

# CaseBank: Cases added during January 2025 (sorted by Court)

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|   |                     |            |             |   |                      |            |             |
|---|---------------------|------------|-------------|---|----------------------|------------|-------------|
| <b>de SENTENCING</b>  |                     |            |             | <b>cd MOTIONS</b>   |                      |            |             |
| <b>CTS/GOOD TIME</b>  |                     |            |             | <b>DISCRIMINATORY PROSECUTION</b>   |                      |            |             |
| <b>CUSTODY - SUPERVISED O.R. W/ GPS MONITORING</b>  |                     |            |             | <b>CRJA - DISCOVERY - THRESHOLD FOR DISCOVERY ORDER</b>   |                      |            |             |
| SAN DIEGO APPELLATE DIV: San Diego's "Supervised Own Recognizance" program with GPS ankle bracelet is NOT restraining enough to qualify for CTS under PC 1203.018.  |                     |            |             | SANTA CLARA APPELLATE DIV: According to Pub Def stats, Racial group X is 25% of county population, but is 52% of PC 148 defs. Q: is this enough for a CRJA discovery order against the DA's Office re: all PC 148 cases? -- Trial Ct said NO. Appellate Div says MAYBE. Remands for new hearing.              |                      |            |             |
| <b>BROWN</b>  | <i>P. v. ()</i>     |            | <b>SUPP</b> | <b>GONZALES</b>   | <i>def v. SUP CT</i> | 11/21/2024 | <b>SUPP</b> |
|   |                     | 11/26/2024 |             |   |                      |            |             |
| <b>bc INSTRUCTIONS/ELEMENTS</b>   |                     |            |             | <b>ab CONSTITUTIONAL ISSUES</b>   |                      |            |             |
| <b>HOMICIDE</b>   |                     |            |             | <b>RETROACTIVE</b>  |                      |            |             |
| <b>MALICE (IMPLIED) - PARENT FAILURE TO PROTECT FROM ABUSE</b>  |                     |            |             | <b>BENEFIT TO DEF - WHEN IS DEF'S CASE FINAL? - POST PARTIAL</b>  |                      |            |             |
| Def (V's mother) convicted of 2nd degree 187 for failure to protect V from chronic abuse by Father. --- Supreme Ct (4-1-2 decision) REVERSES for Insufficiency of the Evidence. (no new law in opinion)   |                     |            |             | Def appeals conviction. DCA affirms conviction, but remands on a sentencing issue. While awaiting new sentencing hrg, new legislation is passed affecting verdict (gang case). HELD: def's case is NOT FINAL until final sentence is affirmed. -- def gets new trial.   |                      |            |             |
| <b>COLLINS</b>  | <i>P. v. ()</i>     |            | <b>CAL</b>  | <b>LOPEZ</b>  | <i>P. v. ()</i>      | 1/23/2025  | <b>CAL</b>  |
|   |                     | 1/6/2025   |             |   |                      |            |             |
| <b>dd PETITIONS TO RESENTENCE</b>   |                     |            |             | <b>ee MENTAL HEARINGS</b>   |                      |            |             |
| <b>PETITIONS TO</b>   |                     |            |             | <b>SexVioPredator</b>   |                      |            |             |
| <b>1172.75 PC - 667.5 PRIORS - FULL RESENTENCE - DE NOVO ROMERO</b>   |                     |            |             | <b>MISC - CONDITIONAL RELEASE - WAITING FOR SUITABLE LOCATION</b>   |                      |            |             |
| 1997: Def gets 3-strike sentence that included one-year priors. His Romero motion was denied. 2014: Def seeks Prop 36 resentencing -- denied due to def not being eligible. 2023: def gets PC 1172.75 resentencing. HELD: 1172.75 ct must decide renewed Romero motion de novo. This is a NEW sentencing.     |                     |            |             | 2022: Ct grants def's request for 'conditional' release from SVP confinement. After 21 months, no suitable place has been found for def to reside. Trial Ct found Community Program Director was doing Due Diligence in trying to find a place for def. Def just has to wait. UPHELD.                         |                      |            |             |
| <b>ROGERS</b>   | <i>P. v. ()</i>     | 1/27/2025  | <b>6:</b>   | <b>STEPHENSON</b>   | <i>In Re ()</i>      | 12/23/2024 | <b>3:</b>   |
|   |                     |            |             |   |                      |            |             |
| <b>dd PETITIONS TO RESENTENCE</b>   |                     |            |             | <b>db APPELLATE ISSUES</b>  |                      |            |             |
| <b>PETITIONS TO</b>   |                     |            |             | <b>MISC APPELLATE</b>   |                      |            |             |
