

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

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de SENTENCING				dd PETITIONS TO RESENTENCE			
DIVERSION				PETITIONS TO			
DIVERSION - THRESHOLD TO SET REVOCATION HEARING				1172.6 PC - SUMMARY DENIALS - USE OF PRELIM TRANSCRIPT			
LOS ANGELES APPELLATE DIV: DDA asks court SET HEARING to terminate def's diversion based on a police report mentioning def. No new charges yet filed. Court refused. REVERSED. Probable Cause not needed. Ct needs only "a reason to believe" def violated diversion to set matter for hearing.				Long time ago: def plead to attempt 187 after prelim. Years later: def files boilerplate PC 1172.6 petition. No details, just checked boxes. Counsel appt'd. Q: may court refer to prelim transcript re: prima facie case? Answer: YES. This case: Prelim showed def was sole def who personally shot victim.			
SHAGINYAN	P. v. ()	2/24/2025	SUPP	PATTON	P. v. ()	3/3/2025	CAL
dd PETITIONS TO RESENTENCE				db APPELLATE ISSUES			
PETITIONS TO				MISC APPELLATE			
1172.1 PC - CT MAY RESENTENCE - BUT DEF CAN'T ASK (LIKE 1385 PC)				APPEALABLE ORDERS - DENIAL OF REQUEST TO MODIFY SENTENCE -			
Def petitions court for a new sentencing under PC 1172.1. Court denies saying it had no jurisdiction to consider the motion. HELD: Since def NOT authorized to request 1172.1 relief, def canNOT appeal denial EVEN IF DENIAL gave an incorrect reason. --- DCA's in conflict				Def petitions court for a new sentencing under PC 1172.1. Court denies saying it had no jurisdiction to consider the motion. HELD: Since def NOT authorized to request 1172.1 relief, def canNOT appeal denial EVEN IF DENIAL gave an incorrect reason. --- DCA's in conflict			
FAUSTINO	P. v. ()	3/13/2025	4:2	FAUSTINO	P. v. ()	3/13/2025	4:2
bc INSTRUCTIONS/ELEMENTS				ab CONSTITUTIONAL ISSUES			
MISDEMEANORS AND INFRACTIONS				MISC CONSTITUTIONAL ISSUES			
RESISTING - 148 PC - OBSTRUCTING OFFICER - KNOWLEDGE ELEMENT				FIRST AMENDMENT - FACEBOOK POSTS BY STALKER			
Q: Under PC 148(a)(1) Does the def need to KNOW the person he is interfering with is a police officer? Answer: NO. Def need KNOW, or, reasonably should have known.				FaceBook posts designed to intimidate and harass are NOT entitled to 1st Amendment protection. Conviction for stalking affirmed. PC 646.9(g)			
SERNA	P. v. ()	3/10/2025	4:2	TAFOYA	P. v. ()	3/17/2025	4:2
ae MISC ODDS & ENDS				bc INSTRUCTIONS/ELEMENTS			
ODDS & ENDS				MISC -			
COURT ORDERS, VALIDITY OF - OBTAINED BY FRAUD				PERJURY - FALSE DOCUMENTS			
Def gets unopposed court order for visitation of child by filing a false proof of service. HELD: this order was VOID at inception. It gave def zero rights or authority to pick up child at school.				Just because a document was fraudulent or obtained by false means, does NOT make it PERJURY. The document must contain a false statement made under penalty of perjury.			
TAFOYA	P. v. ()	3/17/2025	4:2	TAFOYA	P. v. ()	3/17/2025	4:2
de SENTENCING				bc INSTRUCTIONS/ELEMENTS			
RESTITUTION				MISC -			
ITEM - MOVING EXPENSES (NOT HIDE FROM STALKER)				WITNESS INTIMIDATION - 136.1 PC - FUTURE POTENTIAL WITNESS			
Stalking victim seeks restitution for moving expenses in effort to avoid def. UPHELD.				A and B have civil dispute against each other. C is a mutual friend of both who MIGHT testify if it goes to trial. Civil case not yet filed. HELD: C is NOT yet a "witness" under PC 136.1(a)(2).			
TAFOYA	P. v. ()	3/17/2025	4:2	COPELAND	P. v. ()	3/7/2025	4:1

