision on appeal.
- c. ☐ after revocation of probation
- d. ☐ at resentencing per recall of commitment. (PC 1170(d).)
- e. ☐ other (specify): _____

13. CREDIT FOR TIME SERVED

CASE NUMBER	TOTAL CREDITS	ACTUAL	LOCAL CONDUCT
- A			<input type="checkbox"/> 4019 <input type="checkbox"/> 2933.1
- B			<input type="checkbox"/> 4019 <input type="checkbox"/> 2933.1
- C			<input type="checkbox"/> 4019 <input type="checkbox"/> 2933.1
- D			<input type="checkbox"/> 4019 <input type="checkbox"/> 2933.1
DATE SENTENCE PRONOUNCED 7/25/2006	SERVED TIME IN STATE INSTITUTION <input type="checkbox"/> DMH <input type="checkbox"/> CDC <input type="checkbox"/> CRC		

14. The defendant is remanded to the custody of the sheriff ☒ forthwith ☐ after 48 hours excluding Saturdays, Sundays, and holidays

To be delivered to ☐ the reception center designated by the director of the California Department of Corrections.
☒ other (specify): **CYA, Upon notice of Acceptance by that agency.**

I hereby certify the foregoing to be a correct abstract of the judgment made in this action.

DEPUTY'S SIGNATURE H. Yang DATE JUL 28, 2006

ABSTRACT OF JUDGMENT - CYA COMMITMENT - DETERMINATE
(NOT VALID WITHOUT COMPLETED PAGE TWO OF CR-290 ATTACHED)

CR-290

<input checked="" type="checkbox"/> SUPERIOR COURT OF CALIFORNIA, COUNTY OF: Orange		<div style="border: 2px solid black; padding: 5px; display: inline-block;"> FILED JUL 28 2006 SUPERIOR COURT OF CALIFORNIA COUNTY OF ORANGE CENTRAL JUSTICE CENTER ALAN SLATER, Clerk of the Court BY: H. YANG DEPUTY </div>	
<input type="checkbox"/> MUNICIPAL BRANCH OR JUDICIAL DISTRICT:			
PEOPLE OF THE STATE OF CALIFORNIA vs. Reyes, Andres Quinonez DOB: 01-14-89			
DEFENDANT: Reyes, Andy			
AKA: Reyes, Andy		04CF2780 -A	
CII#		-B	
BOOKING#		-C	
COMMITMENT TO STATE PRISON ABSTRACT OF JUDGEMENT		-D	
DATE OF HEARING 07-25-06		DEPT. NO. C36	
CLERK Bobbie Healy		REPORTER Lynn Peterson	
COUNSEL FOR PEOPLE Mark Geller		JUDGE Carla M. Singer	
		PROBATION NO. OR PROBATION OFFICER	
		COUNSEL FOR DEFENDANT James Brott, Retained Attorney	

1. Defendant was convicted of the commission of the following felonies:

☐ Additional counts are listed on attachment
 0 (number of pages attached)

CNT.	CODE	SECTION NO.	CRIME	YEAR CRIME CMMD	DATE OF CONVICTION (MO/DATE/YEAR)	CONVICTED BY			TERM (L/M/D)	CONCURRENT	CONSECUTIVE 1/3 VIOLENT	CONSECUTIVE 1/3 NON-VIOLENT	CONSECUTIVE FULL TERM	INCOMPLETE SENTENCE (refer to item 5)	654 STAY	PRINCIPAL OR CONSECUTIVE TIME IMPOSED	
						JURY	COURT	PLEA								YRS	MOS.
2A	PC	186.22(a)	Street Terrorism	04	06/07/06	X				X							(02 00)

2. ENHANCEMENTS charged and found to be true TIED TO SPECIFIC COUNTS (mainly in the PC 12022 series). List each count enhancement horizontally. Enter time imposed for each or 'S' for stayed. DO NOT LIST enhancements stricken under PC 1385.

CNT.	ENHANCEMENT	Y/S	ENHANCEMENT	Y/S	ENHANCEMENT	Y/S	ENHANCEMENT	Y/S	TOTAL

3. ENHANCEMENTS charged and found to be true FOR PRIOR CONVICTIONS OR PRISON TERMS (mainly in the PC 667 series). List all enhancements horizontally. Enter time imposed for each or 'S' for stayed. DO NOT LIST enhancements stricken under PC 1385.

ENHANCEMENT	Y/S	ENHANCEMENT	Y/S	ENHANCEMENT	Y/S	ENHANCEMENT	Y/S	TOTAL

4. ☐ Defendant was sentenced pursuant to PC 667(b)-(l) or PC 1170.12 (two strikes).

5. INCOMPLETED SENTENCE(S) CONSECUTIVE

COUNTY	CASE NUMBER

6. TOTAL TIME ON ATTACHED PAGES: 00 00

7. ☒ Additional indeterminate term (see CR-292).

8. TOTAL TIME: (02 00)

This form is prescribed under PC 1213.5 to satisfy the requirements of PC 1213 for determinate sentences. Attachments may be used but must be referred to in this document.

