

Cathedral City officer testified while under investigation, life sentence in question

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Cathedral City detective's misconduct calls into question a potential life sentence in gang case

A Cathedral City police officer testified while under investigation and after being demoted, and didn't tell the court. Judge ordered partial retrial.

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Anthony Lopez's son, Sergio Guzman, was convicted of armed robbery and faced sentencing enhancements for purportedly being in a gang. Vickie Connor, The Desert Sun

The ethical violations that cost a one-time Cathedral City police detective his positions as a gang investigator and an expert witness could wind up keeping a father of three from spending the rest of his life in prison.

To be sure, Sergio Guzman, that 32-year-old father, *is* going to prison.

Convicted in 2018 of six counts of armed robbery, Guzman is facing 19 years for those offenses.

But at issue are the gang-related charges the district attorney's office tacked on. Together with the theft charges of which Guzman has already been convicted, those enhancements, if he's found guilty, could send him to prison for a maximum 150 years – essentially, life.

However, because the testimony of gang expert Alfredo Luna was nullified after it was discovered that he'd failed to disclose he was being investigated for falsifying his time card and failing to report an unrelated crime, the gang enhancement charges against Guzman will now be the subject of a retrial.

Friends and supporters of Guzman, including Cathedral City Councilman Ernesto Gutierrez, wrote letters to Judge Russell Moore, who presided over Guzman's case, contending that Guzman was wrongly identified as a gang member based on his family's ties to Dream Homes, a Latino neighborhood in Cathedral City that has historically struggled with crime.

Gutierrez said he has known Guzman since he was an infant and described him as a "really likable kid."

"As far as I knew him, he did not seem like a gang banger," Gutierrez said of Guzman. "I want to make sure he gets a fair trial and fair punishment. Not just for himself but for the family. The family suffers when our justice system is not working."

Joe Dahlstrom, co-founder and owner of the Paradigm Golf Group, worked closely with Guzman for years at the Cimarron Golf Resort, which is adjacent to the Dream Homes neighborhood.

He said Guzman worked jobs at the golf course since he was 16 and was "always really pleasant." Dahlstrom added that Guzman and his siblings were welcome at Dahlstrom's Palm Desert home: "If we thought there was even a little chance he was in a gang, this would have never been allowed."

"Let me get this straight, nobody was shot during the crime, and yet somebody could die in prison for this?" Dahlstrom said of Guzman's case. "If Sergio really did this, I think he should pay his dues, but a life sentence is outrageous."



Sergio Guzman, second from right, is pictured with family members at a wedding. Guzman faced a life sentence for robbery until the court was notified that the police officer who testified against him was under investigation. (Photo: Courtesy of Tony Lopez)

The People v. Sergio Guzman

According to a probation officer's report, Guzman joined a group of five people in an armed robbery spree in Cathedral City on Feb. 7, 2015. Police testified he drove the group in his father's Chevy truck.

One victim told police he was walking to his car when he noticed a black truck with several people inside driving in his direction. He asked them if they were looking for someone. They were armed, and one person identified himself as a gang member, the victim told officers. When they found he had nothing they could steal, they beat him up, then drove away.



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A row of shopping carts sit in an empty lot in the Cathedral City, Calif. Dream Homes neighborhood on Tuesday, October 8, 2019. (Photo: Vickie Connor/The Desert Sun)

While Cathedral City police officers were interviewing that victim, they learned of a second assault about a mile away from the first.

According to the probation report, the group walked through the unlocked door of a home where about seven people were gathered playing video games and listening to music. A member of the group was armed with a sawed-off shotgun and confronted one of the occupants of the home. That person allegedly owed the brother of one of the suspects money for a drug debt. The suspect demanded payment, then struck the occupant and another person present.

Ultimately, the group left with \$40, a wallet, a jar of marijuana, a Samsung tablet, a couple of cell phones, an Xbox video game system and a television.

