

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

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bb EVIDENCE				ac STATUTORY CONSTRUCTION			
EXPERT				STATUTORY CONSTRUCTION			
GENERALLY - OPINIONS RE: DEF'S STATE OF KNOWLEDGE				RULE - PLAIN LANGUAGE - "OTHERWISE" - LIMITS TO			
DIAZ v. U.S.: HELD: a properly qualified expert could NOT opine that def KNEW there were drugs in his car. But, he COULD opine that generally, mostly, drug cartels do NOT trust their drugs to unknowing mules to drive across the border. Case interprets Fed Rule of Evid 704(b)				FISCHER v. U.S.: When statute says conduct ABCD&E is prohibited and then adds people who "OTHERWISE" impede official proceedings. OTHERWISE is not unlimited. The prohibited conduct must of the same type and nature as ABCD&E.			
DIAZ	U.S. Supreme	6/20/2024	U.S.	FISCHER	U.S. Supreme	6/28/2024	U.S.
de SENTENCING				dc NEW TRIAL MOTIONS			
MISC - SENTENCING				NEW TRIAL - ATTY INCOMPETENCE			
CRUEL AND UNUSUAL - PUNISHING HOMELESSNESS				PREJUDICE - NEED FOR			
GRANTS PASS v. JOHNSON: Prosecuting HOMELESS people for trespass when they camp on city sidewalks is NOT cruel and unusual punishment. Poverty may be involuntary, but choosing where to "camp" is voluntary. Political Officials, not courts, must solve homeless problem.				THORNELL v. JONES: Supreme Ct slaps down the 9th circuit for its failure to find that the alleged def atty errors and omission were HARMLESS ERROR under the STRICKLAND standard. No new law. -- this was Habeas Petition in a D.P. case.			
GRANTS PASS	U.S. Supreme	6/28/2024	U.S.	JONES	U.S. Supreme	5/30/2024	U.S.
cd MOTIONS				dc NEW TRIAL MOTIONS			
DOUBLE JEOPARDY				NEW TRIAL - MISC			
ACQUITTAL BY FINDING OF NGI				MISC GROUNDS - INCONSISTENT VERDICTS			
For Double Jeopardy purposes, an NGI verdict is an Acquittal. Def cannot be retried				McELRATH v. GEORGIA: Jury returns inconsistent verdicts, including an Acquittal on count 3. HELD: Inconsistency can NOT be used to strike or vacate ACQUITTALS. It stands and Double Jeopardy prevents any retrial on Count 3.			
McELRATH	U.S. Supreme	2/21/2024	U.S.	McELRATH	U.S. Supreme	2/21/2024	U.S.
ab CONSTITUTIONAL ISSUES				bb EVIDENCE			
MISC CONSTITUTIONAL ISSUES				EXPERT			
BEAR ARMS, RIGHT TO - TEMPORARY RESTRAINING ORDERS				HEARSAY - EXPERT OPINING SOMEONE ELSE'S REPORT IS ACCURATE			
U.S. v. RAHIMI: Upholds federal statute that denied Def's right to possess a GUN during the time his was under a RESTRAINING ORDER for Domestic Violence.				SMITH v. ARIZONA: When an expert says my opinion is X, based in part on facts A,B, and C and it is my opinion that A,B, and C are true, then the court should SUSTAIN the HEARSAY objection re: A, B, and C.			
RAHIMI	U.S. Supreme	6/21/2024	U.S.	SMITH	U.S. Supreme	6/21/2024	U.S.
de SENTENCING				bc INSTRUCTIONS/ELEMENTS			
RESTITUTION				MISDEMEANORS AND INFRACTIONS			
GENERALLY - INTEREST ON UNPAID RESTITUTION - 1202.4 PC				TRAFFIC - LONG PRIVATE DRIVEWAY IS NOT PUBLIC HIGHWAY			
ORANGE APPELLATE DIV: GOV 1465.9 did away with lots of fees, finds, and costs, BUT, it did not do away with the imposition of INTEREST on unpaid RESTITUTION per PC 1202.4.				SAN FRANCISCO APPELLATE DIV: The long private, gated, driveway to a private club is NOT a public highway under VC 12500. Therefore, def's Reckless Driving conviction is REVERSED.			
FOSTER	P. v. ()	4/26/2024	SUPP	LYTKOWSKI	P. v. ()	6/11/2024	SUPP

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ab CONSTITUTIONAL ISSUES				cd MOTIONS			
RETROACTIVE				BAIL / OR			
BENEFIT TO DEF - BIFURCATION OF GANG ENHANCEMENTS				BAI HRG - USE OF HEARSAY			
AB 333 mandated BIFURCATION of gang allegations in 2021. HELD: ESTRADA presumption of retroactivity does NOT apply. AB 333 is silent re: retroactivity. Therefore: Bifurcation provisions of AB 333 are NOT retroactive.				At bail hearing, trial rules of evidence do not apply. Court may consider hearsay and read reports. But, court must find the evidence to be reliable.			
