

# S224564

In the Supreme Court of the State of California

THE PEOPLE OF THE STATE OF  
CALIFORNIA,

Plaintiff and Respondent,

v.

LEONEL CONTRERAS and WILLIAM  
STEVEN RODRIGUEZ,

Defendant and Appellant.

Case No. \_\_\_\_\_ SUPREME COURT  
**FILED**

FEB 20 2015

Frank A. McGuire Clerk  
\_\_\_\_\_  
Deputy

Appellate District Division One, Case No. D063428  
San Diego County Superior Court, Case No. SCD236438  
The Honorable Peter C. Deddeh, Judge

## PETITION FOR REVIEW

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TO THE HONORABLE TANI CANTIL-SAKAUYE, CHIEF JUSTICE, AND TO THE HONORABLE ASSOCIATE JUSTICES OF THE CALIFORNIA SUPREME COURT:

Pursuant to rule 8.500 of the California Rules of Court, the People of the State of California respectfully request that this Court grant review in this matter to settle an important question of law. (Cal. Rules of Court, rule 8.500, subd. (b)(1).) The single issue presented in the current case is before this Court in *In re Alatraste*, S214652, and *In re Bonilla*, S214960. As such, petitioner asks that briefing be deferred pending disposition of those cases. (Cal. Rules of Court, rule 8.512(d)(2).) The unpublished opinion, attached as Exhibit A, was filed on January 14, 2015.

#### ISSUE PRESENTED

Notwithstanding Senate Bill No. 260 and Penal Code section 3051<sup>1</sup>, does a sentence of 50 years to life, and 58 years to life, constitute de facto life sentences for defendants sentenced at the age of 16?

#### STATEMENT OF THE CASE

Appellants Contreras and Rodriguez kidnapped two teenage girls at knifepoint as the girls sat talking under a tree in a park. Appellants dragged

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<sup>1</sup> Senate Bill No. 260, which became effective on January 1, 2014, added section 3051 to the Penal Code, which grants a youth offender parole hearing to all state prisoners who were under 18 years of age at the time of his or her controlling offense. (§ 3051, subd. (a)(1). Specifically, juvenile offenders with determinate sentences of any length shall receive a youth offender parole hearing during the 15th year of their incarceration. (§ 3051, subd. (b)(1).) Juvenile offenders sentenced to life terms of less than 25 years to life for the controlling offense shall receive a youth offender parole hearing during the 20th year of their incarceration. (§ 3051, subd. (b)(2).) At these hearings, the state is required to provide the inmate with a “meaningful opportunity to obtain release.” (§ 3051, subd. (e).) The state also is required to assess the “growth and maturity” of the inmate at the hearing. (§ 3051, subd. (f)(1).)

the girls to a dark and secluded area and repeatedly raped and assaulted them. Appellants took turns assaulting both victims, stopping only when they heard the voices of adults searching for the girls. Both appellants eventually confessed to the attacks. (Opn. at pp. 4-12.)

A jury convicted Contreras of one count of conspiracy to commit kidnapping and/or forcible rape (Pen. Code,<sup>2</sup> § 182, subd. (a)(1); count 1); two counts of kidnapping (§ 207, subd. (a); counts 2 & 14), seven counts of forcible rape (§ 261, subd. (a)(2); counts 3, 5, 7-8, 15, 17 & 20), one count of rape by a foreign object with force (§ 289, subd. (a)(1)(A); count 4), eight counts of forced oral copulation (§ 288a, subd. (c)(2)(A); counts 6, 9, 11-13, 18-19 & 21), and two count of sodomy by use of force (§ 286, subd. (c)(2)(A); counts 10 & 16).<sup>3</sup> Numerous enhancement allegations accompanied the sexual offense counts, including that the crimes were committed during a kidnapping and involved multiple victims. The jury found all of the accompanying enhancements applicable, except for the multiple victim enhancements for counts 4 and 5.

The prosecution charged Rodriguez with the same offenses and many of the same enhancement allegations. A separate jury convicted Rodriguez of counts 2, 8 through 12, 14 through 16, and 21, and found the accompanying enhancement allegations applicable.<sup>4</sup>

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<sup>2</sup> Further statutory references are also to the Penal Code unless otherwise stated.