Before they left, though, one of the suspects threatened to kill one of the occupants and his family if he told police about what happened, according to the report.

Soon after, Luna and other officers from various Coachella Valley law enforcement agencies found the truck, which was registered to Guzman's father, Tony Lopez. It matched the description provided by the victim at the first crime scene.



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Tony Lopez speaks with his son, Sergio Guzman, on the phone on Tuesday, October 8, 2019 in Cathedral City, Calif. Guzman was convicted of several counts of armed robbery and faced sentencing enhancements for purportedly being in a gang. (Photo: Vickie Connor/The Desert Sun)

The officers pursued the truck a short distance until it drove into an open desert area near Desert Hot Springs and the group inside fled on foot.

Investigators issued a warrant for Guzman, and about a month later he was arrested in and extradited from Florida, where he'd been staying with his parents.

Between the beatings, the guns, the threats, and the talk of gangs, Guzman and two other men, Elijah Hall and Anthony Torres, were each charged with several felony counts of robbery with gang enhancements. Two other defendants pleaded guilty; one has since been released and another is eligible for parole in 2021.

Choosing to take their cases to trial, Guzman, Hall and Torres all faced some version of a life sentence, if convicted.

During Guzman's trial, Luna, the Cathedral City police officer, testified as an expert witness that Guzman's crimes were committed on behalf of Barrio Dream Homes, a gang Luna said has terrorized the blue-collar Latino neighborhood in western Cathedral City for decades. According to a 2017 injunction update from the district attorney's office, the gang had about two dozen members.

Guzman pleaded not guilty to the thefts, and denied being a member of a gang.

Expert testimony

A significant amount of Luna's testimony was spent explaining to the jury how gang experts determine gang membership.

Luna testified that information is collected from suspects who associate with gangs and is recorded on field information cards, forms that officers fill out to document incidents that indicate gang affiliation.

Luna said he also based his determination on "predicate acts," previous crimes that law enforcement connected to the gang in other criminal cases.

And, at times, Luna said, defendants "self admit" their gang membership to him or other officers.

In this instance, Luna said he used a "totality of everything" approach to determine Guzman was a gang associate.

Alfredo Luna receives an award from the Cathedral City Police Department in 2017. (Photo: Cathedral City Police Department)

He said "one of the issues" with Guzman was that he did not admit he was in a gang when he was arrested, and there were no field identification cards or other "documentation" on him.

Also, Luna could not prove that a baseball cap found in the abandoned truck, emblazoned with a "D" insignia and associated with the Dream Homes gang, belonged to Guzman. But Luna did say that Guzman has a "D" tattooed on his chest that he believes represents Dream Homes. Defense attorney Leonard Cravens argued the tattoo was a reference to a wrestler Guzman was a fan of.



According to Luna, Guzman was "en route" to becoming a member of a criminal street gang, and the crimes he was accused of were committed for its benefit.

"I came to the opinion that I believe that he was en route to becoming an active member but based on the limited information that I was able to find on him as far as documentation, I felt it more appropriate at this time to list him as an associate rather than an active gang member," Luna testified.

When asked by Guzman's attorney what it means to be an associate of a gang, Luna responded, according to trial transcripts:

"... it's somebody who is on their way to wanting to be a gang member, so somebody who is up-and-coming, somebody who is trying to prove himself to the gang. They're on, I guess, the criminal career path to becoming a gang member."

Also, as part of his questioning, Guzman's attorney asked Luna why he was no longer a detective, as he was introduced during testimony as an officer. Luna responded that the police department had "time limits on special assignments."

On June 12, 2018, nearly a month after Guzman's trial began, a jury found him guilty of all the theft counts and gang-related enhancements. He was scheduled for sentencing in July.

What is a gang?

In California, it's a crime to participate in a criminal street gang, and prosecutors can impose additional penalties if they prove a defendant committed crimes on a gang's behalf.

