

# SLAYING CONVICTION VOIDED BY HIGH COURT ELGIN GANG SHOOTING SNARED 'A GOOD KID'

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Rejecting the prosecution's theory of what constitutes criminal aiding and abetting, the Illinois Supreme Court threw out the murder conviction of a purported gang member who was present when a rival gang member was murdered in Elgin.

In an unusual move, the justices ruled that the evidence at trial was insufficient to convict Victor Perez, and they overturned his conviction without ordering a retrial--clearing the way for Perez's release.

Perez, 23, was found guilty of first-degree murder by Kane County Circuit Judge James T. Doyle for the Feb. 14, 1995, murder of Pedro Gonzalez, 19, during a street confrontation. He was sentenced to 20 years in prison.

Perez, who denied in testimony that he was a member of a gang, nevertheless was with admitted members of the Maniac Latin Disciples street gang at the time of the shooting, according to the Supreme Court opinion.

An issue in the case was whether Perez was with the Disciples by happenstance or to cause trouble. The Illinois Appellate Court had affirmed Doyle's ruling.

The Supreme Court, which rarely reverses a case based on insufficient evidence, noted that testimony at trial revealed that there were serious questions about whether Perez was, in fact, a member of the gang. Further, the court noted that there was no evidence that Perez knew or had a motive to take part in the murder.

"I'm thrilled," said attorney Leonard Goodman, who represented Perez before the Illinois Supreme Court. "He is a good kid who had never been in trouble before. He was at the wrong place at the wrong time."

The victim was alleged to have been a member of the Latin Kings street gang when members of the Maniac Latin Disciples gang stopped him, his brother and a friend on the street, according to the Supreme Court opinion.

Perez drove by the scene and stopped his car, claiming in testimony that he was pulling over to pay back \$20 he owed to one of the men.

Testimony varied dramatically about what happened next. Some witnesses testified, and prosecutors emphasized, that Perez identified Gonzalez as a member of the Latin Kings, in essence, giving a Disciple gang member the go-ahead to shoot him.

But at Perez's sentencing hearing, two other men convicted of shooting Gonzalez testified that Perez had nothing to do with the shooting. Anthony Rivera, who was sentenced to 35 years for the shooting, testified he didn't know Perez and had not discussed his intention to shoot Gonzalez with anyone.

Luis Nieves, who pleaded guilty to voluntary manslaughter in connection with the slaying, and was sentenced to six years in prison, confirmed that Perez owed him money and that Perez might have stopped on the scene to repay him.

Testimony also revealed that Perez and Gonzalez were childhood friends, and that when asked, Perez said he believed Gonzalez was a gang member in the past, but didn't know if he was at the time.

Perez denied he identified Gonzalez for the purpose of giving Rivera the go-ahead to shoot him.

"In the instant case, the State attempted to establish that defendant was a member of the Disciples, and thus must have shared Rivera's motive to harm Pedro," Justice Moses W. Harrison II said in the unanimous 6-0 opinion. (Justice S. Louis Rathje took no part in the consideration of the case.) "However, the appellate court found only that the defendant associated with members of the Disciples. Guilty by association is a thoroughly discredited doctrine."

Perez, who was still in prison late Thursday afternoon, could be released in the next day or two, as soon as the Supreme Court issues the appropriate paperwork, a spokesman for the Illinois Department of Corrections said.

Perez's defense lawyer at trial said Thursday he was relieved his client was exonerated.

"Perez was brought into this thing at the last second and simply answered one question that was asked of him" about whether the victim was a member of the Kings, said defense attorney Frank Giampoli. "He had no idea that this other guy was armed, or that there was any concerted effort to kill (Gonzalez)."

Prosecutors, however, had argued that Perez was a member of the Disciples and that his actions on that night met the definition of aiding and abetting.

"Our argument was that a street gang is an organized criminal enterprise and that everybody in the gang is aiding and abetting everyone else," said Patrick Crimmins, the Kane County assistant state's attorney who prosecuted Perez. "Each and every gang member is the eyes and ears of every other gang member."