<sup>3</sup> The victims were identified below as Jane Doe 1 (Doe 1) and Jane Doe 2 (Doe 2). (§ 293.5.) Counts 2 through 13 were crimes against Doe 1 and counts 14 through 21 were crimes against Doe 2.

<sup>4</sup> The jury found Rodriguez not guilty of count 4. The jury could not reach unanimous verdicts on counts 1, 3, 5 through 7, 13, and 17 through 20. The court declared a mistrial as to these counts and later dismissed them without prejudice.

The court sentenced Contreras to a prison term of 50 years to life plus eight years. The sentence consisted of consecutive terms of 25 years to life for counts 3 and 15, plus two consecutive four-year terms for the weapon use enhancements accompanying those counts. The court imposed concurrent terms for counts 1, 4 through 13, and 16 through 21. It stayed the sentences for counts 2 and 14 under section 654.

The court sentenced Rodriguez to a prison term of 50 years to life. The sentence consisted of consecutive terms of 25 years to life for counts 8 and 15. The court imposed concurrent terms for counts 9 through 12, 16, and 21. It stayed the sentences for counts 2 and 14 under section 654. (Opn. at pp. 2-3.)

On appeal, among other things, appellants argued that their sentences amount to cruel and unusual punishment because they were juveniles when they committed their crimes and their sentences do not provide them with a meaningful opportunity for parole in their lifetimes. The Court of Appeal concluded that appellants' sentences constitute cruel and unusual punishment because they do not comply with the requirements set forth in *Graham v. Florida* (2010) 560 U.S. 48 (*Graham*), and *People v. Caballero* (2012) 55 Cal.4th 262, 267, fn. 3 (*Caballero*), and remanded the matter for resentencing. It affirmed the judgments in all other respects.

### **REASONS FOR REVIEW**

This Court should grant review, and defer briefing, in light of the important question of law in *Alatraste* and *Bonilla* concerning the application of *Caballero* and *Graham*

Review is required because the Court of Appeal's application of *Caballero* and *Graham* was overbroad. *Cabellero* held that the Constitution requires "that a state must provide a juvenile offender 'with some realistic opportunity to obtain release' from prison during his or her expected lifetime." (*Cabellero, supra*, 55 Cal.4th at p. 268.) The Court of

Appeal acknowledged that “Rodriguez’s and Contreras’s first parole eligibility date theoretically falls within their expected lifetimes.” (Opn. at p. 40.) The court held, however, that

the sentences preclude any possibility of parole until they are near the end of their lifetimes as the parties agree Rodriguez will be 66 and Contreras will be 74 when they are first eligible for parole. This falls short of giving them the realistic chance for release contemplated by *Graham*. Instead, the sentences tend to reflect a judgment Rodriguez and Contreras are irretrievably incorrigible. While this judgment may ultimately prove to be correct, it is not one *Graham* permits to be made at the outset.

(Opn. at p. 41.)

Because *Alariste* and *Bonilla* raise similar issues, this court should grant and hold this case to ensure that appellants are treated the same as other defendants facing the same situation in other parts of the state.<sup>5</sup> (Cal. Rules of Court, rule 8.512(d)(2).)

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<sup>5</sup> Appellants were sentenced under the One Strike Law. Penal Code section 3051 does not apply to sentences imposed under the one strike law or Penal Code section 667.6, subdivisions (b) through (i) (§ 3051, subd. (h)). However, the constitutionality of the length of the sentence, notwithstanding section 3051, is also at issue in *Bonilla* and *Alariste*, and will likely be resolved in those matters.



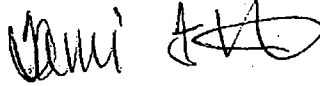
## CONCLUSION

The petition for review should be granted with action deferred pending the decision in *Alariste* and *Bonilla*.