BURGOS	<i>P. v. ()</i>		CAL	HARRIS	<i>In Re ()</i>		CAL
6/3/2024				6/27/2024			
eb D. P. / SPEC. CIRC.				bb EVIDENCE			
PEN -				352 / RELEVANCE			
MITIGATION - LINGERING DOUBT EVID - PENALTY-ONLY RETRIAL				DEFENSE EXPERT RECEIVED DNA SAMPLES FOR RETESTING			
1st penalty jury hung. At 2nd penalty phase, def sought to re-cross DDA expert re: DNA for purpose of LINGERING DOUBT. (def did NOT seek to call their own expert.) (DDA did not introduce DNA during penalty re-trial) Trial court denied request. UPHELD.				Fact that DNA samples were sent to Def expert for possible retesting is relevant and admissible regardless of whether the samples were, in fact, retested.			
NADEY	<i>P. v. ()</i>	6/17/2024	CAL	NADEY	<i>P. v. ()</i>		CAL
6/17/2024				6/17/2024			
bd OTHER TRIAL ISSUES				de SENTENCING			
JUROR/VERDICT ISSUES				CTS/GOOD TIME			
JUROR TALK ABOUT JURY SERVICE GENERALLY - NOT ABOUT CASE				CTS - MULTIPLE CASES - 2900.5 PC			
JUROR #1 wrote two poems about jury service. They were NOT about the case. They were shared with the other jurors during deliberations. NO MISCONDUCT.				Def closes 5 open cases with a single plea bargain and sentencing in which CONCURRENT TIME was imposed. HELD: Per PC 2900.5, court calculates a single CTS amount and applies it to ALL the cases. (DCA's in conflict)			
NADEY	<i>P. v. ()</i>		CAL	COFER	<i>P. v. ()</i>		6:
6/17/2024				6/28/2024			
cc GRAND JURY / PRELIMS				db APPELLATE ISSUES			
PRELIMS / 995				HARMLESS ERROR			
PRELIM - INTERPRETERS - CO-DEF'S SHOULD NOT SHARE				HARMLESS ERROR - INTERPRETER - MAKING DEF SHARE W/CO-DEF			
Co-defs are entitled to their own individual INTERPRETERS during Prelim. In this case, the error is NOT harmless -- the outcome MIGHT have been different. 995 motion to dismiss should be granted.				Co-defs are entitled to their own individual INTERPRETERS during Prelim. In this case, the error is NOT harmless -- the outcome MIGHT have been different. 995 motion to dismiss should be granted.			
MOLINA	<i>def v. SUP CT</i>		6:	MOLINA	<i>def v. SUP CT</i>		6:
6/28/2024				6/28/2024			
dd PETITIONS TO RESENTENCE				dd PETITIONS TO RESENTENCE			
PETITIONS TO				PETITIONS TO			
1172.75 PC - 667.5 PRIORS - FULL RESENTENCE - POST PROP 36 DENIAL				1172.75 PC - 667.5 PRIORS - IMPOSED, BUT STAYED			
At a PC 1172.75 resentencing, the court MAY NOT readdress def's 3-strike sentence under Prop 36. Def had a Prop 36 review in 2012 is def was found to be too dangerous. 1172.75 cannot amend Prop 36.				In 2018, def's one-year 667.5(b) priors were "imposed and stayed". HELD: def is entitled to full resentencing under PC 1172.75.			