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cd MOTIONS				dd PETITIONS TO RESENTENCE			
DISCRIMINATORY PROSECUTION				PETITIONS TO			
CRJA - HABEAS - APPOINTMENT OF ATTY THRESHOLD				1172.75 PC - 667.5 PRIORS - IMPOSED, STAYED, THEN STRICKEN			
Pro Per files HABEAS alleging CRJA violations. HELD: Threshold to get atty appt'd is NOT the threshold to set an OSC. (thresholds are the same in regular HABEAS) The get-atty threshold is lower. The petition must allege facts that, if true, constitute a CRJA violation.				2001: Trial ct imposed and stayed a one-year prior. 2002: on appeal, DCA STRUCK the one-year prior. 2023: def seeks PC 1172.75 resentencing. HELD: def is NOT eligible. The one-year prior can never apply to him.			
McINTOSH	<i>def v. SUP CT</i>	3/28/2025	4:1	TANG	<i>P. v. ()</i>		4:1
						3/18/2025	
cd MOTIONS				dd PETITIONS TO RESENTENCE			
SPEEDY				PETITIONS TO			
1381 PC DEMAND - DEF SENTENCED TO PRISON, NOT YET IN PRISON				1172.6 PC - POST GRANT - PRE-1990 SPEC CIRC'S			
Case A (in Riverside County): def is sentenced to Prison. THE NEXT DAY, a PC 1381 demand is delivered to Orange County DA regarding Case B. DA rejects demand on basis that def was NOT YET physically in PRISON. HELD: Def was under jurisdiction of CDCR. That is enough.				1985: def given LWOP for two 187's and 4 att 187's. 2022: def gets new sentencing under 1172.6. --- PC 1385.1 was enacted in 1990. THEREFORE, 2022 court has 1385 authority to dismiss Spec Circ's and sentence def to life with parole.			
HYATT	<i>P. v. ()</i>	3/14/2025	4:3	NGUYEN	<i>P. v. ()</i>	3/21/2025	4:3
ac STATUTORY CONSTRUCTION				bc INSTRUCTIONS/ELEMENTS			
STATUTORY CONSTRUCTION				THEFT / FRAUD CRIMES			
RULE - SPECIFIC OVER GENERAL - MISD/FELONY				BURGLARY - AUTO - ENTRY INTO EXTERIOR LOCKED CONTAINERS			
Felony PC 550(b)(3) (insurance fraud) convictions REVERSED because def's acts were also a violation of LABOR Code 139.32, a misdemeanor. The misd was MORE SPECIFIC than the felony. The more specific controls.				Def breaks into the locked, enclosed, cargo area of a truck. He does not enter the seating area of the truck. HELD: def entered a locked vehicle. this is burglary.			
WOODS	<i>P. v. ()</i>		4:3	GRAY	<i>P. v. ()</i>		3:
		3/18/2025				3/12/2025	
dd PETITIONS TO RESENTENCE				cd MOTIONS			
PETITIONS TO				WITHDRAW PLEA / STRIKE PRIOR			
1172.1 PC - DA CANNOT APPEAL DECISION TO SET RESENTENCE HRG				1473.7 PC - DELAYED IMMIGRATION MOTIONS - DE NOVO APPELLATE			
Court recalls def's 1997 sentence under PC 1172.1 and sets a new sentencing hearing. HELD: People have not yet suffered a harm that can be appealed. -- Appeal dismissed.				DCA independently finds (contrary to trial ct) that def did not meaningfully understand that he would be deported when he pled to carjacking in 2016. DDA stated at time of plea that no lesser would be offered with lesser immigration consequence. Evid against def was strong.			
GRIGGS	<i>P. v. ()</i>		3:	PADRON	<i>P. v. ()</i>	3/17/2025	2:7
		3/26/2025					
db APPELLATE ISSUES				dd PETITIONS TO RESENTENCE			
HARMLESS ERROR				PETITIONS TO			
HARMLESS RETROACTIVE ERROR - SB 567 - UPPER TERM HURDLES				1170(d)(1)(a) - PC - DE FACTO LWOP - 33-TO-LIFE			
If the DCA decides beyond a reasonable doubt that a jury WOULD HAVE convicted the def of all the aggravating factors used to give him upper term, then the retroactive application of SB 567 results in HARMLESS ERROR.				At age 17, def sentenced to 33-to-life. HELD: this is NOT a de facto LWOP sentence. Def sought new sentencing under PC 1170(d)(1)(A).			
CABADA	<i>P. v. ()</i>		2:6	OLMOS	<i>P. v. ()</i>		2:5
		3/24/2025				3/10/2025	

