

# CaseBank: Cases added during July 2023 (sorted by Court)

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<i>bc INSTRUCTIONS/ELEMENTS</i>				<i>bb EVIDENCE</i>			
<b>290 PC</b>				<b>PRIVILEGE</b>			
	<b>SEX REGIS - 290 PC - TERMINATION - 290(e) / 290.5 PC</b>				<b>PSYCHOTHERAPIST - WAIVER (not) BY 290.5 PC TERMINATION REQUEST</b>		
	Def seeks termination of registration under PC 290(e)/290.5. DDA sub DT's def mental hospital records. HELD: (1) def has NOT placed his mental health 'in issue' such that he waived his psychotherapist-patient Privilege under Ev 1014.				Def seeks termination of registration under PC 290(e)/290.5. DDA sub DT's def mental hospital records. HELD: (1) def has NOT placed his mental health 'in issue' such that he waived his psychotherapist-patient Privilege under Ev 1014.		
<b>WHITEHAIR</b>	<i>def v. SUP CT</i>	6/1/2023	<b>SUPP</b>	<b>WHITEHAIR</b>	<i>def v. SUP CT</i>	6/1/2023	<b>SUPP</b>
<i>bc INSTRUCTIONS/ELEMENTS</i>				<i>bc INSTRUCTIONS/ELEMENTS</i>			
<b>HOMICIDE</b>				<b>HOMICIDE</b>			
	<b>PROXIMATE CAUSE - MUTUAL GANG SHOOTOUTS - V HIT BY STRAY</b>				<b>MISC FACT PATTERN - MUTUAL GANG SHOOTOUTS - V HIT BY STRAY</b>		
	Def, and his gang mates, engage in shootout against rival gang members. Who shot first is unclear. Member of rival gang shot and killed V, an innocent bystander. Def, who was a provocateur, convicted of 1st degree 187. UPHeld.				Def, and his gang mates, engage in shootout against rival gang members. Who shot first is unclear. Member of rival gang shot and killed V, an innocent bystander. Def, who was a provocateur, convicted of 1st degree 187. UPHeld.		
	Def did act w/MALICE that was a concurrent CAUSE of death.				Def did act w/MALICE that was a concurrent CAUSE of death.		
<b>CARNEY</b>	<i>P. v. ()</i>	7/20/2023	<b>CAL</b>	<b>CARNEY</b>	<i>P. v. ()</i>	7/20/2023	<b>CAL</b>
<i>db APPELLATE ISSUES</i>				<i>cd MOTIONS</i>			
<b>HARMLESS ERROR</b>				<b>DISCOVERY</b>			
	<b>HARMLESS RETROACTIVE ERROR - FELONY 187 - SB 1437</b>				<b>GENERALLY - 1054 - COURT IN CAMERA REVIEW - BURDEN ON COURT</b>		
	5 gang members leave van, beat and rob V, return to van and leave. V dies from injuries. Case tried on OLD felony 187 law. Q: is it HARMLESS RETROACTIVE ERROR to leave out Major Part / Reck InDiff elements? After LONG discussion, the answer is NO.				Def seeks all recordings of jail phone calls made by co-def who made deal to testify for DDA. DDA asserts they are not relevant. Problem: There are 100+ calls. Answer: that is not the Def's problem. Either he gets them all, or the Court listens to them to weed out the not relevant.		
<b>MADRIGAL</b>	<i>P. v. ()</i>	7/6/2023	<b>6:</b>	<b>MADRIGAL</b>	<i>P. v. ()</i>	7/6/2023	<b>6:</b>
<i>bc INSTRUCTIONS/ELEMENTS</i>				<i>bc INSTRUCTIONS/ELEMENTS</i>			
<b>ROBBERY / ASSAULTIVE CRIMES</b>				<b>MISC -</b>			
	<b>SHOOTING FROM VEHICLE - 26100 PC - FROM "OUTSIDE" VEHICLE</b>				<b>ACCESSORY - 32 PC - CAN DEF BE BOTH ACCESSORY &amp; AID/ABET? - YES</b>		
	Under PC 26100, shooting "from a vehicle" includes situation where car drives up, stops, passenger gets out and immediately shoots gun, then gets back in car and car drives away. The act of shooting BEGAN from inside the vehicle.				Driver aids shooter to get to the crime scene, and aids shooter to leave after crime. HELD: Driver can be convicted of BOTH aid/abet the Crime, and ACCESSORY after - PC 32.		
<b>GAINES &amp; ROSS</b>	<i>P. v. ()</i>	6/15/2023	<b>5:</b>	<b>GAINES &amp; ROSS</b>	<i>P. v. ()</i>	6/15/2023	<b>5:</b>
<i>de SENTENCING</i>				<i>bc INSTRUCTIONS/ELEMENTS</i>			
<b>654</b>				<b>MISC -</b>			
	<b>954 PC - ACCESSORY / AID/ABET UNDERLYING CRIME</b>				<b>TERRORIST THREAT - 422 PC - AMBIGUOUS STATEMENTS - CONTEXT</b>		
	Driver aids shooter to get to the crime scene, and aids shooter leave after crime. HELD: PC 954 permits Driver to be convicted of BOTH aid/abet the Crime, and ACCESSORY after - PC 32.				The words said by Def, by themselves, are ambiguous as a threat - "F--- You and your kids" But, since the words were said as def was pointing a gun at V and his kids, a jury could find they were a threat under PC 422.		
<b>GAINES &amp; ROSS</b>	<i>P. v. ()</i>	6/15/2023	<b>5:</b>	<b>GAINES &amp; ROSS</b>	<i>P. v. ()</i>	6/15/2023	<b>5:</b>

