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DANA PARSONS ORANGE COUNTY

O.C. justice system fails ... again

Cops, prosecutors and judge dropped the ball and helped send an innocent man to prison. This time they can't plead ignorance.

Dana Parsons

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You'll read elsewhere on this page today about the 21-year-old Buena Park man who pleaded guilty to an armed carjacking last year and then spent 10 months in prison before DNA evidence linked someone else to the crime. The 10 months followed six months in jail awaiting trial.

I have no shame in trotting out a line I've used before in this kind of situation: If you think that's just a small injustice, then you go spend 10 months in state prison. Or 10 days. Or 10 hours.

It's a large injustice and particularly odious this time around because, once again, the troika of local law enforcement — cops, prosecutors and a judge — all dishonored their professions by allowing it to happen.

Apologists will say that human beings make mistakes, that none of us is perfect. So true. But when mistakes are made with eyes wide open and end up with an innocent guy doing 10 months in the state pen, well ... there oughta be a law against it.

The case involves James Ochoa, arrested in May 2005 and tried late last year. After being told by Superior Court Judge Robert Fitzgerald that he'd lower the boom on him if convicted, Ochoa took a two-year prison deal already on the table.

Bear in mind that Ochoa's attorney hadn't yet presented his case and that Ochoa, for rather obvious reasons, knew he wasn't guilty. The next time you wonder why innocent people sometimes plead guilty, remember James Ochoa.

Ochoa's case was first chronicled last year in the OC Weekly. Reporter Scott Moxley pointed out enough holes in the case that it should have given pause to anyone with a conscience. Nor was it Monday-morning quarterbacking; the story ran before Ochoa's trial.

The flaws in the case were all too common. The only two eyewitnesses were portrayed as solid but were anything but. Ochoa was identified not in a group of several other possible suspects, but with photos of two others who didn't approximate the original descriptions of the carjacker. There was no physical evidence linking him to the crime. DNA or fingerprints found on crime-scene items excluded Ochoa. Ochoa's repeated willingness to take a lie-detector test was ignored.

Honest mistakes? I guess it depends on your definition of honest.

Suffice it to say the cops blew the investigation, and the Orange County D.A.'s office, instead of telling the cops to go get more and better information, pushed the case ahead based on the eyewitnesses.

Police and prosecutors go to professional seminars and read manuals. Why is it, then, they continue to rely so heavily on eyewitnesses in the presence of other conflicting information? And why can they not guarantee 100% fair and impartial procedures for identifying suspects?

And then there's Fitzgerald, a 71-year-old retired Superior Court judge still called in from the bullpen. He's known as a hanging judge, a well-earned if not altogether laudatory reputation, but he isn't inflexible. In more than one high-profile case, he's shown an independence in handing down lighter sentences than expected.

But he's had bad days in court and once was chastised by an appellate court for tainting a case with his overt hostility to defendants. Unbowed by that rebuke, he seemed to resort to the same tactic with Ochoa. Apparently disdainful of Ochoa's desire to plead innocent, Fitzgerald basically extorted a guilty plea from him.

Maybe the judge had other commitments. Maybe he wanted to spare the jury from extended duty. Maybe he thought he was giving Ochoa a break.

Would it be overly cute at this juncture to note that Ochoa would still be in jail if police hadn't connected the DNA to a carjack suspect currently in an L.A. County jail?

Oh, well. Probably not a good time to be cute.

The disturbing thing is that the D.A.'s office has been down this road before. I got wrapped up several years ago in a young man's case with similar outlines: no physical evidence linking him to the crime, various illogical elements to his involvement, heavy reliance on eyewitness testimony, blatantly unfair suspect-identification procedures.

That's why this can't be dusted off as just "one of those things that can happen."

It happens and happens and happens.

Dana Parsons can be reached at (714) 966-7821 or at dana.parsons@latimes.com. An archive of his recent columns is at <http://www.latimes.com/parsons>.

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