

IMPROPERLY GIVEN, ACTUALLY UNLAWFUL, CONSPIRACY JURY INSTRUCTIONS  
PROHIBITED A FAIR TRIAL FOR MICHAEL GOODWIN

These instructions, and how the prosecutors manipulated them by misstating the law about them, and repeatedly falsely arguing the facts, including many arguments which had no support on the record, denied due process to petitioner from a number of perspectives. Petitioner was denied the Constitutionally assured proof beyond a reasonable doubt and trial/verdict by jury, rather than by the judge. See the Fifth and Sixth Amendments and SULLIVAN V. LOUISIANA (1993) 508 U.S. 275, entire case, hornbook law.

First, the conspiracy jury instructions were unlawfully given since no evidence was offered to support them.

I. "It is an elementary principle of the law that before a jury can be instructed that it may draw a particular inference, evidence must appear in the record which, if believed by the jury, will support the inference"

People v. VALDEZ (2004) 32 CAL. 4th 73, 8 CAL. RPTR. 3d 271, 327.

It is undisputed that there was no evidence presented, nor is any available, to even indicate petitioner's connection to an alleged conspiracy. The jury foreman's post-trial declaration repeatedly confirms this. And, the prosecutors amplified the already fatal prejudice. See sections II, III and IV.

II. The instructions completely undercut a primary defense, p 2.

III. The instructions failed to include two necessary passages, contradicted each other, were confusing & misleading, p. 11.

IV. This already fatal prejudice was severely amplified by the prosecutors misstating the law re: the instructions, arguing facts without support on-the-record, & falsely arguing, p 15.

Conclusion, p. 20. Irremediable prejudice. Reversal is required.

In closing on the technical failings of the conspiracy jury instruction, & how they infected the balance of the instructions, particularly the jury's critical understanding that they had to find proof beyond a reasonable doubt on every element of the crime to find defendant guilty, we cite the following:

"Lamentably the essential connection to a 'beyond a reasonable doubt' factual finding cannot be made where the instructional error consists of a misdescription of the burden of proof, which vitiates all the jury's findings!" (SULLIVAN V. LOUISIANA (1993) 508 U.S. 275, 281, 113 S. Ct. 2078, 124 L Ed 2d 182).

The error unquestionably qualifies as 'structural error' and compels reversal per se (id. at page 282, 113 S. Ct. 2078, People v. HARRIS (1994) 9 Cal 4th 407, 427, 37 Cal Rptr 2d 200, 889 P.2d 1193, People v. EVANS (1998) 62 Cal App 4th 186, 195-196, 72 Cal Rptr 2d 543.  
People v. JOHNSON 119 Cal App 4th 976, 14 Cal Rptr 3d 780, 786 (2004)

As confirmed by the jury foreman sworn post-trial declaration, included later herein, the jury was misdirected and did not find the defendant guilty on one material element of the crime, beyond a reasonable doubt.

That crucial element was finding that defendant had intentionally and knowingly joined in a conspiracy with the alleged killers to commit the crime. The judge's instruction gave an illegal "directed verdict" on that critical element of the crime.

**HIGH DESERT  
STATE PRISON**

Reversal is required. Petitioner respectfully submits that since there is no available evidence to link him to the alleged killers, via a conspiracy or otherwise, that dismissal with prejudice is appropriate.