Dated: February 12, 2015

Respectfully submitted,

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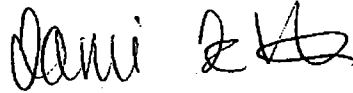


**CERTIFICATE OF COMPLIANCE**

I certify that the attached **PETITION FOR REVIEW** uses a 13 point Times New Roman font and contains 874 words.

Dated: February 12, 2015

KAMALA D. HARRIS  
Attorney General of California

A handwritten signature in black ink, appearing to read "Tami FH", written over the printed name of Tami Falkenstein Hennick.

TAMI FALKENSTEIN HENNICK  
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# **ATTACHMENT**

**1**



Filed 1/14/15

**NOT TO BE PUBLISHED IN OFFICIAL REPORTS**

California Rules of Court, rule 8.1115(a), prohibits courts and parties from citing or relying on opinions not certified for publication or ordered published, except as specified by rule 8.1115(b). This opinion has not been certified for publication or ordered published for purposes of rule 8.1115.

COURT OF APPEAL, FOURTH APPELLATE DISTRICT

DIVISION ONE

STATE OF CALIFORNIA

THE PEOPLE,

Plaintiff and Respondent,

v.

LEONEL CONTRERAS et al.,

Defendants and Appellants.

D063428

(Super. Ct. No. SCD236438)

APPEALS from judgments of the Superior Court of San Diego County, Peter C. Deddeh, Judge. Affirmed in part and reversed in part.

Nancy J. King, under appointment by the Court of Appeal, for Defendant and Appellant Leonel Contreras.

Daniel J. Kessler, under appointment by the Court of Appeal, for Defendant and Appellant William S. Rodriguez.

Kamala D. Harris, Attorney General, Dane R. Gillette, Chief Assistant Attorney General, Julie L. Garland, Assistant Attorney General, Arlene A. Sevidal and Tami F. Hennick, Deputy Attorneys General, for Plaintiff and Respondent.

## INTRODUCTION

A jury convicted Leonel Contreras of one count of conspiracy to commit kidnapping and/or forcible rape (Pen. Code,<sup>1</sup> § 182, subd. (a)(1); count 1); two counts of kidnapping (§ 207, subd. (a); counts 2 & 14), seven counts of forcible rape (§ 261, subd. (a)(2); counts 3, 5, 7-8, 15, 17 & 20), one count of rape by a foreign object with force (§ 289, subd. (a)(1)(A); count 4), eight counts of forced oral copulation (§ 288a, subd. (c)(2)(A); counts 6, 9, 11-13, 18-19 & 21), and two count of sodomy by use of force (§ 286, subd. (c)(2)(A); counts 10 & 16).<sup>2</sup> Numerous enhancements allegations accompanied the sexual offense counts, including that the crimes were committed during a kidnapping and involved multiple victims. The jury found all of the accompanying enhancements applicable, except for the multiple victim enhancements for counts 4 and 5.

The prosecution charged William Steven Rodriguez with the same offenses and many of the same enhancement allegations. A separate jury convicted Rodriguez of counts 2, 8 through 12, 14 through 16, and 21, and found the accompanying enhancement allegations applicable.<sup>3</sup>

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<sup>1</sup> Further statutory references are also to the Penal Code unless otherwise stated.

<sup>2</sup> The victims were identified below as Jane Doe 1 (Doe 1) and Jane Doe 2 (Doe 2). (§ 293.5.) Counts 2 through 13 were crimes against Doe 1 and counts 14 through 21 were crimes against Doe 2.

<sup>3</sup> The jury found Rodriguez not guilty of count 4. The jury could not reach unanimous verdicts on counts 1, 3, 5 through 7, 13, and 17 through 20. The court declared a mistrial as to these counts and later dismissed them without prejudice.



The court sentenced Contreras to a prison term of 50 years to life plus eight years. The sentence consisted of consecutive terms of 25 years to life for counts 3 and 15, plus two consecutive four-year terms for the weapon use enhancements accompanying those counts. The court imposed concurrent terms for counts 1, 4 through 13, and 16 through 21. It stayed the sentences for counts 2 and 14 under section 654.