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<p style="text-align: right;"><b>bb EVIDENCE</b></p> <p><b>IMPEACH/INCONSIS</b> <b>PRIOR INCONSISTENT - SUFFICIENCY OF EVID CONSISTING OF</b> Shortly after event, V told police Def made verbal threat immediately before shooting began. At trial, V did not remember any threat. Police statement came as a prior inconsistent statement. HELD: This was sufficient evidence (plus other evid of the shooting) to uphold jury conviction for the threat.</p> <p><b>GAINES &amp; ROSS</b> <i>P. v. ()</i> 6/15/2023 <b>5:</b></p>	<p style="text-align: right;"><b>ce SEARCH &amp; SEIZURE</b></p> <p><b>AUTOS / CONTAINERS</b> <b>DETAIN - AUTO - DURATION - PROLONGING FOR DOG SNIFF - 12 MINUTES</b> Def pulled over for traffic infraction. 11 minutes and 54 seconds later (per officer body cam) K-9 drug dog alerted on portion of def's truck. HELD: traffic stop was unduly prolonged. 1538.5 should be GRANTED. (2-1 decision)</p> <p><b>GYORGY</b> <i>P. v. ()</i> 7/14/2023 <b>4:3</b></p>
<p style="text-align: right;"><b>db APPELLATE ISSUES</b></p> <p><b>HARMLESS ERROR</b> <b>HARMLESS RETROACTIVE ERROR - BIFURCATE GANG ENHANCEMENT</b> Even assuming the new PC 1109 Gang bifurcation statute is RETROACTIVE, failure to bifurcate in this case is HARMLESS.</p> <p><b>SESSION</b> <i>P. v. ()</i> 7/19/2023 <b>4:3</b></p>	<p style="text-align: right;"><b>ce SEARCH &amp; SEIZURE</b></p> <p><b>PROBATION/PAROLE</b> <b>PAROLE - TRACKER ON CAR - HOW DEF PAROLE STATUS WAS LEARNED?</b> Officer secretly put tracker device on def's car believing, correctly, that Def was on Parole at the time. (1) this was a search. (2) it was OKAY unless arbitrary, capricious, or harassing. (3) HOW officer learned of def's parole status is NOT RELEVANT.</p> <p><b>SESSION</b> <i>P. v. ()</i> 7/19/2023 <b>4:3</b></p>
<p style="text-align: right;"><b>ab CONSTITUTIONAL ISSUES</b></p> <p><b>RETROACTIVE</b> <b>BENEFIT TO DEF - WHEN IS DEF'S CASE FINAL? - POST PARTIAL</b> Def convicted of gang crimes and enhancements. On appeal everything affirmed, Remanded SOLELY on PC 667 enhancement. Then AB 333 enacted changing Gang Elements. HELD: as to GANG ISSUES, the case was FINAL. Trial Ct had no jurisdiction to address Gang charges. (2-1 decision)</p> <p><b>LOPEZ</b> <i>P. v. ()</i> 7/25/2023 <b>4:2</b></p>	<p style="text-align: right;"><b>ce SEARCH &amp; SEIZURE</b></p> <p><b>S/W - EXECUTION</b> <b>MISC - GeoFENCE WARRANTS - POST-SERVICE NOTICE TO DOJ</b> GeoFence warrant. Officer failed to give NOTICE of the warrant to the Calif DOJ as required by CalECPA (PC 1546.2). HELD: Suppression may, or may NOT, be appropriate remedy for CalECPA violation. This case: no suppression.</p> <p><b>PRICE</b> <i>def v. SUP CT</i> 7/3/2023 <b>4:2</b></p>
<p style="text-align: right;"><b>ce SEARCH &amp; SEIZURE</b></p> <p><b>MISC - SEARCH</b> <b>EXCLUSION REMEDY - CalECPA (1546.2 PC) VIOLATIONS</b> GeoFence warrant. Officer failed to give NOTICE of the warrant to the Calif DOJ as required by CalECPA (PC 1546.2). HELD: Suppression may, or may NOT, be appropriate remedy for CalECPA violation. This case: no suppression.</p> <p><b>PRICE</b> <i>def v. SUP CT</i> 7/3/2023 <b>4:2</b></p>	<p style="text-align: right;"><b>ce SEARCH &amp; SEIZURE</b></p> <p><b>MISC - SEARCH</b> <b>EXCLUSION REMEDY - CalECPA (1546.2 PC) VIOLATIONS</b> GeoFence warrant. Officer failed to give FULL/TIMELY notice of the warrant to the Def as required by CalECPA (PC 1546.2). HELD: Suppression may, or may NOT, be appropriate remedy for CalECPA violation. This case: no suppression.</p> <p><b>PRICE</b> <i>def v. SUP CT</i> 7/3/2023 <b>4:2</b></p>
<p style="text-align: right;"><b>ce SEARCH &amp; SEIZURE</b></p> <p><b>S/W - EXECUTION</b> <b>MISC - GeoFENCE WARRANTS - POST-SERVICE NOTICE TO DEF</b> GeoFence warrant. Officer failed to give FULL/TIMELY notice of the warrant to the Def as required by CalECPA (PC 1546.2). HELD: Suppression may, or may NOT, be appropriate remedy for CalECPA violation. This case: no suppression.</p> <p><b>PRICE</b> <i>def v. SUP CT</i> 7/3/2023 <b>4:2</b></p>	<p style="text-align: right;"><b>ce SEARCH &amp; SEIZURE</b></p> <p><b>S/W - EXECUTION</b> <b>MISC - GeoFENCE WARRANTS - MULTI-STAGE PROCEDURE</b> GeoFence warrant was so tightly narrowed that there was very little chance any device revealed was not possessed by a suspect or an eyewitness. Therefore, in this case, no need for court involvement in Stage 2 and 3 of Google's 3 stage process.</p> <p><b>PRICE</b> <i>def v. SUP CT</i> 7/3/2023 <b>4:2</b></p>

