
Lección 5: US Criminal Procedure



Introducción (aspectos importantes) (1)

- *Criminal law ; penal poco usual (penal colony)*
- Ojo falso amigo *arrest*: en español una pena
- Tipos de delitos:
 - ◆ *misdemeanors*
 - ◆ *felonies (sodomy, robbery, arson, mayhem) + white collar offenses (price fixing, industrial piracy, insider trading, bribery, larceny by fraud, tax fraud)*

Introducción (aspectos importantes) (2)

- *Mitigating circumstances: sudden heat of passion, without malice...*
- *Aggravating circumstances*
- *Defenses: infancy/minority, involuntary intoxication, duress, self-defense, consent of victims...*
- *warrant of arrest*
- *Miranda Warning -> 5th Amendment*

El *Grand Jury*

- *indictment*
- *usually duty includes several cases*
- *Probable cause*
- dictámenes:
 - ◆ *No bill*
 - ◆ *True bill*

Otros detalles importantes

- *arraignment*
- *Subpoena witnesses (see 6th Amendment); subpoena noun or verb*
- *plea bargaining*

The trial

- *Jurors - > “¿jurados?”*
- *Jury sequestration: tampering or media influence*
- *Voir dire:*
 - ◆ *Challenge for cause*
 - ◆ *Peremptory challenge (no UK)*
- *Objection: sustained / overruled*
- *Hung (deadlocked) jury: not unanimous*

California vs. Menendez and Menendez (1)

On October 2, 1995, the Court conducted a hearing pursuant to California Rules of Court, rule 980 regarding the application of non-party electronic media organizations Courtroom Television Network and Radio and Television News Association of Southern California to record electronically and broadcast the upcoming trial.

- regarding the application: para aclarar sintácticamente, también “tras haber solicitado.... autorización para”
- non-party: normalmente “independientes”; aquí se refiere a las *parties* del proceso
- Courtroom Television....: es la Court TV (<http://www.courttv.com/>) y, como corresponde al nombre, no se traduce
- Problema principal: *media exposure on prospective jurors*
- upcoming: recordar que las traducciones españolas normales (“próximo”, “que se acerca”....) no valen para el pasado.

At that hearing defendant Joseph Lyle Menendez stated his opposition to the application, defendant Erik Galen Menendez took no position, and the People stated their support for the application. At the conclusion of the hearing, the Court granted the request of non-party applications to present a written memorandum in support of their application.

Having considered the memoranda filed on this issue as well as the oral argument, the court, in the interests of justice, denies the application to record electronically and broadcast the upcoming trial. The Court concludes that denial of this application will protect the rights of the parties, the dignity of the Court and assure the orderly conduct of the proceedings.

- at: además de “en”, ¿por qué no “durante” o “en el curso de”?
- defendant: cuidado, que estamos en derecho penal. Al repetirse, podríamos traducir “de los dos acusados, X.... mientras que Y...”
- having considered: temporal y causal
- The Court: en español suele decirse “Este tribunal / Esta sala”
- the dignity: ¿la dignidad? “no se rebajará” (problema histórico: el juicio como espectáculo, y la tendencia al *over-acting*)
- conduct: no parónimo

California vs. Menendez and Menendez (3)

The Court has concluded that film and electronic media coverage of the upcoming trial will substantially increase the risk that jurors will be exposed, whether intentionally or inadvertently, to information and commentary about this case outside of the courtroom. Such exposure has the potential of prejudicing the rights of the parties to a fair trial and necessitating lengthy hearings to investigate the nature of the exposure and the impact on the juror. Such hearings would disrupt the orderly conduct of the trial.

- Coverage: convertir en condicional (“si se autoriza.... ello...”)
- will: más bien condicional (de hecho, no se autoriza)
- substantially: en la nota se transpone y se evita TP
- exposed: en este caso, “influir” es válido (es el efecto)
- The rights of the parties to a fair trial: el derecho que tienen las partes a un juicio justo
- investigate: también “dilucidar”

California vs. Menendez and Menendez (4)

Circumstances have changed considerably since the first trial. The most obvious difference is that there was a first trial. As the Court and counsel learned from the just completed voir dire, almost all potential jurors had substantial exposure to the electronic media coverage during the first trial. The visual images from television coverage of the first trial remained in the minds of many potential jurors long after memories of details had faded. The impact of the electronic media coverage of the first trial was profound and pervasive.

- first trial: este fue el segundo intento; el primero acabó en *hung jury*. Están todos los documentos en www.crimelibrary.com/notorious_murders/famous/menendez/index_1.html
- there was a first trial: podría mantenerse el énfasis con “esta es la segunda vez...” o formas análogas.
- substantial exposure: se vieron expuestos en gran medida
- pervasive: fue difícil sustraerse a él.

Counsel for non-party applicants concede in their memorandum that “this case has been the focus of a significant amount of public attention. . . . The public interest . . . is just as strong with respect to the second trial.” (Memorandum, page 3). The Court concludes that the enduring intensity of interest in this case immeasurably increases the likelihood that jurors will be exposed to potentially prejudicial electronic media coverage about this case outside the courtroom. Therefore, the application pursuant to California Rules of Court, rule 980 is denied.

- Counsel for non-party...: se puede añadir “los propios...”
- concede: evitar TP
- Memorandum, page...: también se podría citar “pág. 3 del Informe”. Recordar que en español es “pág.”
- will be exposed to: texto repetido
- is denied: nótese el “procede” tan del gusto de los jueces españoles.

En el segundo juicio, fueron convicted of first-degree murder, y tras la penalty phase, a life in prison without the possibility of parole.