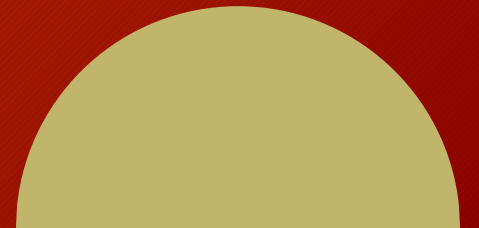


SDAP Panel Wins

Randall Conner
May 30, 2025





One hour.

Or less.



SDAP panel wins 2024-2025.

Agaton-Hernandez, H051008.

Tran, H050319.

Stubblefield, H048598.

Luna, H049319, H049224.

Bracamontes, H052051.

Rogers, H051665.

Franco, et al., H047195.

Fitch, H049201.

Biniam Girmay

Bracamontes: child molest three victims 12 years.

2005 w/GF, JD1, JD2.

Kids JD3 and JD4.

2012 +/- moves out.

JD3 and JD4 visit.

2017 slap JD3.

2018 JD3 claim.

JD1 and JD2 join.

JD4 deny.



G JD1 (1-7).

G JD3 (8, 9, 11-13).

G JD2 (14).

NG JD3 (10).

NG JD4 (15, 16).

MNT: X-GF U-Visa.

NG 3 JD3 stories.

Evidence?

Sentence 170/life.

JD4 no testify.

X-GF no testify.

JD3 saw JD4?

BRCMTS H048925 (Jun. 2024) [PA Randy Baker]



Greenwood, P.J.



Grover, J.



Lie, J.

Habeas H052051 added then severed.

No jury instruction error.

No limiting JD3 photos error.

No limiting brother testimony error.

AG concede no SOF JD1 count 3.

No challenge remaining counts.

Remand for resentencing.

PFR filed, denied.

Certiorari petition filed, denied.

BRCMTS Habeas H052051 (Dec. 2024) [Randy Baker]

Two Alvarez decs.

X-GF revenge.

X-GF/DDA no JD4.

X-GF brag kids lying.

X-GF/DDA U-Visa.

Juarez-Luna dec.

2012 X-GF fake abuse.

2018 child \$\$\$.

2018 new wife.

2018 threat kids.

JD1 /X-GF call.

JD1 w/cops.

JD1 feeling bad.

Cops want call.

X-GF talks \$\$\$.

Alvarez + Juarez-Luna vs. JD1, JD2, JD3.

Somebody lying.

Sex case nightmare scenario?

Tran H050319 (Jan. 2025) [Kathy Moreno]

2004-2016 14 counts child molest.

CSAAS instruction error, no.

2022 three adult women testify.

Error CSAAS testimony, forfeited.

Sentence 75/Life + 7.