WILLIAMS	<i>P. v. SUP CT</i>		6:	MAYBERRY	<i>P. v. ()</i>		5:
6/24/2024				6/4/2024			

<p>cd MOTIONS</p> <p>DISCRIMINATORY PROSECUTION</p> <p>CRJA - DOES DISCRIMINATION DUE TO CULTURE APPLY?</p> <p>Def is from Pakistan. Question: If def is treated differently because of stereotypical assumptions about his CULTURE, would that violate CRJA?</p> <p>Question not answered, but opinion implies that it would.</p> <p>SINGH <i>P. v. ()</i> 5:</p> <p>6/27/2024</p>	<p>cb DEFENDANT'S STATEMENTS</p> <p>MIRANDA</p> <p>IMPLIED WAIVER - HEAD NODS</p> <p>Head Nods are a sufficient indication that def understood, and waived, Miranda.</p> <p>SINGH <i>P. v. ()</i> 5:</p> <p>6/27/2024</p>
<p>cb DEFENDANT'S STATEMENTS</p> <p>MIRANDA</p> <p>ADVISEMENT - IMPERFECT FOREIGN LANGUAGE TRANSLATION</p> <p>Miranda advisement Translated into Language X on-the-fly. Official X miranda card not used. (everything recorded). HELD: translation was close enough. Full record shows def knew he could refuse to talk and he voluntarily chose to talk.</p> <p>SINGH <i>P. v. ()</i> 5:</p> <p>6/27/2024</p>	<p>ae MISC ODDS & ENDS</p> <p>ODDS & ENDS</p> <p>CERTIFICATE OF REHABILITATION - 4852.1 PC</p> <p>Def requests Certif of Rehabilitation: Following are NOT relevant factors: Seriousness of Crime; Impact on Victims; def got favorable plea bargain. The relevant factors are def's POST-RELEASE conduct.</p> <p>ROUNDS <i>P. v. ()</i> 4:3</p> <p>6/5/2024</p>
<p>dd PETITIONS TO RESENTENCE</p> <p>PETITIONS TO</p> <p>MISC - CORRECTING CTS ERRORS AFTER CASE IS FINAL</p> <p>A dispute over CTS long after def's case is FINAL cannot be addressed on Appeal or by motion to resentence. It can only be addressed by a HABEAS petition, and the only remedy would be a CTS adjustment. The Habeas remedy would NOT be a full resentencing.</p> <p>BOYD <i>P. v. ()</i> 4:2</p> <p>6/27/2024</p>	<p>db APPELLATE ISSUES</p> <p>WRITS</p> <p>HABEAS - CTS DISPUTE - WRIT IS APPROPRIATE</p> <p>A dispute over CTS long after def's case is FINAL cannot be addressed on Appeal or by motion to resentence. It can only be addressed by a HABEAS petition, and the only remedy would be a CTS adjustment. The Habeas remedy would NOT be a full resentencing.</p> <p>BOYD <i>P. v. ()</i> 4:2</p> <p>6/27/2024</p>
<p>de SENTENCING</p> <p>CTS/GOOD TIME</p> <p>CTS DISPUTES AFTER CASE IS FINAL</p> <p>A dispute over CTS long after def's case is FINAL cannot be addressed on Appeal or by motion to resentence. It can only be addressed by a HABEAS petition, and the only remedy would be a CTS adjustment. The Habeas remedy would NOT be a full resentencing.</p> <p>BOYD <i>P. v. ()</i> 4:2</p> <p>6/27/2024</p>	<p>bc INSTRUCTIONS/ELEMENTS</p> <p>ENHANCEMENTS</p> <p>GBI - 12022.7 PC - BASE CRIME - ATTEMPT VOL.</p> <p>HELD: GBI enhancement under PC 12022.7 can be applied to an ATTEMPT Voluntary Manslaughter charge.</p> <p>ACKERMAN <i>P. v. ()</i> 4:1</p> <p>6/24/2024</p>
<p>bc INSTRUCTIONS/ELEMENTS</p> <p>LESSER</p> <p>GENERALLY - EVID BASIS</p> <p>Def's note to teller said "Give me \$5,000. Don't play." Def said nothing. Teller testified she gave def the money due to fear. HELD: insufficient evidence to support giving LESSER of Grand Theft.</p> <p>GEFRERER <i>P. v. ()</i> 4:1</p> <p>6/6/2024</p>	<p>cd MOTIONS</p> <p>1385</p> <p>ENHANCEMENTS - 1385(c) - DEF DANGEROUSNESS</p> <p>The "dangerousness" evaluation in deciding to strike an enhancement under PC 1385(c) is not current dangerousness, it is def's danger to community if and when he is released in the future. This case: even if enhancement struck, def STILL has a 50-to-life sentence to serve.</p> <p>GONZALEZ <i>P. v. ()</i> 4:1</p> <p>6/27/2024</p>

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cd MOTIONS		de SENTENCING	
1385	ENHANCEMENTS - 1385(c) - DEF DANGEROUSNESS	MISC - SENTENCING	LESSERS - CT MAY DISMISS GREATER AND SENTENCE ON LESSER
The "dangerousness" evaluation in deciding to strike an enhancement under PC 1385(c) is not current dangerousness, it is def's danger to community if and when he is released in the future. This case: even if enhancement struck, def STILL can never get out unless a future Parole Bd finds him UNdangerous.		Due to enhancements, the LESSER offense had a longer max sentence than the GREATER offense. (DDA charged and proved both). HELD: Court has discretion to dismiss the Greater and sentence def on the Lesser.	
