

CRIMINAL No. R-76-88-BPT

MINUTES OF COURT

DATE: December 23, 1976

JUDGMENT

**United States Court of Appeals
FOR THE NINTH CIRCUIT**

RECEIVED
AND FILED
DEC 23 8 16 AM '77
CAROL C. FITZGERALD, CLERK
BY: *[Signature]*

UNITED STATES OF AMERICA

Appellee,

vs.

PHILLIP CRAIG GARRIDO,

Appellant.

No. 77-1692

DC#CR76-88 BRT

APPEAL from the United States District Court for the

District of NEVADA

THIS CAUSE came on to be heard on the Transcript of the Record from the United States District Court for the District of NEVADA (RENO)

and was duly submitted.

ON CONSIDERATION WHEREOF, It is now here ordered and adjudged by this Court, that the

judgment of the said District Court in this Cause be, and hereby is AFFIRMED.

DEC 19 1977
by: *[Signature]*
Pat Stanekava,
Deputy Clerk

November 22, 1977

Filed and entered

CAROL C. FITZGERALD, CLERK

BY: *[Signature]* DEPUTY

JUDGMENT

United States Court of Appeals
FOR THE NINTH CIRCUIT

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DEC 23 9 16 AM '77
BY CAROL
[Signature]

UNITED STATES OF AMERICA
Appellee,

vs.

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No. 77-1692

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APPEAL from the United States District Court for the _____
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_____ and was duly submitted.

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_____ judgment of the said District Court in this Cause be, and hereby is AFFIRMED.

DEC 19 1977
by *[Signature]*
Fat Namokava,
Deputy Clerk

November 22, 1977
ed and entered _____

mandate
FILED
NOV 22 1977

EMIL E. MELFI, JR.
CLERK, U.S. COURT OF APPEALS

UNITED STATES COURT OF APPEALS
NINTH CIRCUIT

1	UNITED STATES OF AMERICA,)	
2)	
3)	
4	Appellee,)	
5	v.)	NO. 77-1692
6	PHILLIP CRAIG GARRIDO,)	MEMORANDUM
7	Appellant.)	

Appeal from the United States District Court
District of Nevada

Before: DUNIWAY and KILKENNY, Circuit Judges, and
JAMESON, District Judge.*

Garrido was indicted, tried by a jury and convicted of kidnapping in violation of 18 U.S.C. § 1201 (a) (1). Prior to trial, appellant in conformity with Rule 12.2 (b), FRCrImP, filed a notice of defense based upon a mental condition. Mental incapacity was his only defense.

On appeal, Garrido's sole assignments of error touch upon incidents which occurred after he and the victim crossed the state line into Nevada. He argues that his actions after crossing the state line in raping the victim and other assaults upon her were irrelevant. True enough, purpose or motive is not an element of the offense of kidnapping, United States v. Healy, 376 U.S. 75 (1964); Gawne v. United States, 409 F.2d 1399 (CA9 1969), cert. denied 397 U.S. 943 (1970). However, when mental incapacity to form the mental state to commit the crime is the only defense, a wide range of facts and circumstances are relevant to the question of the appellant's mental capacity at the time of the offense. United States v. Hartfield, 513 F.2d 254, 259 (CA9 1975); United States v. Smith, 507 F.2d 710, 711 (CA4 1974). The appellant's

* The Honorable William J. Jameson, Senior United States District Judge for the District of Montana, sitting by designation.

1 sanity once raised must be proved by the prosecution beyond a
2 reasonable doubt and, generally, any and all conduct of the
3 accused relating to his sanity is admissible. Hartfield,
4 supra, at 250. The case cannot be tried in a vacuum.

5 Our analysis of the record convinces us that appellant's
6 assignments of error are groundless.

7 The judgment of conviction must be affirmed.

8 IT IS SO ORDERED.

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Office of the Clerk
United States Court of Appeals for the Ninth Circuit
U. S. Court of Appeals and Post Office Building
7th & Mission Streets, P.O. Box 547
San Francisco, California 94101

DEC 20 1977

Cert.Mail#422431

CLERK, U. S. District Court
Federal Building
300 Booth Street
Reno, Nevada 89502

CA#	DC#	TITLE
77-1692	CR76-88BRT	UNITED STATES v. PHILLIP CRAIG GARRIDO

Dear Sir:

The following documents in the above causes are being sent to you:

XXXX	Certified copy(ies) of the Decree of the Court Judgment(s) of the National Labor Relations Board Certified copy(ies) of the Entry of Dismissal Original Record on Appeal
------	---

On the copy of this letter please acknowledge receipt of the documents.

Very truly yours,

EMIL E. MELFI, JR.
Clerk of the Court

By: 
Patricia Namekawa
Deputy Clerk

CC: Hon. Bruce Thompson

Encl.

UNITED STATES COURT OF APPEALS
FOR THE NINTH CIRCUIT

FILED

AUG 1 - 1977

EMIL E. MELFI, JR.
CLERK, U.S. COURT OF APPEALS

UNITED STATES OF AMERICA,
Plaintiff,

VS.

