

## Media Articles on Law Firm

### Apartment Killing Ruled Self-Defense Judge dismisses murder count, frees man who shot intruder

*Sacramento Bee*  
*Editorial*  
*By Wayne Wilson*  
*Bee Staff Writer*

A judge ruled Friday that Rickey Albert Fong was justified when he shot and killed a young intruder who had illegally entered the Fong apartment and was assaulting and threatening its occupants.

Superior Court Judge James I. Morris ordered the second-degree murder charge filed against Fong be dismissed, finding that his "use of deadly force in defense of his person and others" was appropriate under the circumstances.

Morris concluded the victim, Joel T. Penucci, 18, had entered the Fong apartment in the early morning hours of Dec. 28 with felonious intent and "resisted with his own force and violence" when Fong attempted to detain him for authorities.

***Fong, 32, almost speechless after hearing the judge's ruling, gasped, "I can't believe it!" and grabbed the hand of his attorney, T.R. Sugano.***

***"The judge made a gutsy call, but it was certainly justified," Sugano said.***

Prosecutor Kit Cleland had argued against dismissal, saying, "The ultimate judgment should be made by the community in the form of a jury."

But Morris said the evidence showed a history of provocation on the part of Penucci, who had once dated Alisa Goffney, the 20-year-old daughter of Fong's girlfriend, Mia Goffney.

According to testimony at Fong's preliminary hearing, Penucci had been pestering, assaulting and threatening Alisa and Mia Goffney to such an extent that they obtained a Superior Court restraining order directing him to stay away from them.

But on the night of Dec. 27, Penucci, ignored the court order and twice went to the residence they shared with Fong.

On the first occasion, Penucci is alleged to have broken in and taken some items belonging to Alisa Goffney, who called her mother and Fong at the cardroom and reported the burglary to them.

As Fong and Mia Goffney were en route to their apartment, Penucci returned and walked in a back door, ignoring Alisa's refusal to permit him entry.

The deadly confrontation developed when Fong and Mia Goffney arrived and found Penucci standing in their apartment with a frightened and hysterical Alisa.

When Fong told Penucci that he wasn't going anywhere, that the police were on the way, Penucci pushed Fong and then began striking him with his right fist.

Fong fell to the floor and Penucci jumped on top of him "like he was riding a horse," the testimony showed.

"He was beating Rickey so much I thought he was going to kill him," Mia Goffney testified.

Two shots were fired, and Penucci jumped back, stumbled out of the residence and fell dead some distance away.

Except for one statement attributed to Mia Goffney by a police officer shortly after the killing, it was obviously a justifiable shooting, Morris stated.

The policewoman testified Mia Goffney told her she saw Fong standing over Penucci with a gun in his hand when she heard two shots.

But that account "is directly at odds with all the other evidence," Morris said. "I cannot believe that the people are basing their charges on that version of the events."

Fong's cash bail of \$25,000 was ordered returned to him. He originally had been held on \$50,000 bail, but the judge had cut the amount in half at an earlier hearing to permit him to pay some of the legal and investigative costs he has incurred.