

State high court to review Walla Walla murder trial appeal

By [Terry McConn](#)

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WALLA WALLA — A state Court of Appeals decision to grant convicted murderer Benito Gomez a new trial might not be the final answer.

The state Supreme Court will review that lower court ruling in the case of Gomez, a gang member serving life for murdering a rival and shooting at other people in a 2011 confrontation in a Walla Walla alley.

Five members of the Supreme Court met Tuesday and agreed to grant a petition by county Prosecuting Attorney Jim Nagle's office requesting review and ultimate reversal of the lower, Spokane-based appeals court opinion filed earlier this year.

A date and time for oral arguments to be presented to the Supreme Court now will be scheduled. A final decision in the case could take months.

Of the 24 petitions the Supreme Court panel considered Tuesday, only three — including the one from Nagle's office — were granted.

Had the panel denied review, the ruling by a three-member appeals court panel granting Gomez a new trial would have stood, he would have been returned to Walla Walla County Superior Court for appointment of a new attorney and the setting of a new trial date.

The lower, appeals court panel determined in March that Gomez was not provided a public trial when a Walla Walla County Superior Court jury convicted him in 2012.

Then-Superior Court Judge Donald W. Schacht denied spectators entry into the Walla Walla County Courthouse courtroom after sessions began.

Schacht — who has since retired — said at the time his decision was partly to address security concerns because the murder and assaults allegedly revolved around gang activity. Also, he said latecomers would be distracting to trial participants.

Nagle's office contends only latecomers might not have been seated, the alleged closure was trivial, was for valid security purposes and does not warrant a new trial.

Nagle had no comment this morning on Tuesday's decision by the Supreme Court panel.

Gomez was found guilty at his June 2012 trial of second-degree murder for gunning down 20-year-old gang rival Julio Cesar Martinez on May 17, 2011, in the alley in the 300 block of Myrtle Street.

Gomez also was convicted of six counts of first-degree assault of others in and adjacent to the alley. No one but Martinez was hit by the gunfire.

Gomez, now 21, was sentenced to nearly 115 years in prison and is serving time at the Washington State Penitentiary.

His Spokane appellate attorneys Jill Reuter and Janet Gemberling argued unsuccessfully in a document to the Supreme Court that review of the appeals court decision shouldn't be granted because it doesn't conflict with any previous appellate ruling, and doesn't pose a significant constitutional issue or warrant review as a matter of public interest.

But the Washington Association of Prosecuting Attorneys disagrees. The group filed a brief in support of the Supreme Court accepting review, saying the issue is one of "substantial public interest" in that confusion has developed and clarification is necessary.

"This trial judge (Schacht) was likely not alone in believing that for security reasons and to minimize disruptions in front of the jury, he had the authority to restrict the moment at which spectators entered," according to the brief.

It later continues: "If trial courts are not provided guidance, well-intended restrictions like those in this case will trigger costly and unnecessary retrials."

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