

JAMES OCHOA CASE

People V. Ochoa, 05NF2933

May 22, 2005: James Ochoa, age 20, was arrested at gunpoint in his home by Buena Park Police Department and charged with felony car jacking and armed robbery for a crime that was committed in his neighborhood, hours earlier.

May 24, 2005: Attorney Scott Borthwick was contacted by James' parents, Ubaldo and Luz Ochoa, and was asked to represent their son.

May-December, 2005: Legal research performed, determining that the eyewitness identification was flawed due to unduly suggestive photo "lineup," creating witness bias. Bloodhound tracing dog handler, Larry Harris, was found to have a past record of incompetence and prosecution bias. In addition, DNA and fingerprint evidence found in the stolen car excluded James Ochoa. Despite all of the above, the Orange County District Attorney held Ochoa in Orange County Jail for over 6 months. During this incarceration he was repeatedly pressured to accept a plea bargain. He refused to plead guilty, and proclaimed his innocence throughout.

December, 2005: Immediately prior to the trial, Superior Court Judge Robert Fitzgerald threatened Ochoa with a sentence of life in prison if he didn't accept the plea bargain. With the support of his attorney, James again refused to plead guilty.

December 7, 2005: Jury trial begins. DA Christian Kim proclaimed in his opening statement that James' parents and family members (who were home with James at the time of the crime) were "basically completely lying" for maintaining that James was innocent. DA Kim also stated that the recovered DNA and fingerprints in the car, which excluded Ochoa, "meant nothing" in the case. In the afternoon, the victim/eyewitnesses wrongly identified James as the perpetrator in front of the jury.

December 8, 2005: After a sleepless night, James succumbed the next morning to the pressure of DA Kim and Judge Fitzgerald, and agreed to accept the plea bargain of a two-year prison sentence. He could not endure the prospect of spending the rest of his life in prison if the jury believed the prosecution's bogus case. Against the advice of attorney Borthwick and the pleas of his family members, James reluctantly plead guilty to a crime he did not commit, and received his sentence of two years in state prison.

October 2006: James T. McCollum, a Long Beach resident, was being held in jail for felony carjacking in an unrelated incident in L.A. County. A DNA check on McCollum produced a "cold hit" (100% match) of the DNA evidence found in the Ochoa case. Upon questioning, McCollum admitted that he had committed the crime for which James Ochoa was serving time in Centinela State Prison. On October 19, one year and five months from the date that James was arrested and continuously incarcerated, he was released from prison and subsequently declared factually innocent by the same Judge who had accepted his plea, Robert Fitzgerald.

April 22, 2008: California State Victims Compensation and Government Claims Board voted unanimously to recommend payment of \$100.00 per day for Ochoa's wrongful incarceration, ruling that James' confession was effectively "coerced".

April 23, 2008: City of Buena Park settles a Civil Rights case filed by James Ochoa, resulting from mishandling of the case by BPPD Officers and Dog Handler Larry Harris.

June, 2008: California State Senate votes on the \$31,700 payment to James Ochoa for wrongful incarceration, as recommended by the State Board that investigated the case. The payment fails to achieve the 2/3 majority (required by the State for monetary issues) by just one vote. Senator Tom McClintock was the only Republican who voted to approve Ochoa's payment.

August, 2008: Attorney Scott Borthwick contacts Orange County Republican Chairman Scott Baugh to ask his assistance on behalf of James. Mr. Baugh agrees to call Senator Dick Ackerman, (R – Fullerton), and asks him to reconsider his position. Under the sponsorship of Senator Tom Torlakson (D – Antioch), a second floor debate and vote was held on August 7. This time, Senator Ackerman changed his vote to affirmative and James Ochoa's payment measure passed by a one-vote margin.

September, 2008: Following the State Senate approval, and after extensive print media coverage of the case, the California State Assembly unanimously votes to support James Ochoa's payment for wrongful incarceration.

Epilogue: James Ochoa, his wife Miriam, and young son Fernando, move to Texas to join his parents and start a new life following this ordeal lasting over 3 years. They live outside of Dallas, and James is employed as a silkscreen printer. The Ochoas now have a second child, Jacob.



April, 2008 – Sacramento, CA.
James, Miriam, Ubaldo, and Fernando Ochoa
Victims Compensation Hearing