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<p style="text-align: center;"><i>ce</i> <b>SEARCH &amp; SEIZURE</b></p> <p><b>GOOD FAITH</b> <b>S/W - AFFIDAVIT - NEW TECHNOLOGY - UNCERTAIN LAW - GEOFENCE</b> GeoFence warrant. Because this is new technology, all involved are operating without benefit of appellate court guidance. No big problems in this case, but even if there were, GOOD FAITH exception would apply.</p> <p><b>PRICE</b> <i>def v. SUP CT</i> <b>4:2</b> 7/3/2023</p>	<p style="text-align: center;"><i>ce</i> <b>SEARCH &amp; SEIZURE</b></p> <p><b>S/W - AFF</b> <b>PC - JUDICIAL NOTICE CROOKS CARRY PHONES - GeoFENCE</b> GeoFence warrant. Court takes judicial notice that there is probable cause to believe that if a crook is out and about committing a crime, particularly if there are co-defs to communicate with, the crook has a cell phone on his person.</p> <p><b>PRICE</b> <i>def v. SUP CT</i> <b>4:2</b> 7/3/2023</p>
<p style="text-align: center;"><i>cd</i> <b>MOTIONS</b></p> <p><b>SPEEDY</b> <b>TRIAL DELAY - CAUSE - COURT CONGESTION or COVID?</b> After 42 emergency orders extending speedy trial deadlines due to COVID, PJ announces 9/6/2022 will be last one. Criminal trials resumed, in full, 2/25/22. 10/26/22, def's case dismissed for lack of courtroom. Ct found COVID was NOT a factor. It was chronic congestion. UPHELD.</p> <p><b>TAPIA</b> <i>P. v. SUP CT</i> <b>7/11/2023</b> <b>4:2</b></p>	<p style="text-align: center;"><i>bc</i> <b>INSTRUCTIONS/ELEMENTS</b></p> <p><b>HOMICIDE</b> <b>MISC FACT PATTERN - V OVERDOSES; DEF (CARETAKER) LEFT V ALONE</b> Def is legal caregiver of V (and is in V's will). Def checks V out of Hospital (AMA), sets V up alone in an apt, and then leaves for many days. V dies from medication overdose. Which was highly foreseeable. 1st degree 187 conviction UPHELD.</p> <p><b>ZEMEK</b> <i>P. v. ()</i> <b>7/11/2023</b> <b>4:2</b></p>
<p style="text-align: center;"><i>bd</i> <b>OTHER TRIAL ISSUES</b></p> <p><b>MISC - TRIAL</b> <b>SPECTATOR RESTRICTIONS - COVID - ALL SPECTATORS REMOVED</b> During COVID, ct orders ALL spectators must watch trial from a livestream feed. Def asked for 2 exceptions: def's husband and def's sister. Denied. UPHELD: Every body in courtroom increased infection risk. There is no special FAMILY rule.