

CaseBank: Cases added during October 2024 (sorted by Court)

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dd PETITIONS TO RESENTENCE				de SENTENCING			
PETITIONS TO				MISC - SENTENCING			
1172.6 PC - HEARING - DEF DISCOVERY - PITCHESS				MISC - MANDATORY MITIGATION - VET / PTSD - 1170.9 & 1170.91 PC			
2011: Def pleads No Contest to att 187. Def's PC 1172.6 petition proceeds to a factual hearing. HELD: Def retains all BRADY rights to discovery, including right to make a previously unmade PITCHESS motion.				At sentencing, Ct acknowledged that def suffered from PTSD as a result of military service, but, Ct failed to mention PC 1170.9 and PC 1170.91 and how those sections mandate how such military-related conditions must be considered.			
NUNO P. v. () 6;				--- HELD: REMANDED for new Sentencing hrg.			
10/17/2024				MOSELY P. v. () 10/8/2024 4:3			
dd PETITIONS TO RESENTENCE				de SENTENCING			
PETITIONS TO				PROBATION			
1172.6 PC - MISC - DEATH ROW INMATES				MODIFYING PROBATION TERMS AFTER SENTENCING			
Even death row occupants can seek relief under PC 1172.6. But, pursuant to PC 1509, the only procedure they can use is HABEAS.				Terms of Probation can be modified, or added to, ONLY upon a showing of change in circumstances. HELD: Probation being transferred to County B from County A is NOT such a change in circumstances.			
THOMPSON P. v. () 4:2				ROGERS P. v. () 4:2			
10/25/2024				10/25/2024			
ab CONSTITUTIONAL ISSUES				ee MENTAL HEARINGS			
DUE PROCESS / EQUAL PROTECTION				SexVioPredator			
EQUAL PROTECTION - SVP's / MDO's / NGI's - DEF'S TESTIMONY				TRIAL - EVIDENCE - DDA MAY CALL DEF AS WITNESS - NOT			
SVP defs can be forced to testify at SVP trial. NGI defs cannot be forced to testify. (1) DCA applies Strict Scrutiny to EQUAL PROTECTION claim. (2) while there are significant, relevant, differences between SVP and NGI defs, they do NOT survive Strict Scrutiny. HELD: SVP's can refuse to testify.				SVP defs can be forced to testify at SVP trial. NGI defs cannot be forced to testify. (1) DCA applies Strict Scrutiny to EQUAL PROTECTION claim. (2) while there are significant, relevant, differences between SVP and NGI defs, they do NOT survive Strict Scrutiny. HELD: SVP's can refuse to testify.			
FIELD and ASHER P. v. () 10/28/2024 4:1				FIELD and ASHER P. v. () 10/28/2024 4:1			
db APPELLATE ISSUES				cd MOTIONS			
WAIVER OF APPEAL				DISCRIMINATORY PROSECUTION			
WAIVER - FAILURE TO OBJECT - CRJA VIOLATIONS				CRJA - FAILURE TO OBJECT - WAIVER OF APPEAL			
FAILURE TO OBJECT can operate as a WAIVER of right to APPEAL a CRJA violation just like any other legal issue.				FAILURE TO OBJECT can operate as a WAIVER of right to APPEAL a CRJA violation just like any other legal issue.			
CORBI P. v. () 4:1				CORBI P. v. () 4:1			
10/25/2024				10/25/2024			
de SENTENCING				cd MOTIONS			
ONE-STRIKE SEX				DISCRIMINATORY PROSECUTION			
ONE STRIKE - 667.61 PC - DUAL USE OF FACT OF MULTIPLE VICTIMS				CRJA - DISCOVERY - FREE-STANDING REQUESTS W/O A PETITION			
Sentencing Ct used fact that there were multiple victims to BOTH give def Full and Complete CONSEC sentences, and to impose the UPPER TERM. -- HELD: that was improper DUAL USE of aggravating factor. --- even if the CONSEC sentences were MANDATORY and not discretionary				Post-sentencing, def seeks a discovery order to support a FUTURE CRJA petition. (1) Such motions are permitted. (2) they require Good Cause. (3) Denial of such a motion CANNOT be appealed. (4) Def can seek appellate review by Writ of Mandate.			
DORADO P. v. () 10/3/2024 4:1				SERRANO P. v. () 10/29/2024 3:			

