

# SUPREME COURT COPY

**In the Supreme Court of the State of California**

**THE PEOPLE OF THE STATE OF  
CALIFORNIA,**

**Plaintiff and Respondent,**

**v.**

**ERIC ANDERSON,**

**Defendant and Appellant.**

**CAPITAL CASE**

Case No. S138474

**SUPREME COURT  
FILED**

San Diego County Superior Court Case

No. SCE230405

The Honorable Lantz Lewis, Judge

MAR 25 2015

Frank A. McGuire Clerk

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Deputy

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**DEATH PENALTY**

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## **INTRODUCTION**

Appellant Eric Anderson and two accomplices drove to the home of Steven Brucker to steal money from a safe inside Brucker's house. Anderson parked his car in the driveway and, along with one of his accomplices, approached the front door of the residence on foot. Brucker opened the door and told Anderson to "get the fuck off my property." Anderson responded by saying, "fuck you," and shooting Brucker in the chest with a .45 caliber handgun. The bullet perforated Brucker's heart, and caused his death a short time later. After shooting Brucker, Anderson and his accomplices fled the scene.

A jury convicted Anderson of capital murder and conspiracy to commit burglary and robbery. It also convicted him of two counts of residential burglary based on other incidents. At a bench trial, the court found Anderson guilty of being a felon in possession of a firearm. The jury returned a verdict of death, and the trial court sentenced Anderson accordingly.

In this appeal, Anderson challenges various rulings made and instructions given by the trial court, accuses the prosecutor of having committed misconduct, and contends that his death sentence is unconstitutional for several reasons. As discussed in detail below, none of Anderson's claims entitle him to relief, and the judgment should be affirmed.

## **STATEMENT OF THE CASE**

The San Diego County District Attorney charged Anderson and three codefendants (Brandon Handshoe, Apollo Huhn, and Randy Lee) with the murder of Steven Brucker on April 14, 2003, and alleged as special circumstances that the murder was committed in the course of an attempted residential burglary and an attempted residential robbery (Pen. Code, § 187,

subd. (a), 190.2, subd. (a)(17)).<sup>1</sup>All four defendants were also charged with conspiracy to commit residential burglary and residential robbery (§ 182, subd. (a)). The district attorney further alleged that Anderson personally fired a handgun in the commission of the murder resulting in great bodily injury and death (§ 12022.53, subd. (d)), that he personally used a handgun in the commission of the conspiracy (§ 12022.5, subd. (a)(1)), and that his codefendants were vicariously armed with a handgun in the commission of both offenses (§ 12022, subd. (a)(1)). Anderson was charged with four additional crimes: two residential burglaries based on facts unrelated to the murder and conspiracy charges (§§ 459, 460), being a felon in possession of a firearm (former § 12021(a)(1) (now § 29800, subd. (a)(1))), and grand theft of a firearm (§ 487, subd. (d)). Finally, the district attorney alleged that Anderson had previously suffered one prison prior (§ 667.5, subd. (b)), two serious felony priors (§ 667, subd. (a)), and three strike priors (§§ 667, subds. (b)-(i), 1170.12). (1 CT 106-114.)

Anderson pleaded not guilty and denied the allegations. (9 CT 1774.) During pre-trial proceedings, the trial court granted Anderson's unopposed motion pursuant to section 995 to dismiss the grand theft charge on the basis that he had been ordered to answer that charge without reasonable or probable cause. (3 CT 592-599; 9 CT 1810; 4 RT 669). The court denied Anderson's request to be tried separately from his codefendants, and further denied his request to sever the burglary charges; however, the court ordered that a separate jury hear the case against Huhn. (1 CT 155-156, 162-196; 5 CT 1075-1080; 9 CT 1810; 3 RT 600-4 thru 600-9, 600-30 thru 600-31; 4 RT 669-689, 689-691, 712-713; 6 RT 1110-1112 .) Anderson waived his right to a jury trial on the charge of being a felon in possession of a firearm,

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<sup>1</sup> All further references are to the Penal Code unless otherwise indicated.