The court sentenced Rodriguez to a prison term of 50 years to life. The sentence consisted of consecutive terms of 25 years to life for counts 8 and 15. The court imposed concurrent terms for counts 9 through 12, 16, and 21. It stayed the sentences for counts 2 and 14 under section 654.

Contreras and Rodriguez both appeal, contending their sentences constitute cruel and unusual punishment because they were juveniles when they committed their crimes and their sentences do not provide them with a meaningful opportunity for parole in their lifetimes. Contreras additionally contends we must reverse his convictions because the court prejudicially erred by (1) admitting evidence of his confession; (2) excluding his expert evidence, third party-culpability evidence, and character evidence; (3) declining to dismiss counts 4, 7, and 10 due to defective verdicts; (4) denying his motion to discover juror personal identifying information; and (5) denying his motion for a new trial based on juror misconduct. He also contends we must reverse his convictions because the accumulation of these errors deprived him of a fair trial.

We conclude Contreras and Rodriguez's sentences constitute cruel and unusual punishment because they do not comply with the requirements set forth in *Graham v.*

*Florida* (2010) 560 U.S. 48 (*Graham*). We, therefore, reverse the sentences and remand the matter for resentencing. We affirm the judgments in all other respects.

## BACKGROUND

### *Prosecution Evidence Presented to Both Juries*

Doe 2, then 15, accompanied Doe 1, then 16, and Doe 1's parents to a party for one of Doe 1's relatives. The party was at the relative's house. At dusk, while the party was still going on, the girls went for a walk and sat down by a tree in an open space area. Contreras, then 16, and Rodriguez, then 16, walked past them. Both boys wore dark clothing with hoods covering their heads. Rodriguez wore a red and black cap, a dark-colored Padres T-shirt, and a long-sleeve, plaid or checkered jacket with a gray hood. Contreras wore a long-sleeve, dark-colored, hooded jacket.

A short time later, Contreras and Rodriguez tackled the girls from behind. Contreras tackled Doe 1 and Rodriguez tackled Doe 2. Both boys wore bandanas covering their noses and mouths. Contreras held a knife to Doe 1's throat. One of boys asked for the girls' cell phones.

The boys pulled the girls up and started taking them toward a street. Rodriguez covered Doe 2's mouth with his hand as she struggled to get away. Contreras repeatedly told Doe 1 to tell Doe 2 to "shut the f—k up." The boys forced the girls to walk across the street, up an embankment, and into a wooded area. As they started going up the embankment, Doe 2 continued to struggle and threw her weight backward, causing both her and Rodriguez to stumble. Doe 2 bit Rodriguez's hand and tried to get away. However, Doe 1, at Contreras's direction, told Doe 2 to be quiet and stop resisting.

When Doe 2 got up off the ground, Rodriguez tied his bandana around her mouth and told her he would hurt her if she screamed. He took her to a clearing. Contreras took Doe 1 to a different location nearby. The area was not lighted and was not visible from the street.

Rodriguez took off Doe 2's shorts and underwear. He told her to get down. As she lay on her back, he got on top of her, put his penis in her vagina, and started thrusting in and out. He pulled down the bandana and kissed her, putting his tongue in her mouth. He told her not to scream or he would hurt Doe 1. He asked her if she liked what he was doing. She was wearing a purity ring and had never had sexual intercourse before. His actions were painful and caused her to wince.

After what seemed like a long time to Doe 2, Rodriguez made her flip over. As she lay on her stomach, he put his penis in her anus and started thrusting in and out.

As Rodriguez was assaulting Doe 2, Contreras had Doe 1 lay down. He took off her shorts, underwear, and shoes, had her help him take off her dress, and had her take off her bra. He touched her breasts and tried to push his penis into her vagina, but his penis was soft. He asked her whether she was a virgin and she told him she was. He put his fingers in her vagina for a couple of seconds, which was painful for her. He told her to keep her legs open and pushed his now erect penis into her, which was also painful for her. He then started thrusting in and out.

