

Ruiz v Barnes

Ruiz v. Barnes
United States District Court
2014 WL 2085306 – May 19, 2014

On September 8, 2011, the California Court of Appeal denied all four claims as to both Petitioner and Elias and affirmed their judgments. Petitioner filed a Petition for Review in the California Supreme Court, again raising the same three claims and incorporating Elias's claim challenging the admission of dog-scent evidence by reference.

Dog scent evidence and the station identification:

On May 16, 2007, Detective Grant Curry accompanied Ted Hamm, a canine dog handler, at a station identification. Curry had three detectives take the three defendants—Petitioner, Elias, and Perez—up the elevator to different rooms on the third floor of the Pasadena Police Station. Neither Detective Curry nor Hamm knew where on the third floor, Petitioner, Elias, and Perez, were. Detective Curry then gave Hamm three bullet casings recovered from the crime scene and the .32 caliber gun.

Using a Scent Transfer Unit (STU), described as a modified dust buster, that Hamm wiped down with alcohol after putting on gloves, Hamm extracted scent from the three casings and placed it on a sterile gauze pad. Hamm did the same with the .32 caliber gun, placing its scent on a different gauze pad.

Hamm brought his dog, Bojangles, up the elevator to the third floor and let Bojangles smell the pad containing the scent from the casings. Bojangles immediately went down the hall, making turns, and led Hamm and the detective to Perez. After Bojangles smelled a pad with the scent from the casings again, Bojangles this time led them to Elias. But when the scent pad was reintroduced a third time, Bojangles did not move.

The other detectives then took Elias, Petitioner, and Perez to the parking area, and Hamm had Bojangles smell the scent pad from the .32 caliber gun. Bojangles led to Petitioner. Both the dog-scent evidence and Herrera's (Petitioner's girl friend) statement to Detective Perez showed that Petitioner owned or at least possessed that gun around the time of the shooting.

Thus, the court of appeal was not objectively unreasonable in finding that adequate evidence linked Petitioner to the .32-caliber handgun, which in conjunction with evidence that he participated in the crime and that it involved two guns created a reasonable inference that he used the .32-caliber handgun in the shooting. Because its admission did not render Petitioner's trial fundamentally unfair, his evidentiary claim does not warrant habeas relief.

Retrieved from: Terry Fleck, K9fleck.org, 2015,