

SUPREME COURT OF CALIFORNIA

People v. Perez

50 Cal. 4th 222, 112 Cal. Rptr. 3d 310, 234 P.3d 557 (Cal. 2010) · No. S167051 · Decided July 29, 2010

SUMMARY

The California Supreme Court held that a defendant who indiscriminately fired a single shot at a group of people, intending to kill someone but not targeting particular individuals or intending to kill everyone, could be convicted of only one count of premeditated attempted murder. The court distinguished cases involving a kill-zone theory or victims positioned directly in the line of fire, while affirming the separate assault convictions. The judgment was reversed and remanded to conform the judgment to a single attempted-murder conviction.

CASE DETAILS

COURT	Supreme Court of California
WRITING FOR THE COURT	Baxter, J.; George, C. J.; Kennard, J.; Chin, J.; Moreno, J.; Corrigan, J.; Werdegar, J.
JURISDICTION	California
DECIDED	July 29, 2010
DOCKET	S167051
DISPOSITION	reversed_and_remanded
PROCEDURAL POSTURE	Defendant appealed convictions for multiple counts of premeditated attempted murder arising from a single shot fired at a group of peace officers and a civilian. The California Supreme Court granted review limited to whether substantial evidence supported eight attempted-murder convictions.
STANDARD OF REVIEW	Whether, viewing the entire record in the light most favorable to the People and presuming the existence of every fact reasonably deducible from the evidence, a rational trier of fact could find the defendant guilty beyond a reasonable doubt.
PRECEDENTIAL VALUE	Published California Supreme Court opinion; precedential statewide.
PARTIES	Rodrigo Perez v. The People

TOPICS

criminal procedure

sentencing

burden of proof

mens rea

evidence

PRACTICE AREAS

criminal law

criminal procedure

attempted murder

sufficiency of the evidence

sentencing

QUESTIONS PRESENTED

1. Whether substantial evidence supported eight separate convictions for premeditated attempted murder when the defendant indiscriminately fired a single shot at a group, intended to kill someone but did not target a particular person, and did not use force calculated to kill everyone in the group.
2. Whether the single-shot facts established a kill zone sufficient to support multiple attempted-murder convictions.
3. Whether the judgment should be modified to reflect only one conviction for premeditated attempted murder of a peace officer.

HOLDINGS

1. Attempted murder requires specific intent to kill, and guilt must be evaluated separately as to each alleged victim. A defendant cannot be convicted of attempted murder of each person in a group merely because a single shot endangered all of them.
2. When a defendant indiscriminately fires a single shot at a group with the specific intent to kill someone, but without targeting a particular individual or using a means calculated to kill everyone, the evidence supports one count of attempted murder, not a count for every person in the group.
3. A single bullet fired from a moving car at a group from 60 feet away, without more, did not establish a kill zone supporting multiple attempted-murder convictions.

KEY QUOTATIONS

“On facts such as these, where the shooter indiscriminately fires a single shot at a group of persons with specific intent to kill someone, but without targeting any particular individual or individuals, he is guilty of a single count of attempted murder.” (225)

“The indiscriminate firing of a single shot at a group of persons, without more, does not amount to an attempted murder of everyone in the group.” (232)

“On these facts, however, we conclude the evidence is sufficient to support but a single count of premeditated attempted murder of a peace officer.” (234)

FACTUAL BACKGROUND

Perez fired one semiautomatic handgun shot from a moving car at a group of seven peace officers and a civilian standing in a parking lot approximately 60 feet away. The evidence indicated that Perez believed he was shooting at rival gang members but did not target any particular individual and did not intend to kill everyone in the group. The bullet struck Officer Fuentes's hand, nearly severing a finger, and then continued into a nearby

apartment. Perez was convicted of eight counts of premeditated attempted murder, although the other victims were not killed or physically struck.

PROCEDURAL HISTORY

A jury convicted Perez of seven counts of premeditated attempted murder of a peace officer and one count of premeditated attempted murder of a civilian, along with firearm assaults and related enhancements. The Court of Appeal affirmed the eight attempted-murder convictions, reasoning that the victims' proximity meant that intending to kill any one of the officers endangered all of them. The Supreme Court reversed for the purpose of conforming the judgment to a single attempted-murder conviction and remanded for further proceedings; it affirmed the judgment in all other respects.

DISPOSITION

reversed_and_remanded

REMAND INSTRUCTIONS

Remand to the Court of Appeal with directions to conform the judgment to reflect a conviction for a single count of premeditated attempted murder of a peace officer and to conduct further proceedings consistent with the opinion. The judgment was affirmed in all other respects.

CASES CITED

- People v. Lee, 31 Cal. 4th 613, 623 (2003)
- People v. Stone, 46 Cal. 4th 131, 134, 140-142 (2009)
- People v. Bland, 28 Cal. 4th 313, 326-331 (2002)
- People v. Smith, 37 Cal. 4th 733, 739, 741, 743-746 (2005)
- People v. Jones, 51 Cal. 3d 294, 314 (1990)
- People v. Lasko, 23 Cal. 4th 101, 107 (2000)
- People v. Swain, 12 Cal. 4th 593, 604-605 (1996)
- People v. Chinchilla, 52 Cal. App. 4th 683, 685, 690 (1997)
- People v. Villegas, 92 Cal. App. 4th 1217, 1224-1225 (2001)
- Ford v. State, 330 Md. 682, 625 A.2d 984, 1000-1001 (1993)
- People v. Arias, 13 Cal. 4th 92, 162 (1996)
- People v. Saille, 54 Cal. 3d 1103, 1114 (1991)
- People v. Welch, 8 Cal. 3d 106, 118 (1972)
- People v. Ramirez, 109 Cal. App. 4th 992, 999 (2003)