After awhile, he took his penis out of her vagina, stood up, told her to suck it, and warned her he did not want to feel any teeth. He put his penis in her mouth and pushed her head back and forth. She gagged and threw up. He then pushed his penis back into

her vagina. He told her to keep quiet and keep her legs open. She tried to keep quiet, but made some noise because she was uncomfortable. He told her to shut up. He kept the knife in his pocket during the sex acts.

Around this time, Rodriguez called over to Contreras and the two boys switched places. Rodriguez kissed Doe 1 and bit her cheek and neck. He put his penis in her vagina and thrust in and out. He then put his penis in her mouth and pushed her head back and forth. She gagged and threw up again. He lay down on the ground, had her get on top of him, pushed his penis into her anus, and had her "hump" him by moving up and down. After a couple of minutes, he had her sit back down. He put his penis in her mouth again and pushed her head back and forth. She gagged and threw up again.

As Rodriguez was engaging in sex acts with Doe 1, Contreras took off Doe 2's dress and had her help him take off her bra. Once all of her clothes were off, he had her lay on her back. While holding the knife to her neck, he told her to open her legs "really wide." He then put his penis into her vagina and started thrusting. The action was painful to her. He asked whether she was a virgin and she told him she was. He also asked whether she had a boyfriend and where she went to school. She told him she did not have a boyfriend and what school she attended.

After some period of time, Contreras moved further up on Doe 2. While holding the knife in his hand, he put his penis in her mouth and told her to suck it. She turned her head away and told him she could not breathe. He put his penis back in her mouth and told her to try. She turned her head away again. He changed their positions so he lay on his back and she was on top of him. He told her to put his penis in her vagina. She told

him she did not know how, so he put it in himself. He told her to jump up and down, but she did not know what he meant. He thrust up and down while fondling her breasts. His knife was on the ground nearby. When they were in this position, Contreras's bandana slipped and Doe 2 got a good look at his face.

At some point, Contreras asked Doe 2, "Did [Rodriguez] f—k your mouth?" She told him no. Rodriguez then brought Doe 1 over to the same place as Doe 2. Once more, Rodriguez put his penis in Doe 1's mouth and pushed her head back and forth. Once more, she threw up. Afterwards, the two boys switched again.

Rodriguez had Doe 2 get on her back and he put his penis in her mouth. She turned her head away and told him she could not breathe, but he put his penis back in her mouth. While this was occurring, Contreras put his penis in Doe 1's mouth. He moved her head back and forth and warned her he did not want to feel any teeth. She gagged yet again. Neither Contreras nor Rodriguez wore a condom during any of the sex acts.

When the boys decided to stop, they had the girls put their clothes back on. As Doe 2 was getting dressed, Rodriguez kissed Doe 2, touched her legs, put his finger in her vagina, and told her she was beautiful. Before Doe 1 got dressed, Rodriguez also kissed her and asked her if she liked what had happened. He told her she was beautiful and that, if they had known each other before, she would have been his girlfriend.

Meanwhile, Contreras pulled a bicycle from the bushes. The boys then directed the girls which way to go and told them not to say anything to anyone. One of the boys said they would follow the girls home and come after the girls if they ever told anyone. Contreras also threatened to find and hurt one of Doe 1's young relatives.

The girls walked down the slope and across the street, where they met up with Doe 1's parents, who had been looking for them. They got in Doe 1's parents' car and left. Doe 1's mother asked where they had been and what had happened to them.

At first, the girls did not say anything. Doe 2 did not say anything because she thought the boys were still close by and she just wanted to get away. However, Doe 1's mother asked them directly if they had been raped and they acknowledged they had been. Doe 1's parents took them back to Doe 1's relative's home, where someone called the police. Shortly after the police were notified of the crime, a helicopter flew over the area repeatedly announcing the suspects' descriptions and that they were riding on the same bicycle.

On the night of the crimes, Rodriguez and Contreras were staying at Rodriguez's aunt's home, which was near the crime scene.<sup>4</sup> Around the time the crimes were occurring, Rodriguez's aunt searched in and around the house for them, but could not find them. Sometime later, she heard a door slam. Five to seven minutes after that she heard the helicopter. When she learned what the helicopter was broadcasting, she hoped the suspects were not Rodriguez and Contreras.