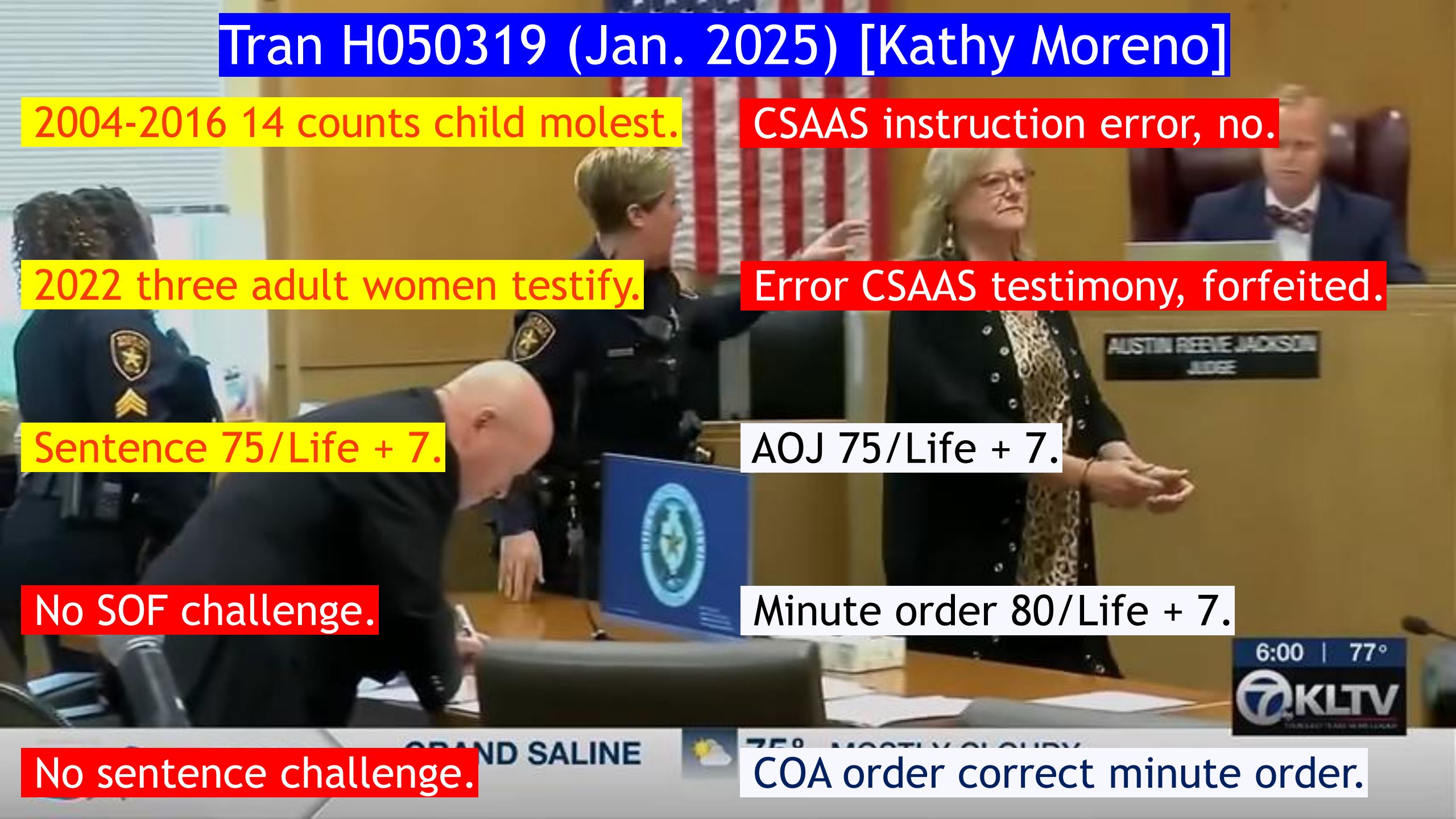
AOJ 75/Life + 7.

No SOF challenge.

Minute order 80/Life + 7.

No sentence challenge.

COA order correct minute order.



Fitch 2014-2015 meat market robberies.

Trial w/Lachan.

Two rap videos.

Conspiracy/robbery.

Gang +++.

“Hoodie on”

Street gang (Taliban).

Gun +++.

“A day in the life”

Robbery 24X.

Prior strike.

Played in opening.

False prison 5X.

PSF.

MM denied.

664/robbery 4X.

14/Life.

“Disclosed P-T”

Dissuade.

14/Life.

“Rel. to EO”

Dissuade per con. 2X.

“Not too prejudicial”

Firearm possession.

60 years.

Fitch H049201 (Mar. 2025) [Julie Dunger]

“profanity”

“drug references”

“racial epithets”

“crude sexual references”

“armed, violent, and angry”

AOB 09.21.22.

352/352.2 harmless.

Prejudice.

SAOB 12.08.22.

Evidence strong.

No PF ruling.

Co-D out 10.25.23.

Verdict 09.25.19.

RP “Bias” “animus”

Habeas in 02.25.24.

RJA 01.01.21.

RJA “shall impose”

ARB 05.13.24.

No RJA claim.

No hearing.

15 claims.

RJA forfeit.

No change result.

No SOF gang.

IAC.

Remand.

No SOF gang +++.

No excuse no RJA.

Litigate RJA.

Stubblefield: encounter at house.



2015 babysitting add.

Intellectually disabled woman.

Sexual contact at house and \$80.

House to police station.

Claims job interview, gun, rape.

DNA found.

No search, no gun.

S-D trial and sentence.

Big defendant, small impaired victim.

No gun and Go Fund Me scams.

Let jury decide!



“A storm of controversy.”

“Can you imagine in Morgan Hill when they search an African-American --”



Rape, oral copulation, false imprisonment.

Firearm enhancements.

Sentence 15/life.



S-D H048598 (Dec. 2024) Publ'd [Joe Doyle]



Greenwood, P.J.

