

COLUMBIA BASIN HERALD

Witness intimidation charges dismissed for gang member

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OLYMPIA - A state Court of Appeals judge remanded charges of witness intimidation for a Grant County gang member convicted in 2011.

State Court of Appeals Judge Kevin Korsmo ruled José Luis Nieves, 21, of Royal City, was wrongly convicted of three charges of witness intimidation after shooting at Soap Lake Police Officer Dustin Slabach and warning witnesses, "Whoever snitches me out, when I come out, I'm going to kill you guys."

Nieves is serving a 41-year sentence for first-degree assault, intimidating a public servant, drive-by shooting and unlawful possession of a firearm, in addition to charges of intimidating witnesses, according to court documents.

Korsmo rules the gang member's promise to murder "snitches who saw him fire at the officer did not meet the definitions of witness intimidation required to convict him. The intimidation convictions were overturned and Nieves will receive a new trial in Grant County Superior Court. All other charges were upheld.

Nieves' appeal argued jurors in the 2011 trial were asked to find him guilty of six different statutory definitions of witness intimidation. The appellate court rules because Grant County prosecutors did not select just one definition, they needed to prove Nieves guilty for all six, including influencing the testimony of the witness, inducing the witness to not testify or to hold relevant information, according to court documents.

Court records show Nieves was riding to a Halloween party in 2010 with three male friends and four women. Officer Slabach notices a broken taillight on the vehicle, driven by one of the male friends and attempted to stop the vehicle.

The driver then sped up at the request of Nieves, who then fired five to 10 shots out of the window at Slabach's car. Slabach was forced to end the pursuit because of unrelated engine problems, according to court records.

The suspected driver abandoned the car and everyone immediately got out and started running. At one point, Nieves stopped the group, loaded the gun and threatened to kill them if they "snitched."

Korsmo ruled a threat to kill people who snitch immediately after a crime was committed is not an attempt to induce them to "elude a summons," because no summons has been issued, according to court records.

The driver of the suspect's vehicle contacted police two days later and identified Nieves as the shooter. He was arrested at his Royal City home and officers found a 9mm pistol and bullets matching the casings found near the shooting site, according to records. Nieves testified he was not in the car, but the Grant County jury found him guilty on all counts, according to court records.

A retrial for the witness intimidation charges has not been set for Nieves.