The California Street Terrorism Enforcement and Prevention Act of 1988 established many of the standards for prosecuting defendants for gang participation or adding gang sentencing enhancements to their charges.

According to state law, a criminal street gang is a group of three or more people with a common name or symbol, who commit crimes and engage in a "pattern of criminal gang activity."

Moore, the judge who presided over Guzman's initial trial and who threw out his gang-related convictions in favor of a retrial on those charges, stated in his decision that it "is very difficult if not impossible to prove the gang enhancement without the testimony of an expert witness."



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Riverside County Superior Court Judge Russell Moore ruled that Sergio Guzman's gang charges should be subject to retrial. Moore wrote that the jury should have been made aware that Alfredo Luna, the expert witness in Guzman's trial, had been removed from the gang unit for lying on his time cards and was under investigation for allegedly failing to report child abuse. (Photo: Jay Calderon/The Desert Sun)

Lisa Taylor-Austin, a counselor working in private practice in Connecticut who often testifies as a forensic expert witness in gang-related cases, said being a gang expert requires decades of "specialized training, skill, knowledge, experience and education."

As a school counselor in the 1980s and 1990s, Taylor-Austin often found herself counseling students who were members of the Crips, Bloods and Sur 13, some of Los Angeles' most notorious gangs.

She began studying them and eventually was teaching classes on gangs. Before long, Taylor-Austin was providing testimony in criminal trials around the nation as an expert witness related to gang membership.

Gang experts, Taylor-Austin said, are used in trials to explain to the jury the culture, structure and psychology of gangs.

Taylor-Austin said gang membership is dynamic, people join and leave. Sometimes police officers are not aware of these dynamics, she said.

"If someone is facing an extra 10, 20 years or life in prison," Taylor-Austin said, "it is important for the jury to fully understand the situation and dynamics."

Without this guidance, Taylor-Austin said, the jury can make a misguided decision.

"An expert witness must be impartial and testify to the facts in the case," Taylor-Austin said. "They should not have any vested interest in the outcome."

Accusations against Luna

On July 26, 2018, a day before Guzman was to be sentenced, Amy Lofthouse, the prosecutor, told Moore and the defense team that Luna "is currently under criminal investigation for potential misdemeanor violations of the mandatory reporting laws."

He had been accused of failing to report an instance of child abuse, a potential violation because a police officer is required by law to report child abuse.

Lofthouse also said that Luna "was under internal investigation at his agency during the time he testified."

The attorneys discussed the disclosure with the judge and Guzman's sentencing hearing was called off.

That's when Leonard Cravens, Guzman's defense attorney, began to dig, filing multiple requests for information about the internal investigations involving Luna.

Steven Sherman, an attorney for the Cathedral City Police Department, tried to block Cravens' requests, calling them "invasive" and part of a "totally irrelevant fishing expedition."

"Like the entire trial, this motion is a waste of tax payer money," Sherman wrote in one response.

According to disciplinary records obtained by The Desert Sun, on Wednesday, Sept. 6, 2017, two detectives observed Luna arrive 30 to 45 minutes late for his shift. Luna was also seen leaving hours early on the same day.

His normal shift, according to the record, was 2 p.m. to midnight. But, he left sometime between 7 and 8 p.m. Luna later filled out his time card claiming he worked a complete shift.

"When confronted with the fact that he didn't make up the time elsewhere and didn't get permission from his supervisor to adjust his schedule, Luna said he then just made a mistake on his time sheet," according to the disciplinary records.

On Dec. 18, 2017, an internal affairs investigation found that Luna had violated department rules against unexcused absence, unauthorized leave and accurate submission of payroll records. He was found to have violated the department's ethics, conduct, performance and attendance codes by falsifying work-related materials. He also claimed to have "skimmed through" the city's policy on timekeeping, which amounted to another violation.

On Feb. 22, 2018, Travis Walker, Cathedral City's police chief, wrote a memo informing Luna he would be suspended for 72 hours, would receive a six-month pay reduction and would be removed from the Cathedral City Gang Unit.

