

CaseBank: Cases added during April 2025 (sorted by Court)

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dd PETITIONS TO RESENTENCE

PETITIONS TO

1172.6 PC - ELIGIBILITY - PROVOCATIVE ACT CONVICTIONS (PRE-2009)

Before 2009, def could be found guilty under PROVOCATIVE ACT theory without a jury finding that def himself had MALICE. Therefore, such pre-2009 defendants MAY have a valid PC 1172.6 petition. Individual instructions and findings of each case controls.

ANTONELLI P. v. () 4/24/2025 CAL

bb EVIDENCE

HEARSAY

AGAINST PENAL INTEREST - CO-DEF'S TALK TO HIS BUDDY

Days after crime in which def and co-def X rob and kill V, X tells his good friend Y about the crime. X tells Y that def did the shooting. Y tells police. HELD: MOST, not all, of what X told Y qualifies as ADMISSION against Interest. Ev 1230.

JASSO P. v. () 4/3/2025 CAL

db APPELLATE ISSUES

WAIVER OF APPEAL

WAIVER - FAILURE TO OBJECT - EVIDENCE ERRORS

Def's co-def X told his good buddy Y all about their crimes. Y tells the police on tape. Y then refuses to testify at trial. Rather than admit a heavily redacted transcript, Def atty agrees to let Detective tell jury what Y said (leaving out stuff ruled out by court). -- Def WAIVED any 2nd level hearsay objection.

JASSO P. v. () 4/3/2025 CAL

db APPELLATE ISSUES

HARMLESS ERROR

HARMLESS RETROACTIVE ERROR - ALTERNATIVE LEGAL THEORIES - SB

Def convicted in 2003 in Death Penalty case. Jury instructed with Felony-Murder instructions that are now invalid. Appeal not decided until 2025. HELD: ERROR occurred, but is it was HARMLESS. Spec Circ finding proves jury found that def was the actual killer.

JASSO P. v. () 4/3/2025 CAL

ab CONSTITUTIONAL ISSUES

RETROACTIVE

BENEFIT TO DEF - GREATER 1385 AUTHORITY

2003: def convicted of Spec Circ 187, plus personal use of gun. 2025: conviction and death penalty affirmed. BUT, Court now has PC 1385 authority re: gun enhancement that it did not have in 2003. REMANDED for trial ct to exercise, or not, 1385 authority.

JASSO P. v. () 4/3/2025 CAL

bd OTHER TRIAL ISSUES

JUROR/VERDICT ISSUES

MISCONDUCT - DELIBERATIONS - HOLDOUT JURORS

After 10 hours (over 3 days) of deliberations, court gets note says some jurors think #5 is not deliberating properly. Lots of jurors questioned and there was a lack of consensus as to #5. Trial court excused #5. REVERSED. No Demonstrable Reality #5 committed misconduct as opposed to just being a hold

McGHEE P. v. () 4/3/2025 CAL

bc INSTRUCTIONS/ELEMENTS

WEAPON

FLARE GUNS - ARE THEY DESIGNED TO BE USED AS WEAPON?

Question: is a FLARE GUN "designed to be used as a weapon" as required by PC 16520? Answer: DCA REVERSES def's conviction under PC 29800 (which uses 16520's definition of firearm) on this record. -- No evidence addressed this issue.

GOMEZ P. v. () 4/7/2025 6:

ab CONSTITUTIONAL ISSUES

DUE PROCESS / EQUAL PROTECTION

EQUAL PROTECTION - SVP's / MDO's / NGI's - JURY WAIVERS

Def Atty waived jury in def's SVP trial. Def found to be SVP. Def's EQUAL PROTECTION claim re: jury waiver REMANDED back to trial ct. DCA finds that RATIONAL BASIS is the Eq Protection test to be used.

MORRISON P. v. () 4/14/2025 6:

ee MENTAL HEARINGS

SexVioPredator

TRIAL - JURY WAIVERS - NEED FULL ADVISEMENT? - EQ PROTECTION

Def Atty waived jury in def's SVP trial. Def found to be SVP. Def's EQUAL PROTECTION claim re: jury waiver REMANDED back to trial ct. DCA finds that RATIONAL BASIS is the Eq Protection test to be used.

MORRISON P. v. () 4/14/2025 6:

dd PETITIONS TO RESENTENCE

PETITIONS TO

1172.6 PC - ELIGIBILITY - ATTEMPT MANSLAUGHTER CONVICTIONS

2001: Def one of four who did home invasion robbery. A co-def shot owner who survived. Jury found def guilty of Attempt Vol. Mans. as lesser of att 187. (using Nat/Prob/Conseqs) 2023: 1172.6 filed. DENIED solely because Att Vol. not listed in statute. REVERSED: DCA rewrites statute to avoid absurd result.

