

SYLLABUS

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State of New Jersey v. Obed Torres, a/k/a Oved Torres, Oved Flores, "Heathcliff" (A-24-04)

Argued January 18, 2005 -- Decided June 16, 2005

WALLACE, J., writing for a unanimous Court.

This case presents an issue of first impression, whether an experienced police officer who specializes in street gang investigations should be permitted to give expert testimony on "gang" hierarchy, organization, and discipline.

Obed Torres was a leading member of a Latino gang known as "MS-13" and his gang nickname was "Heathcliff." Torres and another MS-13 member nicknamed "Little Vato" were two of the gang's "bosses." On the night of October 25, 1997, Torres attended a MS-13 meeting in Jersey City. Just before the meeting, Walter Gomez, nicknamed "Camello," and Alberto Arroyo, nicknamed "Urraca," had an altercation in a restaurant. Camello previously had been a leader of the gang, but had fallen from power. When Torres arrived at the meeting, he was informed of the altercation. At first Camello refused to leave, but eventually left claiming he was going home to get his machete. Urraca then asked for and received a knife from Torres and told him that Camello would have to die.

After the meeting, Torres met with several other people at a nearby restaurant. Subsequently, Torres and others arranged to meet Camello at Lincoln Park to drink and "party." At one point Urraca approached Torres and said he intended to kill Camello. Torres did not respond. One of the gang members known as "Sleepy" attacked Camello with a machete and Urraca joined in and stabbed Camello with a knife several times in the lower back. Sleepy and Urraca then approached Torres and told him "it was done." Torres instructed the gang members to leave the park.

Torres and codefendants, Sleepy and Urraca, were indicted for first-degree murder, N.J.S.A. 2C:11-3(a)(1) or (2) (count one); two counts of fourth-degree unlawful possession of a weapon, N.J.S.A. 2C:39-5(b) (counts two and three); and third-degree possession of a weapon for an unlawful purpose, N.J.S.A. 2C:39-4(d) (count four).

At trial, the State presented the testimony of former MS-13 member Luis Galdamez, who testified that a "heat-up" order had been issued against Camello, meaning that any member of the gang could harm Camello and not be subject to reprisal from MS-13 leadership. Galdamez also testified that Torres was one of the MS-13 leaders that night, but did not testify that Torres was responsible for Camello's heat-up order. The State then indicated it intended to offer Investigator Timoteo Vazquez as an expert witness. Prior to receiving the testimony, the trial court conducted a hearing to determine whether the State would be permitted to present Vazquez as an expert witness on Hispanic street gangs. The trial court determined that the State could offer Vazquez as an expert because his specialized training and experience would assist the jurors. The court, however, limited his testimony to the general operation and hierarchy of Hispanic street gangs and specifically with regard to MS-13 gangs. The jury found Torres guilty of all charges, and the court sentenced him to thirty years imprisonment with thirty years of parole ineligibility on count one and, after merging counts two and three into count four, imposed a concurrent four-year term on count four.

In an unpublished opinion, the Appellate Division affirmed, rejecting Torres' contentions of error in the charge on accomplice liability and in the ruling to permit Vazquez to testify as an expert on gang behavior. We granted Torres' petition for certification.

HELD: The trial court's instruction on accomplice liability was appropriate, and if properly qualified, an expert may give gang-related testimony. The trial court did not abuse its discretion in finding Vazquez was qualified as an expert and that his testimony would be helpful for the jury to understand the issues in the case.