PHILLIP CRAIG GARRIDÓ,
Defendant,

#77-1692

(DC R-76-88)
ORDER FOR TIME

SCHEDULE

SECOND AMENDMENT

The parties, counsel and court personnel in the processing of this appeal will comply with the following time schedule:

- 1. Designation of record to be completed immediately, if not already completed. -----
- 2. Docket fee to be paid immediately. -----
- 3. The abstract of record and reporter's transcript are to be delivered to the Clerk of the United States Court of Appeals in San Francisco not later than -----
- 4. Appellant's opening brief is to be filed in San Francisco not later than. -----
- 5. Appellee's brief is to be filed in San Francisco not later than AUGUST 9, 1977
- 6. Appellant's final brief is to be filed in San Francisco not later than. AUGUST 23, 1977
- 7. This case is now calendared for hearing during the week of SAN FRANCISCO OCTOBER 10, 1977

The Court is under the direction of the Judicial conference of the United States to expedite criminal appeals.

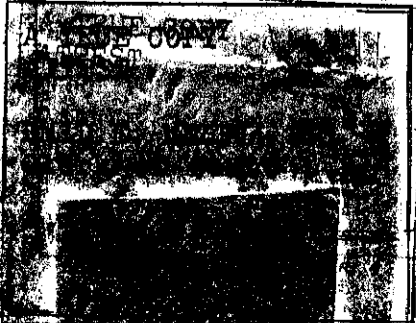
Therefore, the foregoing order contemplates no extensions. The calendar date for hearing must be adhered to.

Done this 29th day of July, 1977.

Richard S. Chambers
United States Circuit Judge

I recommend entry of the foregoing order.

Florence Zang
Calendar Clerk



Clerk USDC, Reno

FOR INQUIRIES
PLEASE CALL
(415) 556-5559
CALENDAR CLERK

UNITED STATES COURT OF APPEALS
FOR THE NINTH CIRCUIT

FILED

MAY 18 1977

EMIL E. MELFI, JR.
CLERK, U.S. COURT OF APPEALS

UNITED STATES OF AMERICA,
Plaintiff and Appellee,
vs.
PHILLIP CRAIG GARRIDO,
Defendant.

NO. 77-1692
AMENDED
ORDER FOR TIME
SCHEDULE

DC # CR R-76-88-BRT

The parties, counsel and court personnel in the processing of this appeal will comply with the following time schedule:

- 1. Designation of record to be completed immediately, if not already completed. DONE
- 2. CJA authorization for transcript to be obtained not later than DONE
- 3. The abstract of record and court reporter's transcript are to be delivered to the Clerk of the United States Court of Appeals in San Francisco not later than MAY 17, 1977
- 4. Appellant's opening brief is to be filed in San Francisco not later than JUNE 28, 1977
- 5. Appellee's brief is to be filed in San Francisco not later than JULY 26, 1977
- 6. Appellant's final brief is to be filed in San Francisco not later than AUGUST 9, 1977
- 7. This case is now calendared for hearing during the week of OCTOBER 10, 1977

The Court is under the direction of the Judicial Conference of the United States to expedite criminal appeals.

Therefore, the foregoing order contemplates no extensions. The calendar date for hearing must be adhered to.

Done this 17th day of May, 1977.

A TRUE COPY
ATTEST 5/22/77
EMIL E. MELFI, JR.
Clerk of Court
by: Craig Joergren
CRAIG JOEGREN
Deputy Clerk

Richard H. Chambers
United States Circuit Judge

I recommend entry of the foregoing order.

cc to Cnsl.
Dtd. 6-6-77

FILED

FOR INQUIRIES
PLEASE CALL
(415) 556-5559
CALENDAR CLERK

UNITED STATES COURT OF APPEALS
FOR THE NINTH CIRCUIT

APR 12 1977

EMIL E. MELFI, JR.
CLERK, U.S. COURT OF APPEALS

UNITED STATES OF AMERICA,
Plaintiff and Appellee,
vs.
PHILLIP CRAIG GARRIDO,
Defendant.

NO. 77-1692
ORDER FOR TIME
SCHEDULE

DC # CR R-76-88-BRT

The parties, counsel and court personnel in the processing of this appeal will comply with the following time schedule:

- 1. Designation of record to be completed immediately, if not already completed. DONE
- 2. CJA authorization for transcript to be obtained not later than
- 3. The abstract of record and court reporter's transcript are to be delivered to the Clerk of the United States Court of Appeals in San Francisco not later than APRIL 25, 1977
- 4. Appellant's opening brief is to be filed in San Francisco not later than MAY 31, 1977
- 5. Appellee's brief is to be filed in San Francisco not later than JUNE 28, 1977
- 6. Appellant's final brief is to be filed in San Francisco not later than JULY 12, 1977
- 7. This case is now calendared for hearing during the week of SEPTEMBER 12, 1977

The Court is under the direction of the Judicial Conference of the United States to expedite criminal appeals.

Therefore, the foregoing order contemplates no extensions. The calendar date for hearing must be adhered to.

Done this 8th day of April, 1977.

W. J. [Signature]
United States Circuit Judge

I recommend entry of the foregoing order.

Christopher Jennings