

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

Janan Hanna, Chicago Tribune Staff Writer

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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.

At 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."

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## VICTOR PEREZ

[Other Kane County, Illinois exoneration](#)



On February 14, 1995, 19-year-old Pedro Gonzalez was fatally shot in what police said was a gang-related shooting in Elgin, Illinois.

On February 16, 1995, police arrested 19-year-old Victor Perez and two others—20-year-old Anthony Rivera and 17-year-old Luis Nieves.

Rivera pled guilty to murder and admitted he fired three shots from a handgun, killing Gonzalez. He was sentenced to 35 years in prison. Nieves pled guilty to voluntary manslaughter and was sentenced to six years in prison.

Perez went to trial in Kane County Circuit Court and chose to have the case decided by a judge without a jury. The prosecution contended that Perez was accountable for the murder because he had identified Gonzalez as a member of the Latin Kings, which was a rival to the Maniac Latin Disciples, the gang to which Rivera and Nieves belonged.

Gonzalez's brother, Angel, testified about several previous confrontations between his brother and Rivera and Nieves. Angel said Pedro had told him that he was being followed and harassed by some gang members in a green car.

<b>State:</b>	Illinois
<b>County:</b>	Kane
<b>Most Serious Crime:</b>	Murder
<b>Additional Convictions:</b>	
<b>Reported Crime Date:</b>	1995
<b>Convicted:</b>	1996
<b>Exonerated:</b>	2001
<b>Sentence:</b>	20 years
<b>Race/Ethnicity:</b>	Hispanic
<b>Sex:</b>	Male
<b>Age at the date of reported crime:</b>	19
<b>Contributing Factors:</b>	Perjury or False Accusation
<b>Did DNA evidence contribute to the exoneration?:</b>	No

Angel said that on the night of the shooting, he was walking with Pedro and Eddie Corral, when a green car pulled up and five to seven people got out. He said that they called to Pedro, "We're not going to do anything to you." Pedro walked over to talk with Rivera and Nieves, while Angel and Corral stood about 10 feet away on the other side of a fence.

After 10 or 15 minutes, Perez pulled up. He got out and walked toward the group. Angel testified that Rivera and Nieves asked Perez if Gonzalez was a Latin King. Angel said that Perez told Gonzalez that he was a Latin King. During cross-examination, he said that Perez pointed a finger at Gonzalez and said that Gonzalez had made a gang sign that disrespected the Maniac Latin Disciples.

Corral testified that when Gonzalez denied making the gang sign, Perez said, "Yes, I'm sorry man, you just did it."

Two to four minutes later, Rivera drew a handgun and shot Gonzalez. Angel testified that he believed his brother would not have been killed if Perez had not identified him as a Latin King.

Corral said that Rivera pulled out his gun and fired so quickly there wasn't time for anyone to say "Don't shoot."

Juan Carrizales testified for the defense that he was riding in a car with Perez on the night of the shooting. He said that when Perez saw Nieves, he said he was going to stop and pay back \$20 that he owed Nieves. Carrizales said Perez was not a gang member. Carrizales said that Perez walked over to the group and was there for a very short time before he returned to the car. As Perez was climbing into the driver's seat, gunfire erupted, he said.

Perez testified that he had known Nieves was a member of the Disciples and that when he saw him on the street, he wanted to repay the \$20 he had borrowed more than a month earlier. Perez said he left the car running and approached Nieves.

As he approached, Gonzalez said to him, "Isn't it true that I'm not a King?" Perez said he hadn't seen Gonzalez for about two years, and that he told Gonzalez, "I know you were, but I don't know if you are."

Perez denied that he said Gonzalez was a member of the Kings at that moment. He said he did not think he would be getting Gonzalez in trouble.

"I didn't know if he was in trouble," Perez testified. "I thought that they were trying to resolve a problem...[W]hen I got there...everything was normal."

Perez said he then walked back to his car. He said he was getting into the vehicle when he heard gunshots. He said he drove Carrizales home and then went home.

Rivera and Nieves both testified for the defense as well. Both said that Perez had nothing to do with the shooting and that he was not a member of the Maniac Latin Disciples. Rivera said that he confronted Gonzalez, and that when Gonzalez turned and began to run, "I shot him."

Nieves confirmed that he had loaned money to Perez and that the debt was still unpaid on the night of the shooting.

Detective James Lullo, an Elgin police gang crimes expert, testified that Perez was a member of the Disciples. He said he based his opinion on having seen Perez talking to gang members in the past, on the fact that Perez had been involved in a traffic altercation with an intoxicated gang member, and because Perez had once been driving a car when gang members fired gunshots at the vehicle.

On June 12, 1996, Judge James Doyle convicted Perez of first-degree murder. He sentenced him to 20 years in prison.

In August 1998, the Illinois Appellate Court for the Second District upheld the conviction. The Illinois Supreme Court granted permission for Perez's appeals attorney, Leonard Goodman, to file an appeal of that ruling.

On February 17, 2000, the Illinois Supreme Court ordered Perez's conviction vacated and the charges dismissed and Perez was released.

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The court held that there was insufficient evidence to sustain a conviction.

“In the instant case, the State attempted to establish that [Perez] was a member of the Disciples, and thus must have shared Rivera’s motive to harm Pedro,” Justice Moses W. Harrison II wrote in the unanimous ruling. “However, the appellate court found only that [Perez] associated with members of the Disciples. Guilty by association is a thoroughly discredited doctrine.”

On July 10, 2001, Illinois Governor George Ryan granted Perez a pardon based on innocence. Subsequently, Perez was awarded \$127,786 in compensation from the state of Illinois.

– *Maurice Possley*

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