

1. *People v. Robinson (Paul Eugene)* (S158528)

A jury found defendant guilty of five felony sexual offenses, all perpetrated against the same woman on August 25, 1994. At the time these sexual crimes were committed, each was punishable for a maximum term of eight years in state prison. According to the applicable California statute of limitations law at the time, the prosecution had to commence within six years after the commission of the offenses or it would be time-barred forever.

In this case, four days before the statute of limitations would have expired, the district attorney filed a felony complaint against “John Doe, unknown male,” describing this unknown male by his unique 13-loci deoxyribonucleic acid (DNA) profile. An arrest warrant issued the next day incorporating that DNA profile. Approximately three weeks later, defendant was arrested on an amended warrant that included his name. It later was learned that defendant’s DNA profile in California’s DNA database that linked defendant to the five sexual offenses had been generated from blood mistakenly collected from defendant by local and state agencies during their administration of California’s DNA and Forensic Identification Data Base and Data Bank Act of 1998 (the Act). The following issues are likely to be discussed at oral argument.

a. The parties agree that defendant’s blood was collected in violation of the Act but disagree as to the remedy, if any, for the unlawful collection of defendant’s genetic material. The Fourth Amendment of the United States Constitution protects against unreasonable searches and seizures. The parties dispute whether the improper collection of defendant’s blood under the Act constitutes a Fourth Amendment violation and, if so, whether suppression of the evidence so obtained is required. Alternatively, the parties dispute whether a state statutory violation, namely, the collection of defendant’s blood in violation of the Act, would require suppression of the evidence regardless of whether the Fourth Amendment is implicated here. Oral argument may address whether mistaken collection of defendant’s blood was negligent, as opposed to deliberate, reckless, or systemic, and how that distinction could affect the required remedy.

b. Charging and arrest provisions permit the use of a fictitious name. A prosecution for an offense commences when an issued arrest warrant names or describes the defendant with the same degree of particularity required for a complaint. If a fictitious name is used, the warrant should contain sufficient descriptive material to indicate with reasonable particularity the identification of the person whose arrest is ordered. The Supreme Court must decide whether an unknown suspect’s DNA profile satisfies the “particularity” requirement for an arrest warrant and whether the issuance of a “John Doe” complaint or arrest

warrant may timely commence a criminal action and thereby satisfy the statute of limitations period.