

CALIFORNIA COURT OF APPEAL, SECOND APPELLATE DISTRICT,
DIVISION SEVEN

People v. Hinojos

People v. Hinojos · No. B325167 · Decided April 8, 2025

SUMMARY

The California Court of Appeal affirmed Robert Hinojos's convictions for first degree murder and possession of a firearm by a felon, including a drive-by shooting special circumstance and firearm enhancement. The published portion addresses the statutory prohibition on race-based peremptory challenges under Code of Civil Procedure section 231.7 and the admission of gang evidence to prove motive. The unpublished portion upheld the exclusion of proposed expert testimony and rejected an Eighth Amendment challenge to the drive-by murder special circumstance.

CASE DETAILS

COURT	California Court of Appeal, Second Appellate District, Division Seven
WRITING FOR THE COURT	Pulos, J.; Segal, Acting P. J.; Feuer, J.
JURISDICTION	California Court of Appeal, Second Appellate District, Division Seven
DECIDED	April 8, 2025
DOCKET	B325167
DISPOSITION	affirmed
PROCEDURAL POSTURE	Robert Hinojos appealed from a judgment of conviction entered after a jury trial in which he was convicted of first degree murder and possession of a firearm by a felon, and the jury found true a drive-by-murder special circumstance, a personal-firearm-use enhancement, and prior-conviction allegations.
STANDARD OF REVIEW	The sustaining of an objection under Code of Civil Procedure section 231.7 presents a mixed question of law and fact: the ultimate legal question is reviewed de novo, while express factual findings are reviewed for substantial evidence. Admission of gang evidence and exclusion or limitation of expert testimony are reviewed for abuse of discretion. The due-process claim is reviewed under the applicable constitutional standard.
PRECEDENTIAL VALUE	Published in part; Discussion parts C and D are unpublished

PARTIES

Robert Hinojos v. The People

TOPICS

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PRACTICE AREAS

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QUESTIONS PRESENTED

1. Whether the trial court erred in sustaining the prosecution's objection under Code of Civil Procedure section 231.7 to the defense's peremptory challenge of a prospective juror.
2. What standard of appellate review applies when a trial court sustains a section 231.7 objection.
3. Whether the trial court abused its discretion by admitting gang evidence during the substantive murder trial despite bifurcation of the gang allegations.
4. Whether the trial court abused its discretion or violated due process by limiting one defense expert's testimony and excluding another defense expert's testimony.
5. Whether the drive-by-murder special circumstance under Penal Code section 190.2, subdivision (a)(21), violates the Eighth Amendment.

HOLDINGS

1. A trial court's decision to sustain an objection under Code of Civil Procedure section 231.7 presents a mixed question of law and fact. The appellate court reviews de novo the ultimate question whether, in light of the totality of the circumstances, there is a substantial likelihood that an objectively reasonable person would view race or perceived race as a factor in the peremptory challenge, while deferring to factual findings supported by substantial evidence.
2. The trial court correctly sustained the prosecution's section 231.7 objection to the defense's peremptory challenge of Juror No. 10.
3. The trial court did not abuse its discretion by admitting gang evidence relevant to the prosecution's theory that Hinojos murdered Velasquez to obtain promotion within the Mexican Mafia.
4. The trial court acted within its discretion in limiting forensic pathologist Dr. Hammers's testimony to matters within her expertise and excluding physicist Dr. Firestone's proposed testimony.
5. The drive-by-murder special circumstance under Penal Code section 190.2, subdivision (a)(21), does not violate the Eighth Amendment.

KEY QUOTATIONS

“In sum, the sustaining of a section 231.7 objection presents a mixed question of law and fact. Accordingly, we review de novo the ultimate legal question of whether “in light of the totality of the circumstances . . . there is a substantial likelihood that an objectively reasonable person would view race [or perceived race] . . . as a

factor in the use of the peremptory challenge.” (§ 231.7, subd. (d)(1).) We defer, however, to the trial court’s factual findings if supported by substantial evidence.” (23-24)

“In conclusion, the People’s gang evidence was relevant to Hinojos’s motive for murder and was therefore admissible in the first phase of trial.” (34)

“The judgment is affirmed.” (43)

FACTUAL BACKGROUND

The prosecution presented evidence that Hinojos discussed obtaining a promotion within the Mexican Mafia by completing a task and then shot Hector Velasquez from a vehicle the next day. Recorded conversations and gang-expert testimony interpreted Hinojos's statements as confirming that he had completed the task and was awaiting formal membership. Other evidence connected Hinojos to the shooting, including eyewitness identification, vehicle evidence, gunshot residue, ammunition, cellphone-location data, and later conversations concerning possible witnesses and the killing of a potential informant.

