

Office of the Kane County State's Attorney



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STATE APPELLATE COURT UPHOLDS GANG CONVICTION

April 24, 2018

The Illinois Appellate Court has upheld the 2015 conviction of an Aurora street gang member for unlawfully making contact with fellow gang members.

In affirming the Kane County trial court's guilty verdict against **Gabriel E. Berrios** for the misdemeanor offense of unlawful contact with streetgang members, the Second District Appellate Court also rejected Berrios' claim that the law is unconstitutional.

The appellate court's unanimous opinion supports the civil lawsuit the Kane County State's Attorney's Office filed against the Aurora Latin Kings in 2012 to undercut the gangs and their destructive activities.

In May 2012, Berrios was one of 35 known members of the Aurora Latin Kings gang that were named in a civil suit that sought to reduce the gangs' viability by prohibiting any of the members from congregating together. When served with the lawsuit on May 26, 2012, the members were instructed to appear in court. Berrios appeared in court on July 10, 2012, without a lawyer to represent him. He never returned to court, and on Dec. 21, 2012, the judge filed a default judgment against Berrios. As part of the judgment order, Berrios was further prohibited from being together with any other member of the Aurora Latin Kings.

On July 4, 2013, Aurora police responded to a call for a disturbance in the parking lot of an apartment complex on Aurora's west side. When the officers arrived they found Berrios with two men, both members of the Aurora Latin Kings. The officers arrested Berrios and charged him with the offense of unlawful contact with streetgang members, Class A misdemeanor.

After a bench trial held June 4, 2015, Kane County Circuit Judge Donald M. Tegeler, Jr., convicted Berrios of the misdemeanor offense of unlawful contact with streetgang members, and sentenced him to spend 30 days in the Kane County jail.

Berrios appealed the conviction based on three grounds – that he was not proven guilty beyond a reasonable doubt, that the trial judge had allowed impermissible hearsay evidence, and that the law he was found to have violated was unconstitutional as it violated his First Amendment rights.

The appeals court rejected all claims.

Writing for the court, Justice Susan Hutchinson stated that, “The First Amendment has limits and is *not* protected when it is integral to criminal conduct.”

Kane County State’s Attorney Joe McMahon said, “The civil lawsuit filed against the Latin Kings street gang has been successful in making Aurora a safer community. We sued the Latin Kings to interrupt their illegal and violent activity. The citizens of Aurora are still seeing the benefits of that nearly six years later. I appreciate the hard work of the men and women of the Aurora Police Department who have been vigilant in their efforts to eradicate gang activity in their city.”

Gabriel E. Berrios: Age 28 (d.o.b. 3-21-1990), of the 1200 block of Sundown Drive, Aurora