LUU P. v. () 4/24/2025 4:3

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ac STATUTORY CONSTRUCTION				dd PETITIONS TO RESENTENCE			
STATUTORY CONSTRUCTION				PETITIONS TO			
RULE - ABSURD RESULTS - CLEAR LEGIS INTENT				1172.6 PC - SUMMARY DENIALS - USE OF DEF'S PLEA STATEMENTS			
2001: Def one of four who did home invasion robbery. A co-def shot owner who survived. Jury found def guilty of Attempt Vol. Mans. as lesser of att 187. (using Nat/Prob/Conseqs) 2023: 1172.6 filed. DENIED solely because Att Vol. not listed in statute. REVERSED: DCA rewrites statute to avoid absurd result.				2016: Def charged with murder, plead to Voluntary Manslaughter and Personal Use of Gun. Def gave oral factual basis at time of plea admitting that "he killed". 2023: Def files boilerplate PC 1172.6 petition. HELD: def does NOT qualify for relief.			
LUU	<i>P. v. ()</i>	4/24/2025	4:3	GLASS	<i>P. v. ()</i>	4/22/2025	4:1
de SENTENCING				db APPELLATE ISSUES			
DIVERSION				WRITS			
DIVERSION - MENTALLY ILL - 1001.36 PC - NEXUS TO CRIME				WRIT - MANDATE - PRETRIAL REVIEW - DIVERSION DENIALS			
Def, age 20, diagnos'd w/ Bi-Polar, PTSD, Depression, impulsive behavior. Def abused as child w/out family support system. -- Def's crimes: He breaks into cars to steal things as part of organized theft gang. Trial Ct DENIES PC 1001.35 Mental Health Diversion. REVERSED. Burden on DDA to prove lack of				Trial Ct denies def's petition for mental health diversion under PC 1001.35. HELD: Def has no timely legal remedy. Writ of Mandate to DCA is appropriate.			
LACOUR	<i>def v. SUP CT</i>	4/4/2025	3:	LACOUR	<i>def v. SUP CT</i>	4/4/2025	3:
dd PETITIONS TO RESENTENCE				cd MOTIONS			
PETITIONS TO				CONTINUANCES			
APPEALABLE ORDERS - DENIAL OF REQUEST TO MODIFY SENTENCE -				CONTINUANCE MID-TRIAL			
Def writes court seeking new sentencing under PC 1172.1. Ct denies. HELD: the denial is NOT APPEALABLE since def not authorized to ask, and court was free to IGNORE.				Mid trial, DDA given a week continuance to travel to family funeral. 13-day trial took 18 days to complete. HELD: granting continuance was NOT an abuse of discretion. Break came in middle of evid stage.			
ROY	<i>P. v. ()</i>	4/23/2025	3:	BENSON	<i>P. v. ()</i>	4/28/2025	2:8
db APPELLATE ISSUES				bb EVIDENCE			
MISC APPELLATE				352 / RELEVANCE			
RECORD ON APPEAL - DEFICIENCIES - APPELLANT'S BURDEN				DEF GANG TATTOOS			
During trial, court and juror #1 have brief UNRECORDED conversation, in front of def and attys. After verdict, def asserts the conversation was too brief and court should have questioned juror #1 more. HELD: (1)Record inadequate. (2) appellant has duty to make good record. AFFIRMED				Def ID'd, in part, by his distinctive GANG TATTOO. HELD: DDA not limited to testimony that witness ID'd a picture of one of def's tattoos. Jury gets to see the tattoo and have gang detective explain what it depicted.			
BENSON	<i>P. v. ()</i>	4/28/2025	2:8	BENSON	<i>P. v. ()</i>	4/28/2025	2:8
bc INSTRUCTIONS/ELEMENTS				ab CONSTITUTIONAL ISSUES			
HOMICIDE				RETROACTIVE			
AID & ABET - BEWARE OF CALCRIM 400 & CALCRIM 416 COMBO				EX POST FACTO - PC 1172.6 RESENTENCE - PC 1385.1 APPLIES RETRO			
HELD: CALCRIM 400 (final paragraph) (aid/abet) and CALCRIM 416 (conspiracy) "could" be used by jury to convict def of 187 (tried w/Co-def) without finding that def had MALICE. REVERSED.				1987: Def convicted (w/co-def) of 187 w/spec circ of V1, attempt 187 of V2; and robbery. Sentenced to LWOP+10. 1993: PC 1385.1 enacted - can't 1385 Spec Circ's. 2023: def's PC 1172.6 GRANTED as to att 187. HELD: at new sentencing, PC 1385.1 APPLIES. NOT ex post facto.			
VIRGEN	<i>P. v. ()</i>	4/7/2025	2:8	HENDERSON	<i>P. v. ()</i>	3/26/2025	2:7

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PETITIONS TO

1172.6 PC - POST GRANT - PC 1385.1 APPLIES RETROACTIVELY

1987: Def convicted (w/co-def) of 187 w/spec circ of V1, attempt 187 of V2; and robbery. Sentenced to LWOP+10. 1993: PC 1385.1 enacted - can't 1385 Spec Circ's. 2023: def's PC 1172.6 GRANTED as to att 187. HELD: at new sentencing, PC 1385.1 APPLIES. NOT ex post facto.

