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Orange County; Judge Frees O.C. Inmate While Conviction Tested; Courts: The verdict against George Lopez could be tossed. Witnesses have doubts, and another prisoner insists Lopez isn't guilty.

A judge on Friday ordered a Garden Grove man released from prison until he decides whether to overturn a robbery conviction that has kept the defendant behind bars for nearly two years.

Citing "substantial legal issues" raised by defense attorneys, Orange County Superior Court Judge Daniel J. Didier ordered George Lopez released without bail until a hearing next month. The judge said he no longer considers the 19-year-old a danger to society.

Lopez was convicted last year of robbing an Anaheim loan office, even though the victims expressed doubt he was the gunman. In July, a man serving time for three other Orange County robberies said in a prison interview that he, not Lopez, committed the May 1999 robbery of Commercial Credit. Lopez walked out of the Theo Lacy Branch Jail in Orange about 8:30 p.m. and was greeted by about 15 friends and family members, among them his parents, his wife and his 1 1/2-year-old son, Joseph.

Lopez wore jeans and a T-shirt his family had brought him earlier but was still in jail-issue sandals. After he hugged his parents and kissed his wife and child, Lopez said, "I'm shocked. I'm happy. It feels good to see my family, see their expressions. My main priority now is just to be here for my son and my wife."

The family plans a barbecue today with other relatives and friends.

Although Didier has yet to rule on Lopez's appeal, the decision to release him was hailed by Lopez's supporters.

"It's a relief. It's the first good thing that has happened," said Lopez's wife, Leah, who gave birth to the couple's son shortly after Lopez's conviction. "My family can finally be complete."

Prosecutors have opposed Lopez's appeal from the outset. Deputy Dist. Atty. Brian Gurwitz argued Friday that Lopez should remain in custody until the judge rules on his appeal, noting that Lopez's conviction and sentence are still in place.

Didier ordered Lopez to return to his courtroom Oct. 22 for what is expected to be a three-day hearing. The judge will then determine whether to overturn Lopez's conviction. A key aspect of the hearing will be whether Lopez's trial lawyer erred by failing to call as witnesses two victims who expressed doubts that Lopez was the gunman.

According to prosecutors, Lopez used a sawed-off shotgun to rob three employees inside the Lincoln Avenue business. He was linked to the crime three months later when one of the victims identified him as the gunman from a photograph. There were no fingerprints or other physical evidence tying him to the robbery.

During the trial, two victims told Lopez's lawyer, Charles Stoddard, that they had doubts that his client was the gunman. But Stoddard chose not to call them as witnesses. He also did not tell the jury that another man, Johnny SantaCruz, pleaded guilty to using an identical shotgun to rob three Orange County businesses the same week the loan office was robbed.

It was SantaCruz who told The Times in July that he was the gunman who robbed Commercial Credit. **SantaCruz has so far refused to cooperate with prosecutors or Lopez's current attorney, James Crawford. But Crawford is seeking a court order to have SantaCruz testify at the Oct. 22 hearing.**

SantaCruz said the loan office was one of at least 11 Orange County businesses he robbed in 1999, spending most of the money on drugs.

Prosecutors have noted that SantaCruz and Lopez knew each other before their arrests and that they became friends while in state prison.

One day in 1999, in fact, Lopez and SantaCruz were riding in a car with a shotgun inside, according to an Orange police report. SantaCruz said the gun was his and that Lopez had no idea it was inside the car. While SantaCruz is an admitted gang member, Lopez has no known gang affiliations, according to police.

Crawford has noted that SantaCruz has roughly the same build as the robber witnesses described the day of the robbery. As he did then, SantaCruz outweighs Lopez by about 40 pounds.

"They have no evidence," Crawford said. "They have two witnesses prepared to testify Lopez did not commit the robberies. They have a sawed-off shotgun that belonged to Johnny SantaCruz."

Credit: TIMES STAFF WRITER