

RECENT WINS!

People v. Medellin, H050428
William Hassler
May 28, 2025

After a jury convicted appellant of felony assault by a public officer, the trial court sentenced him to three years of probation and a custodial term. The Court of Appeal accepted the Attorney General's concession that section 1203.1 authorized a maximum felony probation term of two years. The Court remanded the case for further consideration of the appropriate term. (Anna Stuart)

People v. Martinez, H051643
Robin Smith
May 16, 2025

In 2013, in exchange for a 49 year 8 month sentence, appellant pleaded no contest to two counts of assault with a semiautomatic firearm on a peace officer, admitted firearm and gang enhancements to each count, and admitted two prior prison term enhancement allegations and a strike prior allegation. The court sentenced appellant as agreed, but subsequently reduced the sentence to 49 years four months. In 2023, the trial court dismissed appellant's prison priors pursuant to section 1170.75, reducing his sentence to 47 years four months, but declined to further modify the sentence, reasoning that plea agreement precluded further modification. On appeal, the Sixth District agreed with *People v. Hernandez* (2024) 103 Cal.App.5th 981, where the Fourth District's Division Three found that, notwithstanding a stipulated sentence, the trial court's resentencing discretion under section 1172.75 includes the power "to do more than merely strike the newly 'invalid' enhancements." The court remanded for resentencing because the record failed to clearly indicate that the trial court would have done no more than strike appellant's invalid prison priors had it been aware of the full scope of its resentencing power. Finally, regarding potential resentencing, the court noted that, under section 1171, subdivision (c)(3), changes made to an original sentence at a section 1172.75 resentencing proceeding "shall not be a basis for a prosecutor or court to rescind a plea agreement." (Randall Conner)

People v. Lopez, H051604
Sara Coppin
May 14, 2025

A jury convicted defendant of robbery (count 1), brandishing an imitation firearm (count 3, a misdemeanor) and resisting arrest (count 4, a misdemeanor), but acquitted him of making criminal threats (count 2). The trial court suspended imposition of sentence and placed defendant on three years formal probation with conditions including a concurrent 364-day county jail term on counts 1 and 2. On appeal, the Attorney General conceded that the trial court erred in imposing a concurrent term of 364 days on count 2 and erred by failing to orally

pronounce any sentence on counts 3 and 4. The Court of Appeal ordered correction of the errors. (Lori Quick)

People v. Torres, H051389
Jason Szydluk
May 14, 2025

After defendant pled no contest to unauthorized use of personal information and admitted a prior strike and three prior prison term enhancements, the trial court sentenced him consecutively to his sentence in another case and struck the punishment for the prior prison term enhancements. The CDCR subsequently identified defendant as a person entitled to section 1172.75 resentencing but the trial court denied relief because it had stricken punishment on the enhancements. On appeal, the Sixth District reversed, reasoning that the better reasoned authority has concluded that a stayed or stricken enhancement qualifies as “imposed” for purposes of section 1172.75, subdivision (a). (Anna Stuart)

People v. Orr, H051547
Anna Stuart
May 9, 2025

Following his 2007 trial and 2008 sentencing, defendant sought resentencing in 2023 under Penal Code section 1172.75 because his sentence had included prior prison term enhancements. The trial court denied resentencing, concluding that it had struck and therefore had not “imposed” the enhancements as section 1172.75, subdivision (a) required. Acknowledging that the Supreme Court will resolve a split of authority regarding this issue when it decides *People v. Rhodius* (2023) 97 Cal.App.5th 38, review granted Feb. 21, 2024, S283169, the Sixth District reversed, reasoning that the better-reasoned authority has concluded that a stayed or stricken enhancement qualifies as “imposed” for purposes of section 1172.75, subdivision (a).

People v. De La Rosa, C098721
William Safford
May 2, 2025

Defendant, convicted of murder with a section 12022.53, subdivision (d) firearm enhancement, requested that the trial court strike the enhancement or substitute a lesser enhancement. The court substituted a section 12022.53, subdivision (b) enhancement but found it had no discretion to substitute a section 12022.5 enhancement. Subsequently, the Supreme Court, resolving a split of authority, held that trial courts do not lack authority to substitute section 12022.5 firearm enhancements for section 12022.53 firearm enhancements. The Attorney General conceded that the trial court should reconsider the case to properly exercise its discretion. The Court of Appeal agreed and remanded the case for resentencing.