(Continued on reverse)

PEOPLE OF THE STATE OF CALIFORNIA vs. DEFENDANT: Reyes, Andres Quinonez			
04CF2780	-A	-B	-C
			-D

9 FINANCIAL OBLIGATIONS (including any applicable penalty assessments):

- a. RESTITUTION FINE of: \$ _____ per PC 1202.4(b) forthwith per PC 2085.5.
b. RESTITUTION FINE of: \$ _____ per PC 1202.45 suspended unless parole is revoked.
c. RESTITUTION of: \$ _____ per PC 1202.4(f) to ☐ victim(s) ☐ Restitution Fund
(* List victim name(s) if known and amount breakdown in item 11, below.)
(1) ☐ Amount to be determined.
(2) ☐ Interest rate of: _____ % (not to be exceed 10% per PC 1204.4(f)(3)(F)).
d. ☐ LAB FEE of: \$ _____ for counts: _____ per H&SC 11372.5(a).
e. ☐ DRUG PROGRAM FEE of _____ per H&SC 11372.7(a).
f. ☐ FINE of: \$ _____ per PC 1202.5.

10. TESTING

- a. ☐ AIDS pursuant to ☐ PC 1202.1 ☐ other (specify):
b. ☐ DNA pursuant to ☐ PC 290.2 ☐ other (specify):

11. Other orders (specify):

12. Execution of sentence imposed

- a. ☒ at initial sentencing hearing. d. ☐ at resentencing per recall of commitment. (PC 1170(d).)
b. ☐ at resentencing per decision on appeal. e. ☐ other (specify):
c. ☐ after revocation of probation

13. CREDIT FOR TIME SERVED

CASE NUMBER	TOTAL CREDITS	ACTUAL	LOCAL CONDUCT
04CF2780 - A	714	714	0 <input type="checkbox"/> 4019 <input type="checkbox"/> 2933.1
- B			<input type="checkbox"/> 4019 <input type="checkbox"/> 2933.1
- C			<input type="checkbox"/> 4019 <input type="checkbox"/> 2933.1
- D			<input type="checkbox"/> 4019 <input type="checkbox"/> 2933.1
DATE SENTENCE PRONOUNCED 07/25/06	SERVED TIME IN STATE INSTITUTION <input type="checkbox"/> DMH <input type="checkbox"/> CDC <input type="checkbox"/> CRC		

14. The defendant is remanded to the custody of the sheriff ☒ forthwith ☐ after 48 hours excluding Saturdays, Sundays, and holidays

To be delivered to ☐ the reception center designated by the director of the California Department of Corrections.
☒ other (specify): **CYA, Upon notice of Acceptance by that agency.**

I hereby certify the foregoing to be a correct abstract of the judgment made in this action.

DEPUTY'S SIGNATURE **H. Yang** DATE **JUL 28, 2006**

STATE OF CALIFORNIA
Supreme Court of California

PROOF OF SERVICE

STATE OF CALIFORNIA
Supreme Court of California

Case Name: **PEOPLE v.
REYES**

Case Number: **S270723**

Lower Court Case Number: **G059251**

1. At the time of service I was at least 18 years of age and not a party to this legal action.
2. My email address used to e-serve: **Jennifer.Truong@doj.ca.gov**
3. I served by email a copy of the following document(s) indicated below:

Title(s) of papers e-served:

Filing Type	Document Title
EXHIBITS	Exhibit A _Part 1 of 2
EXHIBITS	Exhibit A _Part 2 of 2
EXHIBITS	Exhibit B _Part 1 of 3
EXHIBITS	Exhibit B _Part 2 of 3
EXHIBITS	Exhibit B _Part 3 of 3

Service Recipients:

Person Served	Email Address	Type	Date / Time
Jennifer Truong Department of Justice, Office of the Attorney General-San Diego 285868	Jennifer.Truong@doj.ca.gov	e-Serve	4/7/2022 4:48:48 PM
Gerald Miller Court Added 120030	miller120030@gmail.com	e-Serve	4/7/2022 4:48:48 PM
Richard Levy Richard A. Levy 126824	rlevy@richardalevy.com	e-Serve	4/7/2022 4:48:48 PM
Lindsey Schiller Department of Justice, Office of the Attorney General-San Diego	lindsey.schiller@doj.ca.gov	e-Serve	4/7/2022 4:48:48 PM
Richard Levy Attorney at Law	levy@richardalevy.com	e-Serve	4/7/2022 4:48:48 PM
Liza Nickolas CA Attorney General's Office - San Diego	liza.nickolas@doj.ca.gov	e-Serve	4/7/2022 4:48:48 PM
District Attorney, Orange County	appellate@da.ocgov.com	e-Serve	4/7/2022 4:48:48 PM
Attorney general Office-San Diego	sdagtruefiling@doj.ca.gov	e-Serve	4/7/2022 4:48:48

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Appellate Defenders, Inc.	court@adi-sandiego.com	e-Serve	4/7/2022 4:48:48 PM

This proof of service was automatically created, submitted and signed on my behalf through my agreements with TrueFiling and its contents are true to the best of my information, knowledge, and belief.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

4/7/2022

 Date

/s/Liza Nickolas

 Signature

Truong, Jennifer (285868)

 Last Name, First Name (PNum)

Department of Justice, Office of the Attorney General-San Diego

 Law Firm