

SUPREME COURT OF CALIFORNIA

People v. Garcia

28 Cal. 4th 1166, 124 Cal. Rptr. 2d 464, 52 P.3d 648 (Cal. 2002) · No. S097765 · Decided August 22, 2002

SUMMARY

The Supreme Court of California held that a firearm sentencing enhancement under Penal Code section 12022.53, subdivisions (d) and (e)(1), may be imposed on a gang-related aider and abettor even when the actual shooter has not been convicted. The prosecution must prove that a principal intentionally and personally discharged a firearm, proximately causing great bodily injury or death, but need not prove the shooter's conviction. The court reversed the Court of Appeal's judgment and remanded for further proceedings.

CASE DETAILS

COURT	Supreme Court of California
WRITING FOR THE COURT	Chin, J.; George, C.J.; Kennard, J.; Baxter, J.; Werdegarr, J.; Brown, J.; Moreno, J.
JURISDICTION	California
DECIDED	August 22, 2002
DOCKET	S097765
DISPOSITION	reversed_and_remanded
PROCEDURAL POSTURE	Garcia appealed from his murder conviction and firearm sentencing enhancement. The California Supreme Court granted review of the Court of Appeal's ruling reversing the enhancement and also reviewed the denial of Garcia's habeas corpus petition.
STANDARD OF REVIEW	De novo review of the statutory interpretation issue and the legal sufficiency of the requirements for the sentencing enhancement.
PRECEDENTIAL VALUE	Published California Supreme Court opinion; precedential.
PARTIES	Arturo Garcia v. The People

TOPICS

- statutory interpretation
- sentencing
- criminal procedure
- appellate procedure
- habeas corpus

PRACTICE AREAS

QUESTIONS PRESENTED

1. Whether Penal Code section 12022.53, subdivisions (d) and (e)(1), permits imposition of the firearm enhancement on an aider and abettor when the actual shooter has not been convicted.
2. What the prosecution must plead and prove to impose the section 12022.53, subdivision (d), enhancement vicariously on a gang-related aider and abettor.

HOLDINGS

1. A shooter's conviction is not required to impose Penal Code section 12022.53, subdivision (d), vicariously on an aider and abettor under subdivision (e)(1). The prosecution must prove that a principal intentionally and personally discharged a firearm and proximately caused great bodily injury or death, but it need not prove that the principal shooter was convicted of the offense.
2. To impose the enhancement on a nonshooter aider and abettor, the prosecution must plead and prove: (1) a principal committed an enumerated offense; (2) a principal intentionally and personally discharged a firearm and proximately caused great bodily injury or death to a nonaccomplice during that offense; (3) the defendant was a principal in the offense; and (4) the offense was committed for the benefit of, at the direction of, or in association with a criminal street gang, with the requisite specific intent.

KEY QUOTATIONS

"We conclude that in order to find an aider and abettor—who is not the shooter—liable under section 12022.53, subdivision (d), the prosecution must plead and prove that (1) a principal committed an offense enumerated in section 12022.53, subdivision (a), section 246, or section 12034, subdivision (c) or (d); (2) a principal intentionally and personally discharged a firearm and proximately caused great bodily injury or death to any person other than an accomplice during the commission of the offense; (3) the aider and abettor was a principal in the offense; and (4) the offense was committed "for the benefit of, at the direction of, or in association with any criminal street gang, with the specific intent to promote, further, or assist in any criminal conduct by gang members"" (469-470)

"We hold only that a shooter's conviction is not required as proof of the firearm allegation." (471)

FACTUAL BACKGROUND

During a drive-by shooting, Juan Fernando Galeana was shot and killed. Evidence showed that Salvador Morales was the shooter and Arturo Garcia was the driver; Garcia admitted his involvement and confessed to the police. Garcia was convicted of second degree murder as an aider and abettor, while Morales was acquitted. The trial court imposed a 25-years-to-life firearm enhancement on Garcia under Penal Code section 12022.53.

PROCEDURAL HISTORY

Garcia was convicted in a court trial of second degree murder as an aider and abettor and received a 25-years-to-life firearm enhancement under Penal Code section 12022.53, subdivision (d), through subdivision (e)(1). The alleged shooter, Salvador Morales, was acquitted. The Court of Appeal reversed the enhancement finding on the

ground that no shooter had been convicted of personally discharging the firearm and denied Garcia's habeas petition. The California Supreme Court reversed the Court of Appeal's judgment and remanded for further proceedings.

DISPOSITION

reversed_and_remanded

REMAND INSTRUCTIONS

The cause was remanded for proceedings consistent with the opinion.

CASES CITED

- People v. Gonzales, 87 Cal. App. 4th 1, 11-12, 15, 19, 104 Cal. Rptr. 2d 247 (2001)
- People v. Jefferson, 21 Cal. 4th 86, 100-101, 86 Cal. Rptr. 2d 893, 980 P.2d 441 (1999)
- People v. Tindall, 24 Cal. 4th 767, 772, 102 Cal. Rptr. 2d 533, 14 P.3d 207 (2000)
- Torres v. Parkhouse Tire Service, Inc., 26 Cal. 4th 995, 1003, 111 Cal. Rptr. 2d 564, 30 P.3d 57 (2001)
- Wilcox v. Birtwhistle, 21 Cal. 4th 973, 977, 90 Cal. Rptr. 2d 260, 987 P.2d 727 (1999)
- People v. Martinez, 76 Cal. App. 4th 489, 493, 90 Cal. Rptr. 2d 517 (1999)
- People v. McCoy, 25 Cal. 4th 1111, 1120, 108 Cal. Rptr. 2d 188, 24 P.3d 1210 (2001)
- People v. Dennis, 17 Cal. 4th 468, 500, 71 Cal. Rptr. 2d 680, 950 P.2d 1035 (1998)
- People v. Wims, 10 Cal. 4th 293, 307, 41 Cal. Rptr. 2d 241, 895 P.2d 77 (1995)
- People v. Hernandez, 46 Cal. 3d 194, 197, 208, 249 Cal. Rptr. 850, 757 P.2d 1013 (1988)
- People v. Dominguez, 38 Cal. App. 4th 410, 421, 45 Cal. Rptr. 2d 153 (1995)
- People v. Camacho, 19 Cal. App. 4th 1737, 1747, 24 Cal. Rptr. 2d 286 (1993)
- People v. Palmer, 24 Cal. 4th 856, 861, 103 Cal. Rptr. 2d 13, 15 P.3d 234 (2001)
- Calvillo-Silva v. Home Grocery, 19 Cal. 4th 714, 726-727, 80 Cal. Rptr. 2d 506, 968 P.2d 65 (1998)
- Quintano v. Mercury Casualty Co., 11 Cal. 4th 1049, 1062 n.5, 48 Cal. Rptr. 2d 1, 906 P.2d 1057 (1995)