</p> <p><b>ZEMEK</b> <i>P. v. ()</i> <b>7/11/2023</b> <b>4:2</b></p>	<p style="text-align: center;"><i>bd</i> <b>OTHER TRIAL ISSUES</b></p> <p><b>MISC - TRIAL</b> <b>SPECTATOR RESTRICTIONS - COVID - ALL SPECTATORS REMOVED</b> During COVID, ct orders ALL spectators must watch trial from a livestream feed. The livestream feed had occasional tech problems lasting hours. HELD: Minor violation of right to PUBLIC trial, but no prejudice.</p> <p><b>ZEMEK</b> <i>P. v. ()</i> <b>7/11/2023</b> <b>4:2</b></p>
<p style="text-align: center;"><i>bd</i> <b>OTHER TRIAL ISSUES</b></p> <p><b>JUROR/VERDICT ISSUES</b> <b>MISCONDUCT - IN TRIAL - SNIDE COMMENT ABOUT ATTY ARGUMENT</b> Def closing argument started at 11:30, still going at 4:30 break for the day. As juror X walked out, he was heard muttering complaint about length of argument. Motion to bounce X denied. No investigation. Entire jury admonished next day about making comments. UPHELD</p> <p><b>ZEMEK</b> <i>P. v. ()</i> <b>7/11/2023</b> <b>4:2</b></p>	<p style="text-align: center;"><i>bc</i> <b>INSTRUCTIONS/ELEMENTS</b></p> <p><b>HOMICIDE</b> <b>MISC FACT PATTERN - MOM KILLS NEWBORN - 123467 H&amp;S IMMUNITY</b> Since 1/1/2023, H&amp;S 123467 and 123462, give mothers immunity for all actions they take regarding health of unborn child. BUT, that immunity ends at birth. This case: Mom chose home-birth without any help. Baby born alive, but died soon thereafter from maltreatment. 187-2nd charge survives 995.</p> <p><b>CARPENTER</b> <i>def v. SUP CT</i> <b>7/28/2023</b> <b>4:1</b></p>
<p style="text-align: center;"><i>ae</i> <b>MISC ODDS &amp; ENDS</b></p> <p><b>ODDS &amp; ENDS</b> <b>IMMUNITY FOR THOSE PREGNANT - PRE-BIRTH ACTIONS - 123467 H&amp;S</b> Since 1/1/2023, H&amp;S 123467 and 123462, give mothers immunity for all actions they take regarding health of unborn child. BUT, that immunity ends at birth. This case: Mom chose home-birth without any help. Baby born alive, but died soon thereafter from maltreatment. 187-2nd charge survives 995.</p> <p><b>CARPENTER</b> <i>def v. SUP CT</i> <b>7/28/2023</b> <b>4:1</b></p>	<p style="text-align: center;"><i>db</i> <b>APPELLATE ISSUES</b></p> <p><b>MISC APPELLATE</b> <b>APPEALABLE ORDERS - ILLEGAL SENTENCE - BUT W/IN LID</b> Because def was young, LOW-TERM was the presumptive sentence under PC 1170(b)(6). for factors stated, court imposed MID-TERM. HELD: this is an APPEALABLE ORDER even though sentence was within the LID set by a plea bargain.</p> <p><b>HILBURN</b> <i>P. v. ()</i> <b>7/5/2023</b> <b>4:1</b></p>