GONZALEZ	<i>P. v. ()</i>	MENO	<i>P. v. ()</i>
	6/27/2024		4:1
			6/20/2024
bc INSTRUCTIONS/ELEMENTS		ae MISC ODDS & ENDS	
LESSER	DUI / MANSLAUGHTER / DUI W/INJURY	ODDS & ENDS	COMPASSIONATE RELEASE - PC 1170(e)
DUI w/ injury -- VC 23153(a) -- is LESSER to Vehicular manslaughter while intoxicated - PC 191.5.		COMPASSIONATE RELEASE under PC 1172.2 is not subject to the geographic restrictions of PC 3003(f). Compassionate Release is not parole. Def is released without supervision.	
MENO	<i>P. v. ()</i>	GONZALEZ	<i>P. v. ()</i>
	4:1		3:
	6/20/2024		6/28/2024
ae MISC ODDS & ENDS		de SENTENCING	
ODDS & ENDS	COMPASSIONATE RELEASE - PC 1170(e)	DIVERSION	DIVERSION - MENTALLY ILL - 1001.36 PC - SCOPE OF HEARING
Def's COMPASSIONATE RELEASE petition under PC 1172.2 cannot be denied because def is BAD guy, or because Def not rehabilitated. Question is: is def dangerous NOTWITHSTANDING his current physical condition.		DCA remanded for a hrg re: suitability for Mental Health Diversion after trial. HELD: Court may consider all relevant evidence, including evidence that was revealed during trial. (Even tho def "should" have had the hrg before trial.) PC 1001.36	
GONZALEZ	<i>P. v. ()</i>	GRAHAM	<i>P. v. ()</i>
	3:		3:
	6/28/2024		6/10/2024
ed JUVENILE		bc INSTRUCTIONS/ELEMENTS	
SENTENCING	SYTF - 875 W&I - USE OF CTS / GOOD TIME	DUI'S	REFUSALS - POST McNEELY
In a juvi commitment to a SYTF, the CTS is applied to the MAXIMUM TERM, not the BASELINE TERM. W&I 875(c)(1)(C)		California's implied consent law survives McNEELY. If a DUI arrestee REFUSES to give a breath blood or urine sample for testing, there may be civil and administrative consequences, plus evidentiary consequences in any criminal action.	
JOSE R.	<i>In Re ()</i>	BOLOURCHI	<i>P. v. ()</i>
	2:7		1:4
	6/12/2024		6/28/2024
bc INSTRUCTIONS/ELEMENTS		db APPELLATE ISSUES	
GENERAL INSTRUCTIONS	UNANIMITY/DDA ELECTION - LESSERS - CALCRIM 3500 DEFECTIVE	HARMLESS ERROR	HARMLESS ERROR - MISINSTRUCTION - SAVED BY DDA ARGUMENT
CALCRIM 3500 is defective in that it does NOT explicitly say that UNANIMITY is not only required re: the charged offense, it is ALSO required regarding the LESSER offense. --- HARMLESS in this case. DDA argued that unanimity was need for lesser.		CALCRIM 3500 is defective in that it does NOT explicitly say that UNANIMITY is not only required re: the charged offense, it is ALSO required regarding the LESSER offense. --- HARMLESS in this case. DDA argued that unanimity was need for lesser.	
FISH	<i>P. v. ()</i>	FISH	<i>P. v. ()</i>
	1:4		1:4
	6/5/2024		6/5/2024

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ed JUVENILE				eg V/P'S			
CRIMES				V/P'S			
PC 26 - WRONGFULNESS & ILLEGALITY ARE NOT IDENTICAL				LIFER PAROLE, DEF ON			
13 yr old takes old, rusted, pocket knife to school. Claims his father told him it was okay. Conviction REVERSED for insufficient evidence that the minor knew what he did was wrong. -- "wrong" and "illegal" are closely related but not identical under PC 26.				Def convicted of 187. Ultimately, released on lifer parole. Violates. Remanded to CDCR per PC 3000.08(h). REMANDED. 3000.08(h) did not apply to def because 3000.1 does not apply due to newly enacted 3000.01. BUT. 3000.08(f) & (g) still apply.			
K. M.	<i>In Re ()</i>	6/3/2024	1:3	REED	<i>P. v. ()</i>	6/27/2024	1:3
dd PETITIONS TO RESENTENCE							
PETITIONS TO							
1172.6 PC - SUMMARY DENIALS - USE OF ENHANCEMENT FINDINGS							
Yes, def has a co-def. But the jury found that Def personally used a Gun to inflict GBI. I.e. the jury found that def was the shooter. Therefore, def is NOT eligible for any PC 1172.6 relief. Summary dismissal is appropriate							
MORALES	<i>P. v. ()</i>		1:2				
6/21/2024							