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Officer should've shut off camera, judge concludes

So half of Calderon's statement is inadmissable at murder trial

By Dee Riggs

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World photo/Dee Riggs

Murder defendant Juan Calderon appeared Tuesday in Chelan County Superior Court.

WENATCHEE — A judge Tuesday threw out half of a statement made by murder defendant Juan Calderon, but the prosecutor still thinks he can present a good case.

That statement was at the heart of a hearing before Chelan County Superior Court Judge T.W. "Chip" Small. Calderon's defense attorney, Jeff Barker, argued that an interrogation of Calderon after the October 2008 shooting should have been stopped after Calderon repeatedly said he was uncomfortable being interviewed with a camera running. Barker said that continued questioning of Calderon meant Calderon's Miranda rights "were not scrupulously honored."

Small ruled that the police officer conducting the interrogation, Brian Miller, should have asked Calderon to clarify what he meant when he said he was uncomfortable with the camera.

"Mr. Miller should have turned off the camera and taken the statement, or clarified what Mr. Calderon was saying," the judge said.

Calderon, 22, is charged with first-degree murder in the Oct. 12, 2008, shooting death of 27-year-old Alberto "Beto" Amezcua. The shooting occurred at a party on Walnut Street. Police have said they think the shooting was gang-related.

Small ruled that the last half of the 53-page transcript from Calderon's interrogation could not be used by Riesen in presenting the state's case against Calderon. Riesen said after the ruling that losing the second half was not critical to his case because that half did not contain any statements in which the defendant admitted to killing the victim.

“In the end, he said he shot it (the gun) up in the air,” Riesen said.

Nowhere in the interrogation statement does Calderon admit to purposely shooting the victim, according to the court document. In the second half of the document he does, however, state that he fired a gun four times, but he never admits he was shooting at anyone.

The judge ruled, however, that the entire statement could be used to impeach Calderon if he takes the witness stand. This means Riesen could counter remarks made by Calderon at trial by using the interrogation statement.

“This is important to me because otherwise the defendant could be able to get up on the stand and lie,” Riesen said.

Miller, under questioning by Barker and Riesen, explained his reasons for not ending the interrogation. He said he got Calderon’s permission to videotape the interview, and that Calderon never requested an attorney. When asked if Calderon ever said he did not want to talk anyone, Miller replied, “He did not.”

Barker asked why Miller did not turn the camera off and continue to interview him without it.

Miller responded, “I was talking and I wanted him to continue talking and see what he had to say.”

Riesen argued that the entire interrogation should be considered voluntary and said that Calderon never invoked his Miranda rights.

Miller and Officer Richard Johnson both testified that Johnson read Calderon his Miranda rights after he was arrested on Oct. 14.

Small noted that the case was unique because it was the first time he had been involved with a case in which statements from an interrogation of a suspect came from a video and audio recording and from a written statement off that recording. He said he would not be surprised if his ruling in the case was eventually reviewed by a higher court.

He also said there were “serious inconsistencies” in the written transcript when compared with the video. He noted that, in one instance, the transcript states that Calderon was shooting at “them” while the video indicates that he was shooting at “the fence.”

The trial is set for Feb. 16.

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