

## Jury deadlocks in Redwood City gang-related murder case

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By Shaun Bishop (Daily News)  
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A San Mateo County jury deadlocked Monday on whether the teenager accused of committing a gang-related killing in 2005 at age 14 is guilty of murder.

Jurors deliberated for six days before announcing Monday they could not reach a verdict

on a single charge of murder against Josue Orozco, the youngest person in county history to be charged as an adult with murder.

Superior Court Judge Barbara Mallach declared a mistrial and told attorneys to return Jan. 12 so prosecutors can announce whether they intend to re-try Orozco, now 19.

Prosecutors contended that Orozco emerged from a car in Redwood City on July 12, 2005, and shot 21-year-old Francisco Rodriguez in the back of the head as Rodriguez tried to run away.

Orozco testified during the trial that he only confessed to the crime because the actual shooter, an older Sureno gang member, forced him to take the blame.

The eight-man, four-woman jury split 7-5 in favor of a guilty verdict, Assistant District Attorney Karen Guidotti said. Jurors acknowledged outside of court they disagreed over who was responsible for the shooting, she said.

Guidotti said it's too early to say whether the district attorney's office will re-try Orozco for murder, though it won't re-try him on lesser charges. Orozco was charged with first-degree murder with the special allegations of furthering the activities of a street gang and using a firearm to cause great bodily injury.

"Ethically, we have to go with the evidence we have, and if we believe the evidence is that he's the shooter, then that's how we'll proceed, unless we were to learn something factually different," Guidotti said. "We wouldn't switch the theory of the case to something that we didn't believe happened to appease a jury."

The trial was delayed in part because of Orozco's headline-grabbing escape from the county's Youth Services Center on Feb. 14, 2008, as he awaited trial. With the help of two fellow wards, he scaled a 15-foot recreation yard wall and climbed through a hole in a perimeter fence.

Orozco was at large for seven months before authorities tracked him to San Antonio, Texas, and arrested him.

Throughout three weeks of testimony, Deputy District Attorney Josh Stauffer tried to prove that Orozco was a member of the Sureno street gang who made Rodriguez a casualty of a war between two gangs on the streets of Redwood City.

Prosecutors said Orozco stepped out of a car carrying other Surenos and shot Rodriguez, a former Norteno, once in the head in front of his apartment on Poplar Avenue in retaliation for some sort of disrespect that had occurred between the two gangs.

Orozco testified he was in the car and that an older Sureno, Faustino Ayala, 20 at the time, got out and shot Rodriguez.

Defense attorney Raymond Buenaventura portrayed Orozco, who goes by the nickname "Ojitos," as a shy, quiet boy with a low IQ who was pressured into taking the blame for Ayala.

Prosecutors say Ayala was the driver of the car, not the shooter. Ayala was convicted of second-degree murder last year and is serving a prison term of 40 years to life. Three other boys who prosecutors say were in the car, including Orozco's younger brother, were convicted in juvenile court.

Orozco, who testified he hung out with Surenos but was never a member of the gang, said he escaped from the Youth Services Center because he was afraid he would be killed if he said at trial that Ayala was the shooter.

"Bad things can happen to you and your family if you snitch," Buenaventura told the jury during closing arguments. "My client's a dead man."

Stauffer said Ayala could not have been the short, skinny shooter that witnesses described.

Orozco will remain in county jail while prosecutors decide whether to re-try the case, Guidotti said.