| <b>1172.6 PC - HEARING - SUFFIC OF EVID - NO CONTEST PLEAS</b>  |                     |            |             | <b>MISC - STIPS - DCA NEED NOT ACCEPT AG CONFESSION OF ERROR</b>  |                      |            |             |
| 2014: Pleads No Contest to Vol Mansl and admits personal use + gang enhancements. (two def case). 2023: PC 1172.6 denied after evid hrg. HELD: Pleas and admissions (plus reasonable inferences) are enough for 1172.6 judge to find def could be convicted of 187 today. --- (AG conceded error. DCA held AG |                     |            |             | 2014: Pleads No Contest to Vol Mansl and admits personal use + gang enhancements. (two def case). 2023: PC 1172.6 denied after evid hrg. HELD: Pleas and admissions (plus reasonable inferences) are enough for 1172.6 judge to find def could be convicted of 187 today. --- (AG conceded error. DCA held AG |                      |            |             |
| <b>VILLAGRANA</b>   | <i>P. v. ()</i>     | 1/21/2025  | <b>2:6</b>  | <b>VILLAGRANA</b>   | <i>P. v. ()</i>      | 1/21/2025  | <b>2:6</b>  |
|   |                     |            |             |   |                      |            |             |
| <b>dd PETITIONS TO RESENTENCE</b>   |                     |            |             | <b>bc INSTRUCTIONS/ELEMENTS</b>   |                      |            |             |
| <b>PETITIONS TO</b>   |                     |            |             | <b>290 PC</b>   |                      |            |             |
| <b>1172.6 PC - ELIGIBILITY - POST BANKS/CLARK SPEC CIRC VERDICTS</b>  |                     |            |             | <b>SEX REGIS - 290 PC - EQUAL PROTECTION - 3 TIER SYSTEM</b>  |                      |            |             |
| 2016: Supreme Ct decides BANKS and CLARK. 2018: Def convicted of felony -187 w/ Spec Circ - robbery with jury instructions that did not include BANKS/CLARK modifications. (def atty didn't ask) HELD: the 2018 Spec Circ finding is BINDING on 2023 PC 1172.6 judge. Def is ineligible.                      |                     |            |             | Felony violation of PC 311.11 (child porn) gets def a LIFETIME 290 requirement. Misd violation of PC 311.11 gets def a 10-year PC 290 requirement. HELD: No Equal Protection violation.   |                      |            |             |
| <b>WHITE</b>  | <i>P. v. SUP CT</i> | 1/13/2025  | <b>2:6</b>  | <b>HAMILTON</b>   | <i>P. v. ()</i>      | 1/29/2025  | <b>2:3</b>  |
|   |                     |            |             |   |                      |            |             |

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| <b>ab CONSTITUTIONAL ISSUES</b>   |                 |           |            | <b>bc INSTRUCTIONS/ELEMENTS</b>  |                 |           |            |
| <b>DUE PROCESS / EQUAL PROTECTION</b>   |                 |           |            | <b>290 PC</b>  |                 |           |            |
| <b>EQUAL PROTECTION - SEX REGISTRATION - 3 TIER SYSTEM - CHILD PORN</b>             |                 |           |            | <b>SEX REGIS - 290 PC - NON-CALIFORNIA SEX CONVICTIONS</b>                         |                 |           |            |
| Felony violation of PC 311.11 (child porn) gets def a LIFETIME 290 requirement.     |                 |           |            | Def is convicted of a Federal crime regarding Child Porn. Attorney General's       |                 |           |            |
| Misd violation of PC 311.11 gets def a 10-year PC 290 requirement. HELD:            |                 |           |            | Office is authorized to evaluate Fed crime and determine if it fits a California   |                 |           |            |
| No Equal Protection violation.  |                 |           |            | crime that requires PC 290 registration. This case: AG said def's Calif equivalent |                 |           |            |
| <b>HAMILTON</b>   | <i>P. v. ()</i> |           | <b>2:3</b> | <b>HAMILTON</b>  | <i>P. v. ()</i> |           | <b>2:3</b> |
|   |                 | 1/29/2025 |            |  |                 | 1/29/2025 |            |
| <b>dd PETITIONS TO RESENTENCE</b>   |                 |           |            | <b>cd MOTIONS</b>  |                 |           |            |
| <b>PETITIONS TO</b>   |                 |           |            | <b>FARETTA</b>   |                 |           |            |
| <b>1172.6 PC - ELIGIBILITY - ACTUAL KILLER vs TRIED AS IF ACTUAL KILLER</b>         |                 |           |            | <b>GROUND TO REVOKE - MISCONDUCT IN OR OUT OF COURT</b>                            |                 |           |            |
| 1995: Def convicted of 2nd degree 187. 2023: def seeks PC 1172.6 resentencing       |                 |           |            | PRO PER Def repeatedly raises topics in front of jury that Court admonished him    |                 |           |            |
| saying he was not the actual killer. HELD: Issue is NOT whether def was actual      |                 |           |            | not to. Court revokes Pro Per status and trial continues with Standby Counsel.     |                 |           |            |
