

**CERTIFIED FOR PUBLICATION**

IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA

SECOND APPELLATE DISTRICT

DIVISION THREE

THE PEOPLE,

Plaintiff and Respondent,

v.

PHILLIP SPECTOR,

Defendant and Appellant.

B216425

(Los Angeles County  
Super. Ct. No. BA255233)

ORDER MODIFYING OPINION  
[NO CHANGE IN JUDGMENT]

THE COURT:

It is ordered that the opinion filed herein on May 2, 2011, be modified as follows:

1. On page 2, insert the following **INTRODUCTION** before the **BACKGROUND** section.

**INTRODUCTION**

Phillip Spector was convicted murdering Lana Clarkson, a woman he met one night at the House of Blues nightclub in Los Angeles, where she was working. Clarkson accepted Spector's invitation to visit his home. They were driven there by Adriano De Souza, Spector's chauffeur. According to De Souza, Spector came out of the house two hours later with a revolver in his hand and said he had killed someone. The police subsequently found Clarkson's body slumped in a chair near the back door of Spector's house. There was a revolver on the floor underneath one of her legs. She had been shot once in the head and neck, the bullet having entered through her mouth. Spector and Clarkson were the only two people inside the house when Clarkson was shot.

The question at trial was whether Spector had committed implied malice murder by killing Clarkson in the course of assaulting her with the gun, or whether Clarkson had used the gun to shoot herself, either committing suicide or killing herself accidentally. Because Spector could not be convicted solely on the basis of his extra-judicial confession to De Souza, the prosecution sought to provide corroborating evidence in the form of crime scene forensics and “other crimes evidence” demonstrating his long history of violence toward women in similar situations. Spector did not testify. The defense put on forensic and mental state evidence trying to show Spector could not have fired the gun and that Clarkson had reasons to commit suicide.

A key question at trial was what the resulting forensic evidence would have been if Clarkson, rather than Spector, had fired the gun. In this regard, Spector contends the trial court erred by admitting into evidence a videotape in which the trial judge purportedly acted as a witness for the prosecution. We will hold, however, that this videotape merely shows the trial judge seeking to clarify a prosecution criminalist’s ambiguous testimony.

Spector contends the trial court erred by admitting the “other crimes evidence” consisting of testimony from five women who, over a 20-year period, were the victims of armed assaults by Spector. We will conclude this evidence was properly admitted to prove Spector’s motive for committing implied-malice murder and that Clarkson’s death was not self-inflicted. We will conclude the trial court properly admitted “generic threat” evidence tending to show Spector’s state of mind at the time of his fatal encounter with Clarkson, and that the jury was properly instructed on how to consider all of this evidence.

Finally, we will reject Spector’s contention there was prosecutorial misconduct during closing argument and conclude the prosecution neither impugned the personal integrity of defense counsel, nor improperly attacked the credibility of the defense expert witnesses.

[There is no change in the judgment.]