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**ab CONSTITUTIONAL ISSUES**

**RIGHT TO JURY TRIAL**

**SENTENCING FACTORS - OVERCOMING PRESUMPTION FOR LOW-TERM**

Because def was young, LOW-TERM was the presumptive sentence under PC 1170(b)(6). for factors stated, court imposed MID-TERM. HELD: APPRENDI does NOT apply to factors used by court to get to MID-TERM.

**HILBURN** *P. v. ()* 4:1  
7/5/2023

**de SENTENCING**

**MISC - SENTENCING**

**ARBUCKLE RIGHT - RESTITUTION HEARINGS - SETTING THE AMOUNT**

Judge X took def's guilty plea; sentenced def; ordered restitution, but put issue of amount of restitution over for a later hearing. Judge Y set restitution amount over def's objection. HELD: there is no ARBUCKLE right re: restitution hearing. Setting the amount is not discretionary.

**MARQUEZ** *P. v. ()* 4:1  
7/18/2023

**dd PETITIONS TO RESENTENCE**

**PETITIONS TO**

**PROP 36 - PROCEDURE - TIMELINESS OF REQUEST - GOOD CAUSE**

Prop 36 (3-strikes) set up it's own procedure, with only a two-year window, for prisoners to seek relief for a resentencing. That is the ONLY procedure that can be used. The window is now closed. Good cause must be shown to re-open it.

**KIMBLE** *P. v. ()* 3:  
7/14/2023

**ce SEARCH & SEIZURE**

**AUTOS / CONTAINERS**

**PC TO SEARCH TRUNK - PC TO SEARCH PASSENGER AREA NOT ENOUGH**

Officer had PC to believe gun in passenger area of car. Car pulled over. Passenger area searched. Officer then searched trunk and found gun. HELD: 1538.5 should be GRANTED. This particular PC was specific to the passenger area. Therefore there was no PC to search trunk.

**LEAL** *P. v. ()* 3:  
7/25/2023

**ee MENTAL HEARINGS**

**SexVioPredator**

**TRIAL - EVIDENCE - EXPERTS - DDA MUST USE ONLY DSH EXPERTS**

Under the statute, DDA may NOT hire her own private SHRINK to give expert opinion at a SexVioPredator trial.

