

drive-by shootings

He was probably just caught off-guard.

This was a Young Crowd gang retaliation against the black gang.

I was taken into the interrogation room.

They charged me with the murder of Donald Sarpy.

I was attacked by a probation officer.

He was choking me.

I passed out.

There were over 1,000 unsolved murders in Los Angeles County, mostly gang murders.

Put the hands on your head, get down on your knees.

Gangs were running rampant and slaughtering lots of people.

There were unjustified beatings.

On the night of the shooting he was called to the scene.

He said he could identify the shooter.

He assembled a six pack which is a photographic lineup of six photos.

Eyewitness testimony

a line-up

the issue of reliability of identification

At the time I prosecuted Franky Carrillo, after arraignment, the trial could be months later.

Very few of our cases pled because the offer is usually 25 to life so most of our cases went to trial.

The prosecution Office was inundated with murders.

The witness identified Mr. Carrillo.

Scott Turner pointed out Franky Carrillo as a suspect.

We had a state-appointed attorney.

There was no physical evidence.

There was no fingerprint evidence.

You can get evidence from security video, and cell phone evidence, you can tell where people logged.

to prosecute a murder based on identification testimony alone

It's very helpful to get the corroboration .

You need to show everybody the six-pack.

This trial is gonna determine his life.

Find this defendant guilty of one count of murder and six counts of attempted murder.

Law-abiding, good citizen

They gunned him down in cold blood.

Pointing to Mr. Carrillo, for the record.

Are you positive that this is the person who shot Mr. Sarpy?

Scot Turner recanted his testimony from preliminary hearing.

He is sworn under oath.

The exhibit was marked and introduced.

The witness is pointing to Mr. Carrillo , for the record.

We had an eyewitness highly confident on the stand.

There's the person who pulled the trigger, fired and killed Mr. Sarpy.

He pressured Turner to make an identification.

At the preliminary hearing you did not testify that Deputy Ditsch had suggested you pick out any photographs from the photographic lineups, did you?

Gang members contradict themselves all the time.

Flat-out mistaken identity

Scott Turner was recanting his identification.

I don't recall it.

He's the lead witness.

Guys get away with murder all the time.

To get falsely imprisoned

Turner was threatened in lockup and that's why he flipped.

His attorney didn't put a really good defense up for him .

He got hardened.

They were trying to allege that Franky was a major gangster.

Part of my testimony involved my alibi.

A very bland alibi

There's a jury instruction that says : If you believe a witness lies in one part of his testimony you can discredit all that he says.

They saw him pull the trigger and fire and kill Mr. Sarpy.

That's how I argued it.

This is how I'm going to argue it.

For me, the testimony was compelling.

Is there any legal cause why we shouldn't proceed?

We are here for probation and sentencing.

There's a witness outside which would relate to newly discovered evidence in relation to Mr. Carrillo's lack of involvement in this crime.

For those two reasons I think that there is legal cause for the court not to sentence now.

Frank Carrillo was condemned to two consecutive life sentences for the murder of Donald Sarpy.

Just a few months before the trial that you were sitting on, (as a member of the jury) there had been an earlier trial of Franky and the same charges and it had ended in a mistrial.

Frank Carrillo was tried twice for the murder of Donald Sarpy.

In each case, the only evidence was eyewitness testimony.

All the witnesses had a testimony that was widely inconsistent.

Truth was coming out about the eyewitness inability to really get a good view.

Was the lighting sufficient to recognize the defendant's face?

We didn't want to convict an innocent person.

It ended up as a mistrial.

After the hung jury occurred, I believe the prosecution met with the witnesses and prepped them, advising them where they went wrong in the first trial.

Do you see the person who fired that gun in court today?

Are you positive?

The witness testimony was really tight.

He was my alibi witness.

He then had a right to a direct appeal and he lost that direct appeal.

California denied Franky's appeal of his conviction.

Franky filed for a petition of innocence.

It was denied in less than two weeks.

Franky brought a motion for writ of habeas corpus, which was denied.

Oscar had written a confession and he had come to court to turn himself in.

Oscar took him to the site and knew facts with regard to the shooting of Donald Sarpy that only somebody who was there would know.

Critical information, it's unbelievably exculpatory, was never brought to the jury.

It was a confession of someone to the drive-by shooting that Franky had been convicted of.

If we find evidence that we believe demonstrates that the client is in fact innocent, we then litigate and we don't stop litigating until we win.

In order to get the conviction reversed (overturned / set aside) there are an enormous number of obstacles.

Counsel has to completely reinvestigate the case, which takes years.

Witnesses are gone, documents are missing, people have moved, memories have faded.

Eventually, we located all the eyewitnesses.

A habeas corpus petition is a way for someone who's been convicted and they feel they've been convicted unlawfully to bring in evidence that was not presented at trial.

I'm a deputy district attorney with Los Angeles County.

There were six eyewitnesses **to** the murder of Donald Sarpy.

That's completely different than what he testified to.

It was a very common thread.

There was too dark to see.

There were 6 young men who were at the scene of the shooting.

He was coerced into making an identification.

A witness **to** a crime

You never would do an eyewitness identification 6 months after the offence.

In any type of investigation, evidence must be properly obtained, identified and handled so that from the moment it is lifted at the scene until it has served its particular purpose, it may be protected from contamination.

Eyewitness memory is corruptible.

We put together a lineup, witnesses would pick someone but the real perpetrator's not there.

How good of a view did you have when you were witnessing the crime?

The criminal justice system does not fully appreciate how susceptible the witness' memory actually is to influence and contamination.

That's their sworn duty.

I picked Franky's picture on the word of Scott.

The Sheriff's Department are deeply committed to not admitting wrongdoing.

They were going to be hit with an enormous lawsuit.

When Mr. Carrillo filed his petition for writ of habeas corpus, he set forth two primary reasons.

He did not get a fair trial.

Someone else did the crime.

He presented the court with Oscar Rodriguez' handwritten confession.

In any post- conviction case, the burden of proof is so much higher than in a criminal trial.

The burden is literally shifted to the defendant to prove him or herself innocent.

There's a low success rate.

The new evidence was going to be heard and the judge was going to decide if it granted enough merit to release me or send me back to Folsom Prison.

I prosecuted him many years ago.

They were staunch defenders of their bad practices and convictions that they had obtained.

Their conduct in the case was reprehensible.

So the court was forced to consider the testimony of Scotty Turner and his representation about how the identification happened juxtaposed with how Deputy Ditsch testified.

He had a ranking sheriff versus a convicted felon.

He had nothing to gain by providing his testimony.

He explained how Ditsch manipulated the photo line-up.

We must come up with some evidence that will corroborate with what we claim happened.

We consulted with an eyewitness identification expert to assess the lighting conditions.

Mr Carrillo's lawyers literally wanted to re-enact the drive-by shooting.

He did recreate the scene with the exact conditions.

There certainly has been no proof by a preponderance of the evidence that the sheriff's department committed any misconduct in this case.

He knew about the third-party culpability rumours.

I've always had faith and confidence that justice would prevail.

The best thing that a lawyer can do with their bar license is get an innocent guy out of prison.

The petitioner has sustained the burden of proof by the preponderance of the evidence.

The conviction of petitioner is set aside.

Justice must be done / brought / met

There's no statute of limitations on murder in California.

The Sheriff's Department has certainly some evidence they can pursue to try to seek justice for the Sarpys and to try to hold the killer of Donald Sarpy accountable.

They need to reopen this case.

Ron Kaye represented Franky Carrillo in a civil rights case against the County Los Angeles.

He received a 10.1 million dollar settlement.

Scot Rodriguez denies all involvement in the crime.