The second internal affairs investigation into Luna's alleged misconduct – failing to report child abuse – started on April 16, 2018, according to a DA's office filing. It would continue through Guzman's trial until the end of June 2018.

Travis Walker, police chief of Cathedral City, demoted Luna and removed him from the gang task force months before Sergio Guzman's 2018 trial. (Photo: Courtesy of Cathedral City)



In May 2019, during a call with The Desert Sun, Walker said Luna's employment with the police department ended Jan. 7, 2019. He added that Luna's departure was not related to the dishonesty disclosure, but he would not provide more information. City Manager Charlie McClendon, however, said Luna was terminated.

No charges have been filed against Luna as of Oct. 22. Luna did not respond to a request for comment from The Desert Sun.

In September, Cravens filed a motion requesting that Guzman receive a new trial, specifically for the gang-related charges. He argued that his client was "kept in the dark" about how the prosecution's expert witness "was suspended from his department for moral turpitude violations that happened before the trial."

"The Cathedral City Police Department knew of such evidence before the trial and were investigating said evidence before, during, and after the trial," Cravens wrote. "How is cheating on your time card not relevant to your believability on the witness stand? And, how is not filing a police report related to child abuse not relevant to your believability on the witness stand?"

On Oct. 9, 2019, Moore granted Cravens' request.

"I think you're very, very lucky," Moore said to Guzman in granting the retrial. "Five out of 10 judges would not have done what I've done. Five out of 10 would have. All 10 would have been right."

A new trial date has yet to be set.

What is an associate?

Tony Lopez, Guzman's father, believes it's a miracle the DA's office disclosed Luna's disciplinary issues to the court the day before his son was sentenced.

A devout Catholic who raised his three children with his wife, Rosie Rodriguez, near Cathedral City's Dream Homes neighborhood, Lopez said he speaks with his son by phone from the jail every day.

Lopez and Rodriguez said Sergio has told them he wants to get out and help his parents like he used to. Growing up, they said Sergio would come with them to the golf course after school and on weekends when they would work until 1 or 2 a.m. He'd wash dishes, take out the trash, helping his parents however he could during their long hours of work.



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Tony Lopez poses for a photo at Cimarron Golf Resort on Tuesday, October 8, 2019 in Cathedral City, Calif. Lopez and his son, Sergio Guzman used to work at the resort. Guzman was convicted of several counts of armed robbery and faced sentencing enhancements for purportedly being in a gang. (Photo: Vickie Connor/The Desert Sun)

When there was downtime, he'd play golf, Rodriguez said. She couldn't say exactly how old he was when he first started playing, but he started competing in tournaments at a young age.

Since Guzman was arrested in 2015, his parents have been caring for two of his children in Florida, where Lopez got a job managing a golf course in Palm Beach. Guzman can hardly believe that his kids are now playing golf, Rodriguez said, like he did when he was a kid.

Tony Lopez said his faith in miracles is matched by his belief that his son has never been a member of Barrio Dream Homes.

Guzman, who has been jailed since his 2015 arrest, continues to deny that he has ever been an associate or a member of the gang.

He appeared to be in good health during a September jailhouse interview with The Desert Sun, and said he's staying positive and trying to improve his education while in jail. He said he misses his children and he's thankful for the continued support of his parents.



Sergio Guzman during a family paint fight. Guzman was convicted of participating in a criminal street gang, family and friends say he's never been a member of a gang. (Photo: Courtesy of Tony Lopez)

He said he remembers Luna's testimony well and questions his conviction as an "associate."

"What does it mean to be an associate?" Guzman asked from behind the glass of the visiting area. "Am I an associate if I happen to work with a guy who's in a gang? I've lived all over Coachella Valley all my life, does that mean I'm an associate of a gang?"

Dig Deeper

Cathedral City robbery spree



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