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PETITIONS TO 1172.6 PC - ELIGIBILITY - OLD JURY MUST HAVE GOT BAD INSTRUCTIONS 2009: Def convicted of 187 in 2 def case. Jury never instructed on felony murder or natural/probable consequences. HELD: Def is NOT eligible for PC 1172.6 relief. Jury was instructed with CALCRIM 400 re: liability of aid/abettors.				HOMICIDE ATTEMPT 187 - KILL ZONE - MULTIPLE SHOTS INTO CONFINED SPACE Def fired 5 or 6 shots at 4 people trapped in a corner from a distance of 7 feet supports the giving of KILL ZONE instruction.			
RUSHING	<i>P. v. ()</i>	2/27/2025	2:3	SUMMERS	<i>In Re ()</i>		2:3
						3/20/2025	
cd MOTIONS				dd PETITIONS TO RESENTENCE			
DOUBLE JEOPARDY CONVICTED OF X / SEPARATE FILING FOR CRIMES RELATED TO X Def commits two crimes at the same shopping mall. They 2 1/2 hours apart with different victims at different places w/in the mall. HELD: they are not PC 654 to each other, nor, does KELLETT apply when the DDA filed on one weeks after the other.				PETITIONS TO 1172.75 PC - 667.5 PRIORS - FULL RESENTENCE - POST PROP 36 DENIAL Prop 36 amended 3-strikes and explicitly created a 2-year window for def's to seek retroactive relief. That window closed in 2015. HELD: PC 1172.75 does NOT open a new window. Def may get a new sentencing, but Prop 36 does NOT apply.			
J. D.	<i>In Re ()</i>	3/25/2025	2:6	TERWILLIGAR	<i>P. v. ()</i>	3/10/2025	1:5
ab CONSTITUTIONAL ISSUES				ef PAROLE			
DUE PROCESS / EQUAL PROTECTION EQUAL PROTECTION - LIFER PAROLE - 3000.1 PC Def released on LIFER parole in 2017. 2023, def remanded to CDCR for violations. HELD: PC 3000.01 enacted in 2020 only applies to lifers paroled after July 1 2020. -- No Equal Protection violation. (Maybe 2017 parole decision was dependent on a long lifer parole.)				PAROLE DECISIONS LIFER PAROLE - PC 3000.1 Def released on LIFER parole in 2017. 2023, def remanded to CDCR for violations. HELD: PC 3000.01 enacted in 2020 does only applies to lifers paroled after July 1 2020. -- No Equal Protection violation. (Maybe 2017 parole decision was dependent on a long lifer parole.)			
BATTEN	<i>P. v. ()</i>	3/17/2025	1:4	BATTEN	<i>P. v. ()</i>	3/17/2025	1:4
de SENTENCING				de SENTENCING			
DIVERSION DIVERSION - DEVELOPMENTAL DISABILITY - 1001.20 PC Ct denies def request for diversion under PC 1001.20 (developmental disability) (def's IQ is 55). REVERSED for abuse of discretion. --- fact that current charge is very serious is NOT a valid reason. -- many prior convictions is NOT a valid reason. -- Transient lifestyle NOT a valid reason.				DIVERSION DIVERSION - DEVELOPMENTAL DISABILITY - 1001.20 PC Ct denies def request for diversion under PC 1001.20 (developmental disability) (def's IQ is 55). Regional Center said they can't supervise def. BUT, the statute permits joint supervision which would make Probation Dept in charge of supervision.			
K. D.	<i>P. v. ()</i>	3/28/2025	1:4	K. D.	<i>P. v. ()</i>	3/28/2025	1:4
dd PETITIONS TO RESENTENCE				dd PETITIONS TO RESENTENCE			
PETITIONS TO 1172.6 PC - SUMMARY DENIALS - SPEC CIRC / INTENT TO KILL FINDINGS 1991: Def (and co-def) convicted of 187 w/ robbery, burglary, kidnap, spec circ. (no personal use) HELD: these spec circ's required that def aid/abetted the robbery, burglary, kidnap w/intent to kill. They did NOT require def to aid/abet the 187. Current law DOES. Therefore, def gets 1172.6 hearing. (DCA's in conflict)				PETITIONS TO 1172.6 PC - HEARING - DEF'S RIGHT TO BE PRESENT - EVEN IF NO EVID Neither side wished to introduce any NEW evidence at PC 1172.6 evidentiary hrg. Both rely on old trial transcript. NOTWITHSTANDING, def has right to a hearing and to be present at the hearing.			
JACKSON	<i>P. v. ()</i>	3/28/2025	1:2	JACKSON	<i>P. v. ()</i>		1:2
						3/28/2025	

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PETITIONS TO				PETITIONS TO			
1172.6 PC - HEARING - PRIOR JURY ACQUITTAL OF SPEC CIRC				1172.6 PC - HEARING - RECORD OF CONVICTION - CO-DEF'S TRIAL			
1991: def and co-def convicted of 187. Jury acquits def on spec circ's. HELD: jury finding does NOT preclude PC 1172.6 court from finding def would be convicted of 187 under current law.				1991: def and co-def convicted of 187 in different trials. HELD: Co-def's trial is NOT part of def's record of conviction. Future PC 1172.6 judge may NOT consider co-def's transcript at def's 1172.6 hearing.			
JACKSON	P. v. ()		1:2	JACKSON	P. v. ()		1:2
3/28/2025				3/28/2025			