

Alert: U.S. Supreme Court Upholds State Trial Court Ruling Allowing Victim Buttons to be Worn at Trial.

On December 11, 2006, the United States Supreme Court upheld, in *Carey v. Musladin*, a California trial court's decision to allow a murder victim's family members seated in the public area of a courtroom to wear buttons displaying the victim's image during trial.

The Defendant, Mathew Musladin admitted that he shot and killed Tom Studer but argued that he did so in self-defense. During trial, several members of Studer's family sat in the front row of the spectator's gallery. On at least some of the trial's fourteen days, some members of Studer's family wore buttons with a photo of Studer on them. Prior to opening statements, Musladin's counsel moved the trial court to order the Studer family not to wear the buttons during trial. The court denied the motion, stating it saw "no possible prejudice to the defendant." The jury convicted Musladin of first-degree murder and three related offenses.

Musladin appealed, and after exhausting the state appellate process, his case eventually reached the Ninth Circuit Court of Appeals on a writ of habeas corpus. The Ninth Circuit reversed Musladin's conviction and remanded for issuance of the writ, finding that the state court's decision "was contrary to, or involved an unreasonable application of, clearly established federal law, as determined by the Supreme Court of the United States."

In reviewing the Ninth Circuit's decision, the Supreme Court noted that "the effect on a defendant's fair trial rights of the spectator conduct to which Musladin objects is an open question in our jurisprudence." The Court went on to note that lower courts have diverged widely in their treatment of such claims. The Court ultimately vacated the Ninth Circuit's decision and remanded for further proceedings, concluding as follows:

given the lack of holdings from this court regarding a potentially prejudicial affect of spectators' courtroom conduct of the kind involved here, it cannot be said that the state court 'unreasonably applied clearly established federal law....' Therefore, the state court's decision was not contrary to or an unreasonable application of clearly established federal law.