PROCEDURAL HISTORY

The Los Angeles County Superior Court bifurcated trial on the gang enhancement and gang-murder special-circumstance allegations from trial on the substantive offenses. The jury convicted Hinojos of first degree murder and possession of a firearm by a felon and found true that the murder was committed by shooting from a motor vehicle and that Hinojos personally discharged a firearm causing death. The prosecution elected not to proceed on the gang allegations. The trial court imposed life without parole, an additional 25 years to life for the firearm enhancement, and five years for the prior serious-felony conviction. Hinojos timely appealed, and the Court of Appeal affirmed.

DISPOSITION

affirmed

CASES CITED

- Batson v. Kentucky (1986) 476 U.S. 79, 88, 93-94
- People v. Wheeler (1978) 22 Cal.3d 258, 276-277, 281
- Johnson v. California (2005) 545 U.S. 162, 168
- Georgia v. McCollum (1992) 505 U.S. 42, 59
- People v. Sattiewhite (2014) 59 Cal.4th 446, 469
- People v. Jaime (2023) 91 Cal.App.5th 941, 943
- People v. Caparrotta (2024) 103 Cal.App.5th 874, 887
- People v. Johnson (2022) 12 Cal.5th 544, 618
- People v. Lenix (2008) 44 Cal.4th 602, 613-614
- People v. Gutierrez (2017) 2 Cal.5th 1150, 1159
- People v. Lomax (2010) 49 Cal.4th 530, 573

- Miller-El v. Dretke (2005) 545 U.S. 231, 244-245
- People v. Lewis (2008) 43 Cal.4th 415, 476
- People v. Huggins (2006) 38 Cal.4th 175, 233-235
- People v. Vivar (2021) 11 Cal.5th 510, 527
- Bose Corp. v. Consumers Union of U.S., Inc. (1984) 466 U.S. 485, 514 fn. 31
- In re George T. (2004) 33 Cal.4th 620, 634
- People v. Majors (1998) 18 Cal.4th 385, 417
- People v. Jones (1998) 17 Cal.4th 279, 296
- People v. Alvarez (1996) 14 Cal.4th 155, 182
- People v. Reneaux (2020) 50 Cal.App.5th 852, 863-864
- Thompson v. Keohane (1995) 516 U.S. 99, 102
- Miller v. Fenton (1985) 474 U.S. 104, 117
- People v. Kennedy (2005) 36 Cal.4th 595, 608
- People v. Williams (2010) 49 Cal.4th 405, 459
- People v. Moore (2021) 64 Cal.App.5th 291, 296-297
- Ornelas v. United States (1996) 517 U.S. 690, 697
- People v. Reynoso (2003) 31 Cal.4th 903, 924
- People v. Burgos (2024) 16 Cal.5th 1, 7, 23
- People v. Hernandez (2004) 33 Cal.4th 1040, 1049
- People v. Chhoun (2021) 11 Cal.5th 1, 31
- People v. Garcia (2024) 107 Cal.App.5th 1040, 1050, 1054
- People v. Williams (1997) 16 Cal.4th 153, 193-194
- People v. Albarran (2007) 149 Cal.App.4th 214, 225
- People v. Valdez (2012) 55 Cal.4th 82, 129-131
- People v. Alcala (1992) 4 Cal.4th 742, 788-789
- People v. Anh The Duong (2020) 10 Cal.5th 36, 60
- People v. McDowell (2012) 54 Cal.4th 395, 426, 428 fn. 22
- People v. Edwards (2013) 57 Cal.4th 658
- People v. Robinson (2005) 37 Cal.4th 592
- People v. Catlin (2001) 26 Cal.4th 81
- People v. Turner (2020) 10 Cal.5th 786, 818
- People v. Hall (1986) 41 Cal.3d 826, 834
- Nevada v. Jackson (2013) 569 U.S. 505, 509
- People v. Tuthill (1947) 31 Cal.2d 92, 97-98
- People v. Balderas (1985) 41 Cal.3d 144, 182
- People v. Noisey (1968) 265 Cal.App.2d 543, 549
- People v. Rodriguez (1998) 66 Cal.App.4th 157, 171-181

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