**SLOAN** *P. v. ()* 3:  
7/17/2023

**ce SEARCH & SEIZURE**

**AUTOS / CONTAINERS**

**DETAIN - AUTO - DURATION - MUST END ONCE PC NO LONGER EXISTS**

Traffic stop for lack of temp-registration papers taped to window. As officer approaches on foot, he sees the required paperwork. HELD: Anything beyond a short apology to the driver is an UNLAWFUL PROLONGED detention. This case: small talk lead to probation search.

**SUGGS** *P. v. ()* 3:  
7/31/2023

**de SENTENCING**

**RESTITUTION**

**ITEM - DEPRECIATED VALUE OF RETURNED ITEM**

Def steals item X from V. X is returned to V at sentencing hearing. V says X has greatly declined in value since the day Def stole it and V lost an opportunity to sell X at top price. HELD: if V can prove it, ct should order restitution for the diminution of value.

**VALLE** *P. v. ()* 3:  
7/28/2023

**cd MOTIONS**

**WITHDRAW PLEA / STRIKE PRIOR**

**1473.7 PC - DELAYED IMMIGRATION MOTIONS - VENUE**

At def's request, his probation supervision was transferred to county X per PC 1203.9. Def now wishes to w/draw guilty plea under PC 1473.7. (immigration issues) HELD: the 1473.7 petition must be filed in the County where the conviction occurred.

**HERNANDEZ** *P. v. ()* 2:8  
6/23/2023

**dd PETITIONS TO RESENTENCE**

**PETITIONS TO**

**1172.6 PC - ELIGIBILITY - PROVOCATIVE ACT CONVICTIONS**

Def convicted in 1991 of PROVOCATIVE ACT 187. HELD: Def is not aid/abetter. Def is NOT eligible for relief under PC 1172.6. The necessary MALICE for def's conviction was his own, not someone else's.

**ANTONELLI** *P. v. ()* 2:6  
7/18/2023

**dd PETITIONS TO RESENTENCE**

**PRIORS - SENTENCING**

**667.5(b) PC - 1172.5 RELIEF - MOOT ONCE DEF SERVES TIME**

Def had PC 667.5(b) prior. Prior imposed. While in prison, def commits new felonies. Later, while still in prison, PC 1172.5 enacted voiding 667.5(b) priors. HELD: No 1172.5 relief for def: (1) CDCR has not notified court; (2) CDCR never will because has already served the time on 1st case.