She searched again for the two boys and found them in the garage. She was angry by the coincidence of their arrival and the helicopter's broadcasts. She told a police detective she initially thought the boys might be the suspects. However, she later

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<sup>4</sup> Although their precise relationship is not clear from the record, Contreras referred to the woman as his aunt and to Rodriguez as his cousin.

concluded the boys could not have committed the crimes because they were too young and no one in the family owns anything with the "Padres" name on it.

When Rodriguez's cousin heard the helicopter's broadcasts, she went into the garage and confronted the boys. They were sweaty and looked nervous. Her mother, Rodriguez's aunt, told her Contreras admitted being one of the assailants, but he blamed Rodriguez for the crimes and said Rodriguez was the one with the knife.

A police detective found a bicycle matching the description of the one the assailants used along the side of Rodriguez's aunt's house. Detectives also found clothing in Rodriguez's aunt's garage and Rodriguez's father's home matching the girls' description of what the boys wore the night of the crimes. About six weeks after the crimes, a landscape worker found a knife while clearing brush near the crime scene.

After reporting the crimes, the girls submitted to sexual assault examinations. The girls' injuries and other physical findings were consistent with the girls' version of events.

DNA testing was conducted on swabs taken from the girls during their examinations. The tests showed Rodriguez was included as a possible minor contributor to a DNA mixture found on a swab taken from Doe 1's breast, Rodriguez was included as a possible major contributor and Doe 2 was included as a possible minor contributor to a DNA mixture found on a swab taken from Doe 1's neck, and Rodriguez was included as a possible contributor to a DNA mixture found on a swab taken from Doe 1's vulva.

DNA testing was also conducted on several items of clothing found by detectives, including a black hooded sweatshirt, a Padres T-shirt, and a plaid jacket. Rodriguez, Doe 1, and Doe 2 were all included as possible major contributors to a DNA mixture found on

swabs taken from the waistband and shoulder area of the sweatshirt. They were also all included as possible contributors to a DNA mixture found on a swab taken from the cuffs, and Rodriguez and Doe 1 were included as possible major contributors to a DNA mixture found on a swab taken from the inside neck.

Doe 1's DNA matched DNA found on a swab taken from the waistband area of the Padres T-shirt. Rodriguez and Doe 2 were included as major contributors and Contreras and Doe 1 were included minor contributors to a DNA mixture found on dark-stained cuttings from the front waistband area of the shirt.

Doe 2 was included as a possible major contributor to a DNA mixture found on a swab taken from the waistband of the plaid jacket, Doe 1 was included as a possible major contributor to a DNA mixture found on a swab taken from the shoulder area, and Doe 1 and 2 were both included as possible major contributors to DNA mixtures found on swabs taken from the inside cuffs and neck area. Doe 2 was included as a possible major contributor to DNA found on presumptively bloodstained cuttings from around the jacket's buttonholes.

Both Doe 1 and Doe 2 identified Rodriguez from a photographic lineup and at trial. Doe 2 also identified Contreras at trial.

*Additional Prosecution Evidence Presented to Rodriguez's Jury*

Rodriguez's jury heard a recording of Rodriguez's statement to police detectives. The statement largely corroborated the victims' accounts.



### *Additional Prosecution Evidence Presented to Contreras's Jury*

Contreras's jury heard recordings of Contreras's statement to police detectives. Contreras told police detectives he went to his aunt's house the night of the crimes. He had a knife with him. He and Rodriguez discussed what they were going to do that night. Their first idea was to rob people. However, they changed their mind after a lady passed by them. They stashed their bicycle and, as they were walking around, Contreras pointed out Doe 1 and Doe 2 and Rodriguez said, "Let's go."

Contreras said he asked for the girls' cell phone so they would not call anybody. He grabbed the taller girl and told her to stay still. Because he had a knife, he hoped the shorter girl would stay still as well. They took the girls across the street and up the embankment where they had stashed the bicycle. The taller girl tripped on the way up.

When they got to the area where he had stashed the bicycle, he told the taller girl to take off her clothes and bra. Then, he had her turn to face him and he "just put it in the front."

