

LAW REVIEW

Published in the Sierra Sun
February 5, 2010

By: Jim Porter

CHP OFFICER SHOT DURING ROUTINE STOP

This highly-publicized shooting out of my hometown Woodland, California will get your blood boiling.

CHP Shooting

Defendant Gregory Fred Zielesch bailed his buddy Brendt Volarvich out of jail and asked that in return, Volarvich kill Doug Shamberger, who had been sleeping with defendant Zielesch's wife. Volarvich agreed, asking if Zielesch also wanted his wife "hit." (Already you can start to get the picture). Volarvich needed a "piece" to carry out the hit. Defendant Zielesch provided him with a .357 magnum revolver to kill Shamberger and \$400 to purchase methamphetamine.

The next day, while driving back to defendant Zielesch's house after smoking meth, Volarvich was pulled over for a routine traffic violation by CHP Officer Andrew Stevens. Officer Stevens greeted Volarvich with a friendly, "How are you doing today?" Volarvich shot him in the face with the defendant's .357.

Volarvich, the shooter, was arrested at a hotel the next day. Defendant Zielesch was arrested after his house was searched and officers found a rifle, meth and drug paraphernalia.

Conviction and Appeal

Volarvich was convicted or pled guilty to first degree murder.

Defendant Zielesch was also convicted, by a jury, of first degree murder of Officer Stevens (by conspiracy) and conspiracy to murder Doug Shamberger. He was sentenced to state prison for 57 years.

Zielesch appealed claiming the shooting was not “in furtherance of the conspiracy” to kill Shamberger and that he was denied his right to a fair trial because courtroom spectators wore buttons displaying a photograph of Officer Stevens for six days at the start of the eight-week murder trial.

Criminal Conspiracy

As we all know, it is not necessary to be the “trigger man” to be convicted of murder. As the Court of Appeal in Sacramento wrote on review of this case, “Each member of a conspiracy is criminally responsible for the acts of fellow conspirators committed in furtherance of, and which follow as a natural and probable consequence of, the conspiracy, even though such acts were not intended by the conspirators as a part of their common unlawful design.”

When there is an unplanned crime committed by a conspirator, like Volarvich, it is not necessary that Zielesch actually foresaw the shooting of Officer Stevens, the question is whether a reasonable person would know that such a shooting is likely to happen.

The Court of Appeal, correctly and I assume promptly, found defendant Zielesch within the scope of the conspiracy to commit murder writing, “One who bargains for an assassin’s services, and then arms the assassin with a gun,

takes the assassin as he finds him. If a hired killer is an unstable methamphetamine user, and before the assassination is completed, finds it necessary to kill a law enforcement officer to avoid being sent back to jail, the conspirator who hired and armed the assassin is guilty not only of conspiracy to murder the intended target, but also the murder of the police officer. It would be a rare case indeed where a murder is an unforeseeable result of a conspiracy to commit murder.”

Buttons in the Court Room

Defendant Zielesch also claimed that by allowing courtroom spectators to wear buttons bearing the image of Officer Stevens for the first six days of the eight-week trial, he somehow had his right to a fair trial violated. I can barely even write that outrageous argument.

The Court of Appeal wrote that while it is impermissible to compel a defendant to appear at trial in prison garb, and it is generally inappropriate and unnecessary to shackle or gag a defendant during trial, or to deploy an excessive number of security personnel in the courtroom, allowing some courtroom spectators to wear commemorative buttons depicting a likeness of a fallen officer for a few days at the beginning of a trial is not unduly suggestive of guilt.

The Court wrote, “Simply stated, we find beyond a reasonable doubt the verdicts (against Zielesch) would have been the same even if the court had precluded spectators from wearing buttons at the beginning of the trial.”

Defendant Gregory Fred Zielesch will be joining Volarvich in prison for the rest of their lives. You cannot find two more despicable individuals more deserving of life imprisonment.

Jim Porter is an attorney with Porter Simon, with offices in Truckee, South Lake Tahoe, Incline Village and Reno and a licensed California Real Estate Broker. He was the Governor's appointee to the Bipartisan McPherson Commission on political ethics and the California Fair Political Practices Commission. He may be reached at porter@portersimon.com or at the firm's web site www.portersimon.com.

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