| killer. Issue is whether def was convicted on theory that he was the actual killer. |                 |           |            | UPHELD.  |                 |           |            |
| Def was. Not eligible for 1172.6 relief.  |                 |           |            | <b>BEY</b>   | <i>P. v. ()</i> |           | <b>2:2</b> |
| <b>LOVE</b>   | <i>P. v. ()</i> | 1/13/2025 | <b>2:3</b> |  |                 | 1/16/2025 |            |
| <b>ab CONSTITUTIONAL ISSUES</b>   |                 |           |            | <b>dd PETITIONS TO RESENTENCE</b>  |                 |           |            |
| <b>MISC CONSTITUTIONAL ISSUES</b>   |                 |           |            | <b>PETITIONS TO</b>  |                 |           |            |
| <b>BEAR ARMS, RIGHT TO - POST-BRUEN - FELONS AND GUNS</b>                           |                 |           |            | <b>1172.6 PC - PROCEDURE - ASSIGNMENT TO WRONG JUDGE</b>                           |                 |           |            |
| PC 29800(a)(1) - felon with a gun remains valid after BRUEN. --- PC 25850           |                 |           |            | 2006: A and B commit 187. A tried by judge X. B tried by judge Y. 2021: A          |                 |           |            |
| concealed carry of gun w/out permit remains valid after BRUEN.                      |                 |           |            | seeks PC 1172.6 relief. Petition assigned to judge Y by mistake. (X was            |                 |           |            |
| <b>BEY</b>  | <i>P. v. ()</i> |           | <b>2:2</b> | available). Def never objects. HELD: (1) Def waived issue on appeal. (2) Def       |                 |           |            |
|   |                 | 1/16/2025 |            | cannot show prejudice.   |                 |           |            |
| <b>dd PETITIONS TO RESENTENCE</b>   |                 |           |            | <b>MARTINEZ</b>  | <i>P. v. ()</i> | 1/27/2025 | <b>2:1</b> |
| <b>PETITIONS TO</b>   |                 |           |            |  |                 |           |            |
| <b>1172.6 PC - PROCEDURE - ASSIGNMENT TO WRONG JUDGE</b>                            |                 |           |            | <b>dd PETITIONS TO RESENTENCE</b>  |                 |           |            |
| 2006: A and B commit 187. A tried by judge X. B tried by judge Y. 2021: A           |                 |           |            | <b>PETITIONS TO</b>  |                 |           |            |
| seeks PC 1172.6 relief. Petition assigned to judge Y by mistake. Y reads A's trial  |                 |           |            | <b>1172.75 PC - 667.5 PRIORS - IMPOSED, BUT STAYED</b>                             |                 |           |            |
| transcript for 1172.6 hrg. HELD: Record does NOT support def assertion Y            |                 |           |            | Good News for Def: you can get a PC 1172.75 resentencing even if your 667.5        |                 |           |            |
| improperly used memory of B's trial in denying 1172.6.                              |                 |           |            | (b) one-year prior was originally STAYED. Bad news for Def: Other that getting     |                 |           |            |
| <b>MARTINEZ</b>   | <i>P. v. ()</i> | 1/27/2025 | <b>2:1</b> | a Stayed Prior dismissed, you might end up with the same sentence. New             |                 |           |            |
|   |                 |           |            | sentence does not have to be lower.  |                 |           |            |
| <b>dd PETITIONS TO RESENTENCE</b>   |                 |           |            | <b>BRAVO</b>   | <i>P. v. ()</i> | 1/7/2025  | <b>1:2</b> |
| <b>PETITIONS TO</b>   |                 |           |            |  |                 |           |            |
| <b>1172.75 PC - 667.5 PRIORS - TIMELINESS - DEF ON PAROLE</b>                       |                 |           |            | <b>dd PETITIONS TO RESENTENCE</b>  |                 |           |            |
| 2008: def sentenced to prison. 2022: Def released on Parole. 2023: def seeks        |                 |           |            | <b>PETITIONS TO</b>  |                 |           |            |
| PC 1172.75 resentencing. Held: it is NOT too late.                                  |                 |           |            | <b>1172.75 PC - 667.5 PRIORS - IMPOSED, BUT STAYED</b>                             |                 |           |            |
| <b>BRAVO</b>  | <i>P. v. ()</i> |           | <b>1:2</b> | Good News for Def: you can get a PC 1172.75 resentencing even if your 667.5        |                 |           |            |
|   |                 | 1/7/2025  |            | (b) one-year prior was originally STAYED. Bad news for Def: Other that getting     |                 |           |            |