

## Los Angeles Times

**Juror Says Deliberations Improper;  
The panel voted to convict robbery suspect partly because he did not testify, woman says.**

A juror who voted to convict a Garden Grove man of armed robbery last year now says the jury improperly considered the man's decision not to testify. Attorneys for George Arnulfo Lopez say the unexpected admission is evidence of juror misconduct--and grounds to award him a new trial.

**Jurors in California are instructed to base criminal verdicts on the evidence presented at trial, not a defendant's decision to remain silent, said James Crawford, one of Lopez's lawyers.**

**"They inferred George was guilty not because of the proof, but because he exercised his constitutional right not to testify," Crawford said.**

In September, The Times reported that two victims of the Anaheim robbery believe Lopez is innocent; their statements were the focus of an appeal Lopez's attorneys filed later that month.

**Crawford filed a copy of the juror's written statement this week at the 4th District Court of Appeal in Santa Ana, which is considering Lopez's appeal. Lopez, 18, is serving a 13-year sentence at the state prison in Blythe.** Senior Assistant Atty. Gen. Gary Schons, whose office is reviewing the appeal, declined to comment on the juror's statement.

The juror wrote that she voted to convict Lopez last year even though she "believed the identification evidence against Mr. Lopez didn't hold much water." One witness testified that a photograph of Lopez resembled the gunman who robbed an Anaheim loan office in 1999. Two other victims were not asked to identify Lopez in court but said later that they think he's innocent.

Initially, the juror said she held out against a majority that wanted to convict Lopez, but eventually she voted to convict after discussing his decision not to testify with her fellow jurors.

"The judge stated the jury could not consider the fact that the defendant chose not to testify. However, it was discussed amongst the jurors, and I believe weight was placed

against the defendant because he did not testify," the juror wrote.

Appeals courts are often reluctant to consider a jury's conduct during deliberations, but the juror's statement could have a cumulative impact on his appeal, legal experts said.

"Certainly no one should be convicted because they can't prove their innocence," said Orange County Assistant Public Defender Denise Gragg, who represented a man freed last year after spending 19 years in prison for a murder prosecutors now doubt he committed.

"I'm willing to bet there are 100,000 males in the Southland area who cannot prove their innocence to that robbery because they cannot prove where they were at the time and they match the description generally."

Lopez's mother said Saturday that she hopes the juror's disclosure, coupled with the doubts now expressed by two of the victims, will lead an appeals court to grant her son a new trial. A judge recently refused to release Lopez on bail during the appeal.

"It's been a nightmare," Tricia Lopez said. "I hope that this will really make them see the truth."

Credit: TIMES STAFF WRITER