The statement implied the house might have been searched and a gun found had Stubblefield not been Black, and that Stubblefield therefore **gained an undeserved advantage at trial because he was a Black man.**

Second, the claim that a search would “open up a storm of controversy” implicitly referenced the events that followed George Floyd’s then-recent killing, **appealing to racially biased perceptions of those events**



Lie, J.



Grover, J.

Referring to the post-Floyd conflict in that way could effectively produce **a high decibel “dog whistle.”**

“The statute **forecloses any traditional case-specific harmless error analysis.**”

S-D winning.

In a statement to CNN, Stubblefield's lawyer, Joseph Doyle, said, "... This reversal is a significant development for those facing potential racial bias in the legal system, The opinion also sets a strong precedent for future cases."

"Unfortunately a tremendous amount of evidence would have fundamentally altered the prosecution's narrative. But we look forward to righting those wrongs when we get back to the trial court."

S-D v. S. Ct., H052893 (Jan. 2025) Publ'd [Joe Doyle]

Prior to issuance of remittitur, trial court does not lack jurisdiction to rule on motion for release from custody pending retrial.

Peremptory writ of mandate ordering the trial court to conduct any proceedings necessary to rule on the merits of appellant's motion for release.

February 11, 2025: Judge grants ex-49ers DT Dana Stubblefield release from prison.

Luna H049319, H049224 (Jan. 2025) [Jean Marinovich]

31 years, eight months.

AOJ not consec. to 31/8, error.

Two new cases, consolidated.

Luna appeals.

2 counts + arming, 11 strikes.

IAC, no.

Romero 10/11, 9 yrs. 4 months.

Arming evidence, no.

DDA appeals *Romero*.

Jury instruction, no.

Romero error, no.

AOJ two RFF fines, error.

Franco, et. al. (Chavez) guns, cars and raps.

Aug. 12, 2016: Grand Jury Indicts 3 In San Jose **Gang Murder**, Other Shootings

SAN JOSE (KCBS) - A San Jose grand jury has indicted three **alleged gang members** for shootings that killed one person and injured three others.

The indictments against 25-year-old **Gabriel Franco**, 24-year-old **Eddie Sandoval** and 31-year-old **Hugo Chavez** stem from **two shootings in 2008**. KCBS' Matt Bigler Reports:

In the first, **a parked car was sprayed with bullets**. One victim, 18 years old, was killed and the other seriously injured. Two week[s] later, **a drive-by shooting** sent two more victims to the hospital.

"Probably **all three of them thought they were going to get away with this**," said Sgt. Jason Dwyer, a spokesman for the San Jose Police Department.



Chavez Music Evidence.

2004 "Frank Gucci" CD.

Recorded "mixed" Gucci tracks.

"Shoot your shot cause I'm going to shoot mine"

"Gucci's got a gang that will silence your armada. M*****ers you die. Chavalas you ain't nada"

No write no rap.

Four years prior.

2007 "City of Sharks" CD.

"Producer" 3/21 tracks.

"Guns don't kill punks, thugs do, so that's exactly what I'm gonna do"

"In any situation I'm facing altercations, murder, death, kill, my only motivation"

No write no rap.

One year prior.

PARENTAL
ADVISORY
EXPLICIT LYRICS

Chavez trial and sentence.

Trial w/Franco aka "Trigger".

Snitch say driver 2 hits.

Norteño subset "the Mob"

Lyrics proof in gang.

Deny driver.

Deny gang.

No tats, photos.

No clothes/colors.

No prior felony.

Home studio.

Provided "beats"

352 overruled.

No write so what.

No rap so what.