**ESCOBEDO & CHAVIRA** *P. v. ()* 2:6  
7/27/2023

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		de	SENTENCING			dd	PETITIONS TO RESENTENCE
<b>PRIORS - SENTENCING</b>						<b>PETITIONS TO</b>	
<b>667.5(b) PC - 1172.5 RELIEF - MUST FOLLOW CDCR PROCEDURE</b>						<b>1172.6 PC - GENERAL - APPLICABILITY OF 170.6 CCP</b>	
SB 483 Retroactively invalidated one-year 667.5(b) priors in most cases. It also created a procedure where CDCR would identify prisoners who would benefit and CDCR would notify the sentencing court. HELD: Def may NOT bring his own petition for relief. Def must wait for CDCR.						Def's PC 1172.6 petition was assigned to original trial judge X. X summarily denied petition. DCA reverses and remands for a hearing. Def files CCP 170.6 on X. HELD: Remand was NOT for a "new trial" under 170.6(a)(2). 170.6(a)(2) does not apply. DUCKED: does 170.6 apply at all ??	
<b>NEWELL</b>	<i>P. v. ()</i>	7/6/2023	2:6	<b>ESTRADA</b>	<i>def v. SUP CT</i>	7/21/2023	2:4
						<b>dd PETITIONS TO RESENTENCE</b>	
<b>170.6</b>						<b>PETITIONS TO</b>	
<b>POST APPEAL USAGE - APPEAL OF 1172.6 PC DENIAL</b>						<b>1172.6 PC - HEARING - PRIOR JURY ACQUITTAL</b>	
Def's PC 1172.6 petition was assigned to original trial judge X. X summarily denied petition. DCA reverses and remands for a hearing. Def files CCP 170.6 on X. HELD: Remand was NOT for a "new trial" under 170.6(a)(2). 170.6(a)(2) does not apply. DUCKED: does 170.6 apply at all ??						1997: Def convicted of aid/abet 187. Jury acquits on Robbery Spec Circ. 2019: def's 1172.6 petition denied. Ct found def acted with Malice. Def asserts Spec Circ acquittal PRECLUDES 1172.6 Ct from making a MALICE finding. HELD: It precludes some things, but not a Malice finding.	
<b>ESTRADA</b>	<i>def v. SUP CT</i>	7/21/2023	2:4	<b>GARCIA</b>	<i>P. v. ()</i>	7/11/2023	2:4
						<b>dd PETITIONS TO RESENTENCE</b>	
<b>PETITIONS TO</b>						<b>PETITIONS TO</b>	
<b>1172.6 PC - HEARING - PRIOR JURY ACQUITTAL - NEW EVID</b>						<b>1172.6 PC - HEARING - EVID - PRELIM TRANSCRIPT</b>	
1992: Def convicted of group beating 187. Jury acquits def of Personal Use of Knife enhancement. 2021: def's 1172.6 petition denied. Ct found def inflicted fatal stab wound. REVERSED. absent new evid, 1172.6 ct cannot make a factual finding contrary to verdict. REMANDED for new hrg.						At PC 1172.6 hrg, ct considers Prelim transcript. HELD: this is fine, BUT, Def may make HEARSAY objections. The prelim-hearsay exception does NOT apply at 1172.6 hrg.	
<b>ARNOLD</b>	<i>P. v. ()</i>	7/11/2023	2:2	<b>ARNOLD</b>	<i>P. v. ()</i>	7/11/2023	2:2
						<b>dd PETITIONS TO RESENTENCE</b>	
<b>PETITIONS TO</b>						<b>PETITIONS TO</b>	
<b>1172.6 PC - HEARING - DEF MUST PRESENT PRIMA FACIE CASE</b>						<b>1172.6 PC - HEARING - EVID - PRELIM TRANSCRIPT</b>	
Def is the sole killer. Plead guilty in 1980. Def files boilerplate PC 1172.6 petition. Atty appointed. At hrg, only evidence of crime was Prelim transcript. HELD: Petition should be denied for def's failure to present a Prima Facie showing he was eligible for 1172.6 relief.						Def is the sole killer. Plead guilty in 1980. Def files boilerplate PC 1172.6 petition. Atty appointed. At hrg, only evidence of crime was Prelim transcript. OPINION discusses pros and cons of using the Prelim transcript, but ultimately decides case on other grounds.	
<b>PICKETT</b>	<i>P. v. ()</i>	6/29/2023	2:1	<b>PICKETT</b>	<i>P. v. ()</i>	6/29/2023	2:1
						<b>dd PETITIONS TO RESENTENCE</b>	
<b>ADMINISTRATIVE</b>						<b>ab CONSTITUTIONAL ISSUES</b>	
<b>AUTOS - SEIZING CARS DUE TO UNPAID PARKING TICKETS</b>						<b>BENEFIT TO DEF - PROBATION LENGTH - 1203.1 PC</b>	
COALITION ON HOMELESSNESS v. SAN FRANCISCO: It is a violation of the 4th Amendment to tow-away cars that are currently legally parked, but they have over 5 unpaid parking tickets per VC 22651.						More than two years into Def's probation, he violates probation. After violation, but before case is FINAL, AB 1950 retroactively reduces felony probation to two years. This DCA holds court retroactively lost jurisdiction to punish the violation. DCA's are split.	
<b>COALITION ON</b>	<i>CIVIL</i>	7/21/2023	1:5	<b>JACKSON</b>	<i>P. v. ()</i>	7/6/2023	1:4

