



## James Ochoa



**Year of Incident:** 2005

**Jurisdiction:** CA

**Charge:** Carjacking, Armed Robbery

**Conviction:** Carjacking, Armed Robbery

**Sentence:** 2 Years

**Year of Conviction:** 2005

**Year of Exoneration:** 2006

**Sentence Served:** 1 Year

**Real perpetrator found?** Yes

**Contributing Causes:** Eyewitness Misidentification, Unreliable/Limited Science, Government Misconduct

**Compensation?** Not Yet

[Understand The Causes:](#)  
[Eyewitness Misidentification](#)

[Understand The Causes:](#)  
[Unreliable and Limited Science](#)

[Understand The Causes:](#)  
[Government Misconduct](#)

Ten months after he plead guilty to carjacking and armed robbery, James Ochoa's sentence was vacated by prosecutors and he was released. Though Ochoa had already been excluded from the DNA evidence at the time of trial, prosecutors were sure he did the crime. A routine run of DNA profile from the crime scene evidence through the national CODIS DNA database matched a man in custody for carjacking and who subsequently confessed to this crime, exonerating James Ochoa.

### The Crime

At 12:30AM on May 22, 2005, two young Hispanic men were approached by another young Hispanic male, who pulled out a gun and demanded their wallets and the key to one victim's Volkswagen Jetta. The perpetrator wore a black baseball cap and a flannel shirt. He drove off in the victim's car with \$600 from their wallets. The victims immediately called 911.

### The Identification

When the responding officer took the description of the perpetrator from the victims, he immediately thought of James Ochoa. Earlier that night, James Ochoa was sitting with two friends outside of his house, which was a few blocks from the robbery. The responding officer had approached them and had searched them, but found no contraband or illegal drugs.

Immediately after the victims finished describing the perpetrator, the officer pulled up a picture of James Ochoa on his laptop computer. One victim saw only Ochoa's photograph, while the other saw photographs of Ochoa's two friends (who did not resemble the description just taken) first. Both victims said that the man in the picture "looked like" the perpetrator.

Just after 1:00AM, the stolen Jetta was recovered two blocks from the site of the carjacking, a short distance from Ochoa's house. On the front seat of the locked car was a grey shirt and a black hat. The victims were taken to the car and told the police that the clothing inside belonged to the perpetrator. When the car was towed by police, a black BB gun fell out from under the rear fender. The victims identified the gun as the weapon used by the perpetrator.

At around 3:00AM, a bloodhound dog named "Trace" was brought to the scene. Over the course of one hour, Trace allegedly followed the scent from a swab from the perpetrator's baseball cap to Ochoa's front door.

Ochoa was arrested and the two victims were brought to Ochoa's house around 6:00AM. Ochoa was standing on his front lawn, shirtless and in handcuffs. The victims identified him again.

The victims identified Ochoa a third time two months later in a live lineup.

### The Biological Evidence

The black baseball hat, grey shirt, BB gun, and the Jetta's steering wheel cover were all sent to the Orange County Crime Laboratory. Ochoa was eliminated as a possible contributor to DNA on the evidence. More importantly, the major contributor on the baseball hat and on the gun grip exhibited the same unknown male profile. A CODIS database run did not identify the male. A latent fingerprint found on the Jetta's gearshift knob also did not match Ochoa or either victim.

### The Guilty Plea

Ochoa said that he was home all night on the night of the crime. At least five family members confirmed his story.

Attorney Scott Borthwick took on the case pro bono. The judge threatened Ochoa with a life sentence in prison if a jury found him guilty. Against his attorney's advice, Ochoa decided to accept a two year plea bargain in December 2005.

### Post-Conviction

In October 2006, a man named Jaymes T. McCollum entered the Los Angeles County Jail on unrelated carjacking charges. When McCollum's DNA was entered into CODIS, Buena Park police officer Pete Montez saw that McCollum matched the unknown male profile from Ochoa's case. When Montez confronted him with this information, McCollum confessed to the May 2005 carjacking. The officer informed the Orange County district attorney, who filed a People's Petition for Immediate Habeas Corpus Relief on October 18, 2006. The next day, the same judge who tried Ochoa vacated the conviction.

On October 20, 2006, at 6:30AM, correctional officials told Ochoa that he was leaving. Ochoa did not know about the CODIS hit or that his sentence had been vacated. He was not represented by an attorney at the time. He got a ride back to Orange County in a car from the district attorney's office after they bought him lunch and a set of clothing, sixteen months after he had been arrested for a crime he did not commit.

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