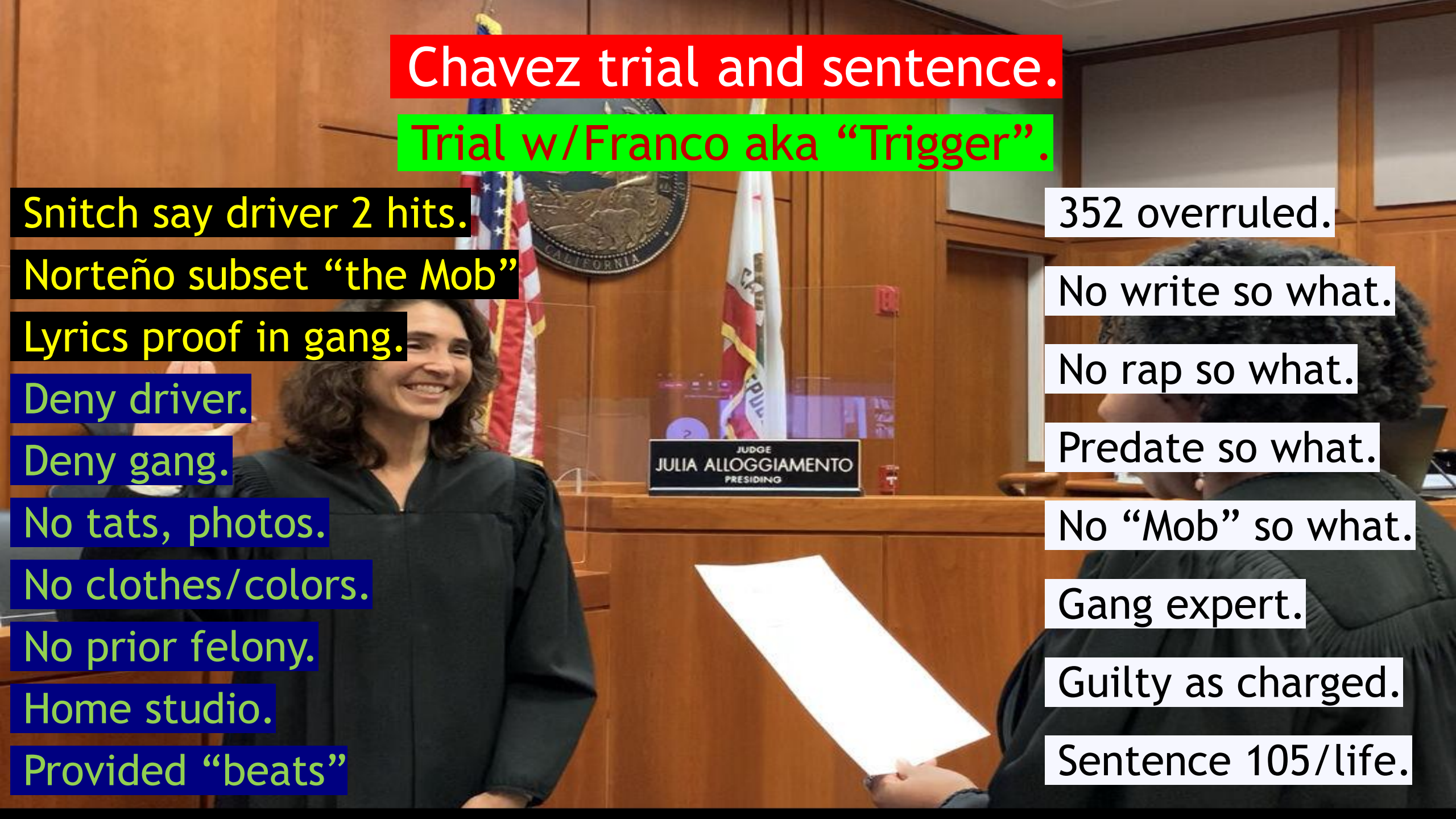
Predate so what.

No "Mob" so what.

Gang expert.

Guilty as charged.

Sentence 105/life.



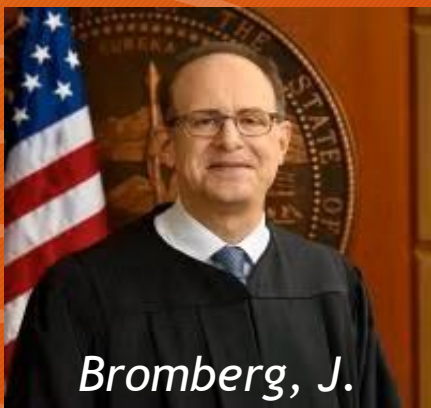
Chavez H047195 (Dec. 2024) [Ed Haggerty]



Greenwood, P.J.



Grover, J.



Bromberg, J.

Section 352.2 rap limits 01.01.23: not retroactive.

Section 352: 46-page track-by-track analysis.

“The probative value of evidence does not depend on how badly the prosecution needs it to prove its case”

Pre-2008 lyrics minimal probative value.

Evidence “not strong”

Lyrics “extremely inflammatory”

Jury admonition “mental gymnastics”

All convictions vacated.

