

DAILY SUN NEWS – Sunnyside
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Appeals court overturns 88-year prison sentence of Sunnyside man

A Washington state appeals court yesterday overturned the conviction of Raul Robert Alvarez of Sunnyside.

In early March of last year Alvarez, 19, was convicted in Yakima County Superior Court for his role in a July 10, 2010 drive-by shooting. In that incident, four people were shot at while sitting in front of their home on Hemlock Avenue in Sunnyside. Gang enhancements were added to the charge, which netted Alvarez an 88-year prison sentence.

Alvarez, in March 2011, also received a nearly four-year prison sentence after pleading guilty to a first-degree rendering criminal assistance charge for a shooting that took place on July 17, 2010, in which a 15-year-old Sunnyside boy was shot and killed on Gregory Avenue in Sunnyside. He remains in prison on that charge.

In overturning the conviction for Alvarez's alleged role in the July 10, 2010 drive-by shooting on Hemlock Avenue, the appeals court judge said Yakima County Prosecutor Gary Hintze, during cross-examination and closing arguments, referred to his personal participation in the pre-trial questioning of the state's witnesses.

"Because the prosecutor's cross-examination and argument amounted to unsworn testimony that was improper and prejudicial, we reverse Mr. Alvarez's judgment and sentence and remand for a new trial on all but the gang aggravators charged by the state," the appeals court judge ruled yesterday.

The gang enhancements, which significantly boosted Alvarez's prison sentence, were overturned because the appeals court said there was no evidence established that Alvarez was aware of the victims' or the home's affiliations, or that he was motivated by that knowledge in committing the assault.

"The state's evidence was enough to support gang motivation as a hypothesis, but not enough for a rational juror to find gang motivation beyond a reasonable doubt," the appeals court judge wrote in yesterday's ruling.

James Hagarty, Yakima County's lead prosecutor, said his office intends to appeal yesterday's decision.