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<p><b>V/P'S</b></p> <p><b>JURISDICTION - EFFECT OF AB 1950 RETROACTIVITY</b></p> <p>More than two years into Def's probation, he violates probation. After violation, but before case is FINAL, AB 1950 retroactively reduces felony probation to two years. This DCA holds court retroactively lost jurisdiction to punish the violation. DCA's are split.</p> <p><b>JACKSON</b> <i>P. v. ()</i> 7/6/2023 1:4</p>	<p><b>eg V/P'S</b></p> <p><b>S/W - AFF</b></p> <p><b>PC - CHILD PORN - VERBAL DESCRIPTIONS ONLY - DCA CRITICIZES</b></p> <p>Affidavit for child porn SW "described" pictures def downloaded, but did not attach digital copies for magistrate to see. --- Search warrant UPHELD, but DCA says better practice would be to attach copies if available (all pictures would be SEALED).</p> <p><b>WADLEIGH</b> <i>P. v. ()</i> 7/12/2023 1:4</p>
<p><b>S/W - AFF</b></p> <p><b>PC - CHILD PORN - VERBAL DESCRIPTIONS - NOT ALL WERE ACCURATE</b></p> <p>Affidavit for child porn SW "described" 4 pictures def downloaded, but did not attach digital copies for magistrate to see. At TRAVERSE hearing, 1 picture was shown to be inaccurately described. 3 were accurate. 1538.5 Denied. Upheld.</p> <p><b>WADLEIGH</b> <i>P. v. ()</i> 7/12/2023 1:4</p>	<p><b>ce SEARCH &amp; SEIZURE</b></p> <p><b>MISC - MENTAL HRGS</b></p> <p><b>MENTALLY RETARDED AND DANGEROUS - 6500 W&amp;I - RENEWALS</b></p> <p>Def committed under W&amp;I 6500. Must be renewed every year. Original commitment required Overt Act as well as mental illness. HELD: RENEWAL does NOT need a new Overt Act. Expert Opinion of mental illness and dangerousness is enough.</p> <p><b>J. G. A.</b> <i>P. v. ()</i> 7/25/2023 1:3</p>
<p><b>MISC - MENTAL HRGS</b></p> <p><b>MENTALLY RETARDED AND DANGEROUS - 6500 W&amp;I - SANCHEZ APPLIES</b></p> <p>Def committed under W&amp;I 6500. Must be renewed every year. SANCHEZ applies. Expert cannot establish necessary FACTS by hearsay testimony. This case: expert says: Assuming what I read about what he did is true, then I opine he is dangerous. -- this is NOT enough.</p> <p><b>J. G. A.</b> <i>P. v. ()</i> 7/25/2023 1:3</p>	<p><b>ee MENTAL HEARINGS</b></p> <p><b>bb EVIDENCE</b></p> <p><b>HEARSAY</b></p> <p><b>EXPERTS - HEARSAY CAN BE RELIED ON, NOT TESTIFIED ABOUT - 6500</b></p> <p>Def committed under W&amp;I 6500. Must be renewed every year. SANCHEZ applies. Expert cannot establish necessary FACTS by hearsay testimony. This case: expert says: Assuming what I read about what he did is true, then I opine he is dangerous. -- this is NOT enough.</p> <p><b>J. G. A.</b> <i>P. v. ()</i> 7/25/2023 1:3</p>
<p><b>MISC CONSTITUTIONAL ISSUES</b></p> <p><b>BEAR ARMS, RIGHT TO - 25850 PC - CARRYING IN PUBLIC - UPHELD</b></p> <p>Although the BRUEN decision may undo Calif's "good cause" requirement for a Carry Permit, that is severable from the other Calif gun laws. Def's juvenile conviction of PC 25850 -- carrying a loaded firearm in public in incorporated cities-- upheld.</p> <p><b>D. L.</b> <i>In Re ()</i> 7/3/2023 1:2</p>	<p><b>ab CONSTITUTIONAL ISSUES</b></p> <p><b>bc INSTRUCTIONS/ELEMENTS</b></p> <p><b>WEAPON</b></p> <p><b>GUN POSSESSION - 25850 PC - POST-BRUEN</b></p> <p>Although the BRUEN decision may undo Calif's "good cause" requirement for a Carry Permit, that is severable from the other Calif gun laws. Def's juvenile conviction of PC 25850 -- carrying a loaded firearm in public in incorporated cities-- upheld.</p> <p><b>D. L.</b> <i>In Re ()</i> 7/3/2023 1:2</p>