HENDERSON *P. v. ()* 3/26/2025 2:7

bb EVIDENCE

352 / RELEVANCE

GANG EVIDENCE - CRIME WAS GANG ORDERED 187

The DDA's motive was that def killed V in order to get promoted into full membership of the Mexican Mafia. --- In such a case, a whole lot of GANG stuff is going to be very relevant.

HINOJOS *P. v. ()* 4/8/2025 2:7

bd OTHER TRIAL ISSUES

WHEELER

CRJA - PREEMPT - APPELLATE REVIEW - DE NOVO (IN PART)

DDA objects to Def Atty's preempt of juror X under CCP 231.7. Trial ct sustains the objection. DCA affirms. DCA to defer to trial ct for all factual issues, but no deference re: legal sufficiency of evidence.

HINOJOS *P. v. ()* 4/8/2025 2:7

bd OTHER TRIAL ISSUES

WHEELER

CRJA - PREEMPT - 231.7 - INVALID REASONS

Midway through Voir Dire, def atty changed trial strategy. Def atty started preempting all jurors he failed to give new Voir Dire questions to. HELD: this is NOT an adequate reason under CCP 231.7. DDA objections sustained.

HINOJOS *P. v. ()* 4/8/2025 2:7

dd PETITIONS TO RESENTENCE

PETITIONS TO

1170(d)(1) PC - 50-TO-LIFE IS NOT DEFACTO LWOP

2023: Def writes trial court asking it to recall his 2008 sentence under PC 1170 (d)(1). Def was 15 when sentenced to 50-to-life. HELD: def was NOT sentenced to defacto LWOP, thereby 1170(d)(1) does NOT apply to def.

MUNOZ *P. v. ()* 4/8/2025 2:7

dd PETITIONS TO RESENTENCE

PETITIONS TO

1172.6 PC - HEARING - EVID - DEF'S STATEMENTS TO PAROLE SHRINK

1984: Def pleads Guilty to 2nd Degree 187 (w/co-def). 2011: Def writes letter to parole board. 2016: Def interviewed by Parole Shrink. 2021: def seeks PC 1172.6. HELD: def's letter to parole bd. and admission during Shrink interview are admissible at evid hearing.

RODRIGUEZ *P. v. ()* 4/7/2025 2:3

ad ATTORNEY / JUDGE DUTIES & ETHICS

ATTY DUTIES & ETHICS

CONFLICT OF INTEREST - PUB DEF - 30 YR GAP BETWEEN CONFLICTING

1987: Pub Def XYZ represents DefX for 187. Case ultimately dismissed. 30+ years later, Def is charged w/ same 187. Pub Def declares NO CONFLICT - old file lost. No current employee has any memory of 1987 case. DefX is dead. XYZ is alive, but left office long ago. DDA objects, Trial Ct finds CONFLICT -- DCA

CAIN *def v. SUP CT* 4/11/2025 1:4

bb EVIDENCE

PRIVILEGE

ATTY/CLIENT - CLIENT DIES, WHAT CAN ATTY REVEAL?

1987: Atty XYZ represents DefX in murder. Case ultimately dismissed. 30+ years later, def is charged with same murder. DefX is now dead. Atty XYZ is alive. Q: can XYZ be made to reveal what DefX said, or did not say, about Def's culpability? --- question discussed, but NOT answered.

CAIN *def v. SUP CT* 4/11/2025 1:4

ed JUVENILE

SENTENCING

MAX CONFINEMENT DATE - W&I 875 - EXCEEDS 25TH BIRTHDAY

Minor's max confinement date under W&I 875 may exceed his 25th birthday. Plus, CTS is applied against the max confinement date, NOT against his 25th birthday.

L. H. *In Re ()* 4/9/2025 1:1

ac STATUTORY CONSTRUCTION

STATUTORY CONSTRUCTION

RULE - IF TWO CHOICES, PICK MOST REASONABLE

Rule: "If a statute is amenable to two alternative interpretations, the one that leads to the more reasonable result will be followed."

L. H. *In Re ()* 4/9/2025 1:1