

## People v. Sanchez

(2019) 7 Cal.5th 14

### Issue

In ID cases, under what circumstances may officers show a witness a single photo of the suspect, as opposed to conducting a photo or live lineup?

### Facts

In the early morning hours of August 4, 1997, Juan Sanchez snuck into the home of Ermanda Reyes in Porterville and entered the bedroom of Ermanda's daughter, 17-year old Lorena Martinez. He sexually assaulted Lorena, then shot and killed her. He then shot and killed Ermanda. Also in the house were Ermanda's sons, 13-year old Victor and 5-year old Oscar who were not physically harmed.

Police learned of the murders later that morning when Oscar walked to the home of a neighbor, Rosa Chandi, and told her that his mother and sister were "cut," "bleeding," and "sleeping," and he couldn't wake them up. Chandi went to Ermanda's house where she found the bodies and called 911.

Oscar told investigators that he had been sleeping in his mother's bed and was "awakened by firecrackers" and a "man's loud voice." He did not identify the man by name, but said the man had given him some ice cream about a week earlier. He also said that the man had a "wisp" on his chin (apparently referring to a goatee). Chandi told detectives that the killer "might" have been Ermanda's boyfriend; and although she did not know his name, she said he drove a yellow truck. Oscar's brother Victor said that Oscar had told him that the man who had given him ice cream was "Juan," and he directed them to Juan's home where officers arrested him.

At around noon, an investigator showed Oscar an old booking photo of Sanchez. In the photo, Sanchez had a mustache but no goatee. Oscar identified him as the man he had seen in earlier that morning in his mother's bedroom. He also said that Sanchez had been holding a knife and a gun, and that he had driven away in a yellow truck. Meanwhile, other investigators who were searching Sanchez's home pursuant to a warrant found a knife "with a black handle" that was similar to, but somewhat larger, than the knife that was found under Lorena's body. Sanchez's wife told them that she had purchased the knife and a smaller one from a "99-Cent Store." A forensic metallurgist would later testify that both knives shared certain "design characteristics" which "suggest a common manufacturer."

Later that day, a detective showed Oscar a photographic lineup containing six photos. This time, the detective did not use the booking photo of Sanchez but, instead, used a photo that had been taken earlier that day after the arrest for the purpose of including it in the photo lineup. Oscar again identified Sanchez as the man he had seen in his mother's bedroom.

Two days later, investigators interviewed Sanchez who waived his *Miranda* rights and admitted that he had given ice cream to Oscar a week earlier. When he was shown a photo of the knife that officers had found in his home, he said "I've never seen a knife that looks like this." But when he was informed that the knife was found in his house, he said that "my wife bought that at the 99-cent store." A detective then showed Sanchez a photo of the knife that was found under Lorena's body. Sanchez admitted the knife was

his but claimed he had inadvertently left it in the back yard when he and his wife had been cutting watermelon about a week earlier.

The next day, during an interview with another investigator, Sanchez confessed. At trial, the judge ruled that the results of both the single-photo showup ID and the six-person photo lineup ID were admissible. Sanchez was subsequently convicted and sentenced to death.

## Discussion

Sanchez argued that prosecutors should have been prohibited from introducing testimony that Oscar, when shown the booking photo of Sanchez, had identified him as the man he had seen in his mother's bedroom. The argument was based on the fact that any single-person display of a suspect in an ID case is inherently suggestive. As the Supreme Court put it, the danger of misidentification "will be increased if the police display to the witness only the picture of a single individual."<sup>1</sup> Similarly, the Court of Appeal observed, that "Numerous cases have condemned the use of a single photo identification procedure."<sup>2</sup>

The courts understand, however, that it may be reasonable for officers to seek an ID based on a single photo if they have identified a suspect and they need to quickly determine whether he was, in fact, the perpetrator. Thus, the courts have ruled that the results of single-person showups may be admissible if there was an overriding reason for not conducting a photo or live lineup.

Prosecutors argued that the single-person photo lineup was necessary because, as the court explained, "At the time Oscar viewed the single photograph, defendant was a suspect but was still at large. To take the time to prepare a photographic spread may have increased the risk that he might flee." On the other hand, the court noted that the need to conduct a single-photo showup was reduced since both Oscar and Victor had already identified Sanchez as the perpetrator, and therefore the officers could have immediately arrested him and then conduct a photo or live lineup.

The court did not, however, need to decide whether the single-photo showup was reasonably necessary since it is also settled that an identification made during showup or lineup that was unnecessarily suggestive may be admissible if prosecutors can prove that the identification was otherwise reliable. Consequently, the court in *Sanchez* took note of several circumstances that were relevant in making this determination:

- Although Oscar had "only a fleeting opportunity to observe the man in the dimly lit bedroom" he had "ample opportunity to observe and get to know defendant the weekend before the Monday morning murders."
- Oscar's memory of the killer's appearance was fresh in his mind since the identification had occurred "mere hours after the murders."
- Although Oscar said the killer had a mustache and goatee, he only had a mustache in the booking photo. Thus, it was apparent that Oscar's identification of Sanchez was based on more than just the goatee.

On the other hand, there was no overriding need to conduct a single-photo showup since the officers already had probable cause to arrest Sanchez and knew where he lived, so they could have conducted a photo or live lineup instead. Nevertheless, the court concluded that, "although the suggestive nature of the identification does raise concerns,"

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<sup>1</sup> *Simmons v. United States* (1968) 390 U.S. 377, 383.

<sup>2</sup> *People v. Contreras* (1993) 17 Cal.App.4th 813, 820. Citations omitted.

the totality of circumstances demonstrated that Oscar's identification of Sanchez when shown the single photograph was sufficiently reliable that it was appropriate for the jury to be informed of the identification. POV

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