03.12.25: Franco PFR granted.

Rogers H051665 (Jan. 2025) Publ'd [Robert Angres]



1997 three retail robberies t-shirt/hand.

3X 211, 7X strikes. 3X PSF, 2X PPT. 75/L + 17.

2023 1172.75: PPTs struck. 39-year sentence.

Count 1: $5 \times 2 = 10 + 2 + 2 + 5 \times \text{PSF} = 25$.

DDA appeal: 1172.75 vs. Three Strikes Law.

Full resentencing includes strikes.

Inadequate statement of reasons.

Remand state reasons or reconsider.

california proposition 36

3 strikes
reform act

Agaton-Hernandez: Kill Cabrera's GF, get life insurance.



A-H offers Ayuzo \$20K to kill Cabrera's GF.
But Ayuzo no kill.



Cabrera strangles GF next morning.
A-H arrives wearing gloves.



A-H stages "robbery" and moves body.
Police find body.
Cabrera flees to Mexico.

A-H court trial / max murder 2, dismiss conspiracy murder 1.

Planned Ayuzo beat up GF.

Surprised Cabrera killed.

Death not NPC of plan.

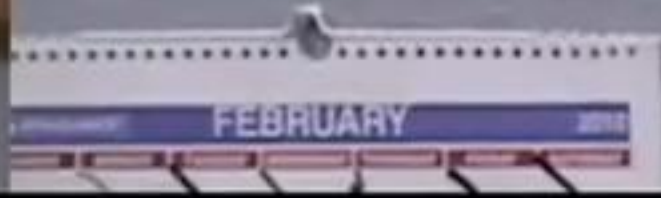
Accessory after fact.

Conspired w/Cabrera to kill.

Guilty murder 2.

Sentenced 15/Life.

Judge Russell Scott



A-H H037855 (Jun. 2013) [Sol Wollack]

No SOE conspiracy to kill.



Marquez, J.



Bamattre-Manoukian, J.



Elias, Acting P. J.

Plan to assault GF “defies logic” when no money without death.

Evidence knew murder plan before helped Cabrera.

Conspiracy = second degree murder? Not mentioned!

A-H post-appeal testimony.

Testifies Cabrera's 2018 trial.

Cabrera said find a killer.

Ayuzo backed out.

Judge Julie Culver

Surprised Cabrera killed.

Helped Cabrera after killing.

DDA = conspiracy abandoned.

Testifies 2022 parole hearing.

Involved "for the money"

A "monster at the time"

Accomplice in the murder.



GWIRE

A-H Section 1172.6(d)(3) hearing.

Counsel:

Murder not conspiracy.

2018 testimony.

Conspiracy = M1.



DDA:

Conspiracy murder.

JT and PH.

Conspiracy = M2 ok.

Direct aider and abettor.

A-H “arrived to commit the murder”

Staging and disposing shows intent to kill.

2020 testimony admits intent.

A-H H051008 (Jul. 2024) [Sol Wollack]

Wollack:

No act prior to murder.

A + A lacks sufficient evidence.

AG:

Conspiracy caused murder.

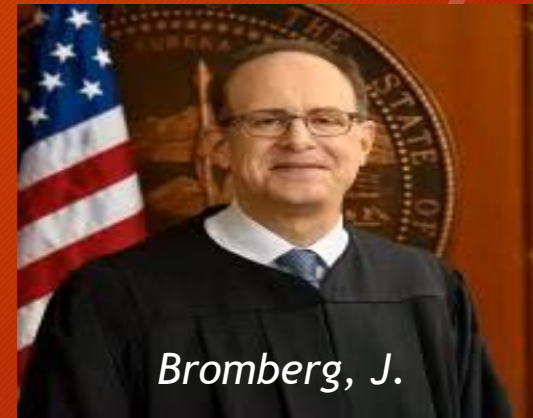
Affirm via “new” theory.



Bamattre-Manoukian, J.



Danner, J.



Bromberg, J.

Express and sole reliance on A + A.

AG stuck with trial court theory.

Remand for reconsideration of evidence and argument.

Error must be affirmatively shown.

Bad showing too bad.

Attorney burden.

Potential win?

More pressure.

Great work attorneys!

Judge Chamberlain Haller



Thank you

Randall Conner

408-241-6171

randall@sdap.org