### *Contreras's Defense Evidence*

A false confessions expert testified about police interrogation techniques and how false confessions occur. A DNA expert testified it would be extremely improbable for there to be no DNA found following a sexual assault involving multiple instances of anal, oral, and vaginal sex where the assailants did not use condoms. He also testified Contreras's DNA could have been transferred onto the Padres T-shirt from a prior wearing, from the laundry, or from the comingling of Contreras's clothes with

Rodriguez's clothes. A crime scene investigation expert agreed Contreras's DNA could have been inadvertently transferred onto the Padres T-shirt.

A friend of Contreras's testified he was with her when the rapes occurred. She also testified he was wearing a plain T-shirt and shorts. He was not wearing a Padres T-shirt. The friend previously told a defense investigator she had been with Contreras on a different day. On cross-examination, she admitted she really did know the exact date she was with Contreras.

## DISCUSSION

### I

#### *Contreras's Confession*

### A

### 1

Following his arrest, Contreras was taken to police headquarters and placed in an interview room. An officer came into the interview room and took down some basic biographical information. After Contreras had been waiting in the room about an hour, two police detectives came into the room to interview him. The detectives provided him with the admonitions required by *Miranda v. Arizona* (1966) 384 U.S. 436, 478 (*Miranda*), and Contreras agreed to speak with them.

Contreras thought he was there because a classmate had accused him of taking her wallet. The detectives told him they were not concerned about the wallet. Then, he thought he was there because a homosexual kid at school complained about him. The detectives explained they were investigating a crime involving two girls. He denied any

knowledge of the crimes. However, he declined to tell the detectives whom he was with the night the crimes occurred.

After Contreras claimed he could not remember the *Miranda* admonitions, the detectives gave them to him again and he again agreed to speak with the detectives. They told him they were looking into a sexual assault crime and intimated they had witness statements and evidence, including DNA evidence, inculcating him. He continued to deny any knowledge of the crimes. He also continued to decline to state whom he was with when the crimes occurred, indicating he was not supposed to be with that person because of a restraining order.

When the detectives assured him they were not concerned about the restraining order, he told them he was at his aunt's house with his 16-year old cousin. He said they left the house in the afternoon to get some food, then returned to the house and stayed in the garage listening to music and playing video games for the remainder of the evening. He subsequently admitted they left the garage long enough for his cousin to smoke some marijuana.

At that point, about 30 minutes into the interview, a region-wide power outage occurred, causing the lights to go out in the interview room and the video camera to stop running. The detectives moved Contreras to a lobby area, next to a large window. Contreras sat in the lobby area for about 15 minutes. The detectives then moved him to large round table in a well-lighted office area. The interview continued for approximately two more hours. Although both detectives thought they were recording the second part of the interview, only one of them was.

When the interview resumed, the detectives told Contreras they had spoken with his aunt and she told them she knew he had raped the girls. Contreras disbelieved them. They then told him his aunt had made the statement to some family members, they had DNA evidence against him, and Rodriguez had already confessed. He continued to disbelieve them.

They insisted they had DNA evidence and other forensic evidence, including his semen, linking him to the crimes. They implored him to tell them what happened and to let them and his family know he was remorseful. They also told him some of what Rodriguez had told them. He continued to deny either he or Rodriguez had anything to do with the crimes and demanded to hear the recording of Rodriguez's confession.

Although they told him more of what his aunt had said and more of what Rodriguez had said, he adamantly denied the information was true. He intimated he was being framed. The detectives offered to show him a video recording of Rodriguez talking with them. They emphasized how remorseful Rodriguez was for the crimes.

The detectives showed him a picture of Rodriguez, but he demanded to hear the video recording, suggesting the picture could have been of a doppelgänger. He refused to believe Rodriguez could or would inculcate him. In addition, he said he had no reason to rape anyone because he "had a lot of chicks."

The detectives reiterated Rodriguez had confessed and expressed remorse. They prodded him to do the same, but he continued to disbelieve them. He said he was not listening to them and he knew they were going to arrest him regardless of what he told them because they thought he committed the crimes.