

## RECENT WINS!

People v. David Alaniz (H046586)

Panel attorney: Paul Kraus

Date: August 28, 2020

The abstract of judgment must be amended to eliminate restitution fines that were not orally imposed. (Staff attorney Lori Stuart)

People v. Ratha Seth (H047307)

Staff attorney: Jonathan Grossman

Date: August 27, 2020

S.B. 1437 is constitutional.

People v. Forrest Brownton (H045628)

Panel attorney: Michael Allen and Hilda Scheib

Date: August 26, 2020

There was an in camera hearing held pursuant to *Pitchess v. Superior Court* (1974) 11 Cal.3d 531. The court of appeal reviewed the sealed transcript and decided the trial court erred in how it held the hearing. (Staff attorney Patrick McKenna)

People v. Damian Vindiola (H045815)

Panel attorney: Jean Marinovich

Date: August 26, 2020

The matter was remanded to the superior court to determine if the defendant should be offered mental health diversion in light of *People v. Frahs* (2020) 9 Cal.5th 618. (Staff attorney William Robinson)

People v. Alberto Contreras (H045787)

Staff attorney: Lori Quick

Date: August 21, 2020

In a published decision, the court of appeal held that the defendant was entitled to remand to give the superior court the opportunity to exercise its discretion whether to strike the firearms enhancement under S.B. 620. The *Estrada* rule applied to the defendant who was on probation with execution of sentence suspended when S.B. 620 went into effect.

People v. Valle (H046670)

Staff attorney: Paul Couenhoven  
Date: August 21, 2020

The defendant was convicted of various counts for abusing his wife. The court ordered him to register as a sex offender for an offense that does not require it. The court of appeal decided there was insufficient evidence the offense was committed out of compulsion or sexual gratification, which is required when the court exercises its discretion in deciding whether to impose sex registration under Penal Code section 290.006.

People v. Micah Sullivan (H044277)  
Panel attorney: Brian McComas  
Date: August 21, 2020

The matter was remanded to the superior court to determine if the defendant should be offered mental health diversion in light of *People v. Frahs* (2020) 9 Cal.5th 618. (Staff attorney Jonathan Grossman)

People v. Salvador Plasencia (H047043)  
Panel attorney: Gene Vorobyov  
Date: August 20, 2020

The trial court erred in denying an order to show cause for a petition under S.B. 1437 to vacate the murder conviction based on its own factual findings. (Staff attorney William Robinson)

In re Amelia C. (H047742)  
Panel attorney: Neale Gold  
Date: August 18, 2020

Under the facts of the case, the court abused its discretion in summarily denying the mother's request to modify its previous orders under Welfare and Institutions Code section 388. (Staff attorney Jonathan Grossman)

People v. Juan Elias (H046685)  
Panel attorney: Steven Torres  
Date: August 12, 2020

The punishment for criminal threat must be stayed under Penal Code section 654 in light of the punishment for robbery. Further, the consecutive term for attempted robbery must be eight months. Finally, the defendant was entitled to additional presentence credits. (Staff attorney Anna Stuart)

In re Calvin Ung (H048152)  
Attorneys: Sarah Wheatley and Carson White  
Date: August 10, 2020

The defendant was accused of stealing a large some of money by use of computers. He then violated the conditions of his bail, including allegedly arranging to steal more money by use of computers. He was remanded with no bail. Although bail can be denied to protect public safety, the court of appeal held this did not include protecting the public from property crimes. (SDAP was not involved in this matter)

People v. Shawn Case (H045876)  
Panel attorney: Michael Allen  
Date: August 6, 2020

The court of appeal decided that the defendant was entitled to remand to give the superior court the opportunity to exercise its discretion to strike a drug trafficking prior. The *Estrada* rule applied to the defendant who was serving a split sentence and on mandatory supervision under Penal Code section 1170(h) when the new law went into effect. (Staff attorney Jonathan Grossman)

People v. Nathaniel Reichert (H045044)  
Staff attorney: Anna Stuart and Jonathan Grossman  
Date: July 31, 2020

A great bodily injury enhancement cannot attach to battery with serious bodily injury because gbi is an element of the offense.

People v. Derek Rayo (H047280)  
Panel attorney: Lise Breakey  
Date: July 31, 2020

The matter must be remanded to dismiss the prison prior in light of Senate Bill No. 136. It was not sufficient to only strike the punishment. (Staff attorney Anna Stuart)

People v. Joseph Klotz (H045825)  
Attorney: Robert Beles and Paul McCarthy  
Date: July 29, 2020

The punishment for stalking must be stayed pursuant to Penal Code section 654 in light of the punishment for criminal threats and aggravated mayhem. (SDAP was not involved in this appeal)

In re J.R. (H043051)  
Panel attorney: Eileen Manning-Villar  
Date: July 22, 2020

There was insufficient evidence of a felony violation of Vehicle Code section 10851 because there was no evidence the value of the vehicle was more than \$950. (Staff attorney Paul Couenhoven)

People v. Jereme Brown (H045689)  
Panel attorney: Eric Weaver  
Date: July 20, 2020

The matter was remanded so that the superior court could exercise its discretion whether to strike the prior serious felony conviction under Senate Bill No. 1393. (Staff attorney Paul Couenhoven)

People v. Johnny Martinez (H047303)  
Panel attorney: Richard Fitzer  
Date: July 16, 2020

S.B. 1437 is constitutional. (Staff attorney Lori Quick)

People v. Freddy Cruz (H046055)  
Panel attorney: Teresa Biagini  
Date: July 10, 2020

The abstract of judgment must be modified to reflect the court's oral pronouncement of the sentence. (Staff attorney Jonathan Grossman)

In re Chavez (H046921)  
Staff attorney: Joseph Doyle  
Date: July 1, 2020

In a published decision, the court decided that prisoners who are sex registrants are eligible for early parole under Proposition 57.

People v. Abraham Arellano (H047502)  
Staff attorney: Joseph Doyle  
Date: June 29, 2020

The court ordered that appellant receive additional presentence credits.

People v. Malik Alaybue (H047221)  
Panel attorney: Michael Sampson  
Date: June 25, 2020

The Sixth District decided in a published opinion that S.B. 1437 was constitutional. (Staff attorney William Robinson)

People v. Galen Underwood (H043502)  
Panel attorney: Patricia Lai  
Date: June 25, 2020

The court lacked the authority to change the jury's verdict to a different offense. (Staff attorney Paul Couenhoven)

People v. Ervey Luna (H045433)  
Panel attorney: Karriem Baker  
Date: June 23, 2020

The court ordered that appellant receive additional presentence credits. (Staff attorney Lori Quick)

People v. Fernando Mateo Lopez (H043949)  
Panel attorney: Mark Greenberg  
Date: June 17, 2020

The matter was remanded so that the superior court could exercise its discretion whether to strike the firearms enhancement under Senate Bill No. 620. (Staff attorney Jonathan Grossman)

People v. Francisco Garcia (H046676)  
Panel attorney: Suzanne Morris  
Date: June 12, 2020

An officer stopped appellant's car because of tinting of the rear brake lights. However, the officer was unable to state if the brake lights failed to illuminate as brightly as required by law. Accordingly, the denial of the motion to suppress evidence was reversed. (Staff attorney Jonathan Grossman)

People v. Cary Crittenden (H045195)  
Panel attorney: Brian McComas  
Date: June 5, 2020

The court erred in imposing a \$150 restitution fine for a misdemeanor in addition to a \$300 restitution fine for felony convictions in the same case when the intent of the court was to impose the minimum fine. (Staff attorney William Robinson)