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ee MENTAL HEARINGS				eb D. P. / SPEC. CIRC.			
SexVioPredator				PEN -			
PROCEDURE - CONDITIONAL RELEASE RECOMMENDATIONS - RESCIND				MITIGATION - ATTY / DEF DISAGREEMENT RE: WHAT TO PRESENT			
On DSH recommendation, Ct finds SVP def entitled to conditional release. While awaiting placement, def starts acting up and DSH w/draws recommendation. HELD: Ct may rescind earlier order, BUT, only after a hearing in which Def has attorney and right to call experts.				At penalty phase, def atty wishes to present mitigation evid of def being abused as a child. Def objects. Evid was presented anyway. HELD: this is NOT ANALOGOUS to cases where atty admitted GUILT over def's objection at tactic to avoid death penalty.			
PRICE	<i>def v. SUP CT</i>	10/23/2024	3:	MAURY	<i>In Re ()</i>	10/2/2024	3:
dd PETITIONS TO RESENTENCE				bd OTHER TRIAL ISSUES			
PETITIONS TO				WHEELER			
1172.6 PC - HEARING - SUFF OF EVID - NO CONTEST PLEAS				CRJA - PREEMPT - 231.7 - PRESUMPTIVE INVALID REASONS			
2014: Pleads No Contest to Vol Manslaughter and admits personal use and gang enhancements. (two def case). 2023: PC 1172.6 denied after evid hrg. HELD: Pleas and admissions ALONE (plus reasonable inferences) are enough for 1172.6 judge to find def could be convicted of 187 today.				DDA preempts minority juror for "inattention" during voir dire. Court confirms that he noticed it also and grants the preempt over defense objection under CCP 231.7 UPHELD: DCA noted that neither DDA or Ct gave "explanation" has to why inattention was grounds for preempt, but, it was obvious.			
VILLAGRANA	<i>P. v. ()</i>	10/30/2024	2:6	SANMIGUEL	<i>P. v. ()</i>	10/8/2024	2:6
db APPELLATE ISSUES				bd OTHER TRIAL ISSUES			
HARMLESS ERROR				WHEELER			
HARMLESS ERROR - LEGISLATIVE STANDARD OF HARMLESS -				CRJA - PREEMPT - HARMLESS ERROR - LEGIS - SEPARATION OF POWER			
CONCURRING opinion holds that CCP 231.7 violates Calif Constitution Separation of Powers when it imposes a LEGISLATIVE definition of HARMLESS ERROR. -- Art VI, Sec 13 sets forth a Constitutional definition of Harmless Error and says COURTS shall interpret it.				CONCURRING opinion holds that CCP 231.7 violates Calif Constitution Separation of Powers when it imposes a LEGISLATIVE definition of HARMLESS ERROR. -- Art VI, Sec 13 sets forth a Constitutional definition of Harmless Error and says COURTS shall interpret it.			
SANMIGUEL	<i>P. v. ()</i>	10/8/2024	2:6	SANMIGUEL	<i>P. v. ()</i>	10/8/2024	2:6
ab CONSTITUTIONAL ISSUES				dd PETITIONS TO RESENTENCE			
SEPARATION OF				PETITIONS TO			
SEPARATION OF POWERS - JUDICIAL / LEGIS - HARMLESS ERROR				1172.6 PC - SUMMARY DENIALS - NO CONTEST PLEAS			
CONCURRING opinion holds that CCP 231.7 violates Calif Constitution Separation of Powers when it imposes a LEGISLATIVE definition of HARMLESS ERROR. -- Art VI, Sec 13 sets forth a Constitutional definition of Harmless Error and says COURTS shall interpret it.				2008: Def charged w/ att 187. Pleads NO CONTEST to att 187 & personal gun use, and Stips that a factual basis is in prelim transcript. 2022: def files PC 1172.6 petition. HELD: Petition cannot be SUMMARILY denied. Def has admitted to NOTHING. (def was the sole person charged with the crime.)			
SANMIGUEL	<i>P. v. ()</i>	10/8/2024	2:6	ALAZAR	<i>P. v. ()</i>	10/21/2024	2:6
cd MOTIONS				dd PETITIONS TO RESENTENCE			
1385				PETITIONS TO			
ENHANCEMENTS - 1385(c) - MEASURING AGE OF PRIOR				1172.6 PC - MISC - CT MAY RECONSIDER AFTER HRG, BEFORE			
Under PC 1385(c), the "age" of a prior conviction is measured from the date of prior sentencing to the date of the commission of the new crime.				At the end of PC 1172.6 hrg, Ct says grants the motion sets a new sentencing date. At new sentencing, Ct says he is reconsidering and invites more briefing on a particular issue. Ultimately, 1172.6 is denied. UPHELD. Ct has INHERENT authority to change it's mind.			
O'BANNON	<i>P. v. ()</i>		2:3	HARRIS	<i>P. v. ()</i>	10/1/2024	2:3
10/15/2024							

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ad ATTORNEY/JUDGE DUTIES & ETHICS

JUDICIAL DUTIES & ETHICS

JUDICIAL AUTHORITY - JUDGE MAY RECONSIDER ALL NON-FINAL

At the end of PC 1172.6 hrg, Ct says grants the motion sets a new sentencing date. At new sentencing, Ct says he is reconsidering and invites more briefing on a particular issue. Ultimately, 1172.6 is denied. UPHeld. Ct has INHERENT authority to change it's mind.

HARRIS P. v. () 10/1/2024 2:3

dd PETITIONS TO RESENTENCE

PETITIONS TO

1172.6 PC - HEARING - EVID - GUILTY PLEA TRANSCRIPT

2006: Def indicted by Grand Jury for 187. Pleads NO CONTEST to Manslaughter and Stips that a factual basis is in Police Reports and GJ transcript. 2022: def files PC 1172.6 petition. HELD: Grand Jury transcript is NOT admissible at 1172.6 factual hrg. (def had no right to cross-X.)

OCOBACHI P. v. () 9/25/2024 2:1

de SENTENCING

MISC - SENTENCING

PRESUMPTIONS - 1170(B)(6) - LOW TERM IF CHILDHOOD TRAUMA

PC 1170(b)(6) creates rebuttable presumption for LOW TERM when def suffered from childhood trauma or abuse, UNLESS other factors persuade the Ct that a LOW TERM would be contrary to the interests of justice. -- HELD: this DOES NOT require that Low Term be "irrational" or "indefensible".

KNOWLES P. v. () 9/16/2024 2:1

bc INSTRUCTIONS/ELEMENTS

MISC -

ARSON - INTENT

Mens Rea for ARSON: no need to intend to start fire. You need to intend to do the acts that caused the fire. This case: fire started while def was cooking up an illegal drug in his home in a reckless manner.

ROYAL P. v. () 10/23/2024 1:2

bc INSTRUCTIONS/ELEMENTS

MISC -

ARSON - INTENT - MALICIOUS/RECKLESS

Fire started while def was cooking up an illegal drug in his home in a reckless manner. This was illegal, Therefore, the resulting ARSON was done MALICIOUSLY.

ROYAL P. v. () 10/23/2024 1:2