People v. Rico, H051270
Paul Kraus
April 21, 2025

Defendant resolved three cases with no contest pleas and in two of the cases, he admitted prior prison term enhancements. The trial court sentenced appellant to serve 16 years. It stayed punishment on one enhancement and struck the other. When defendant sought section 1172.75 resentencing, the trial court found him ineligible because it had not “imposed” the enhancements. On appeal, the Sixth District reversed, reasoning that a prior prison term enhancement remains “imposed” for purposes of section 1172.75 if the punishment has been stayed. The same applies if the enhancement has been stricken. (Michelle Spencer)

People v. Morrison, H050677
Rudy Kraft
April 14, 2025

The trial court sentenced appellant to prison for a sexually violent offense. In May 2017, prior to his release from custody, the Santa Clara County District Attorney filed a petition to commit appellant as a sexually violent predator. In October 2022, after a court trial, the court found the petition proven, declared appellant a sexually violent predator, and committed him to the State Department of State Hospitals for an indeterminate term for treatment and confinement in a secure facility. On appeal, appellant contended for the first time that equal protection principles had required the trial court to personally advise him of his right to jury trial and to secure his personal waiver of that right. He requested an evidentiary hearing to prove that the disparate treatment afforded to sexually violent predators and other civil committees cannot survive strict scrutiny. The Attorney General, agreeing that appellant had not forfeited his facial equal protection claim, also requested remand for an evidentiary hearing, but contended that the rational basis standard of review would apply. Noting that the California Supreme Court will decide this issue in *People v. Cannon* (2022) 85 Cal.App.5th 786, 797, review granted Feb. 15, 2023, S277995), the Sixth District agreed with the Attorney General that the rational basis standard of review will apply to appellant’s equal protection claim. The Court conditionally affirmed the order declaring appellant an SVP and remanded the matter to the trial court so that appellant may raise an equal protection challenge. (Jonathan Grossman)

In re J.A., H050759
In re A.T., H050768
Brad Kaiserman (J.A.), James Thompson (A.T.)
April 10, 2025

Two minors and an adult robbed a marijuana dealer at gunpoint, and the adult shot and killed the victim. The juvenile court found that the minors committed robbery and committed second degree murder under an aiding and abetting implied malice theory and that each minor personally used a firearm during the offenses. The court also found a robbery-murder special circumstance proven. The court reasoned that the minors intentionally aided the adult by pointing their guns at the victim during the robbery, a life-endangering act. The court found a

high probability of death from the minors and the adult pointing their guns at the victim while robbing him at night and that each minor understood the high probability of death by shooting their guns during an armed robbery, based on the minors' gang associations, J.A. witnessing a previous shooting, and A.T. having previous juvenile court petitions involving gun possession. The court committed each minor to a ranch camp. However, after the juvenile court rendered its dispositional orders, the California Supreme Court decided *People v. Reyes* (2023) 14 Cal.5th 981 and *People v. Collins* (2025) 17 Cal.5th 293, which clarified that liability for implied malice murder requires an aider and abettor, by words or conduct, to aid in the life-endangering act that proximately causes death. The minors contended that the adult's shooting of the victim qualified as the life-endangering act that proximately caused the victim's death. The Attorney General disagreed. The Court of Appeal reversed the juvenile court's jurisdictional orders and remanded the matters to allow the juvenile court to reconsider its previous findings as to second degree murder and the associated firearm use allegation in light of the California Supreme Court's direction in *People v. Reyes* and *People v. Collins*. (Jonathan Grossman)

People v. Gomez, H051210
Michelle Spencer
April 7, 2025

Atrial court found defendant guilty of stalking, criminal threats, and possession of a firearm and ammunition as a felon, among other offenses. The firearm conviction arose from defendant's possession of a flare gun. However, the prosecution did not introduce the flare gun or any photographs of it into evidence. A police officer testified that the flare gun had an intact frame or receiver and that it could expel a projectile through the barrel using the force of an explosion or some other form of combustion. On appeal, defendant contended that no sufficient evidence proved the flare gun was "designed to be used as a weapon" under the definition of "firearm" set forth in Penal Code section 16520, subdivision (a). In a published opinion, the Sixth District agreed, reasoning that if the police officer's testimony sufficed, section 16520, subdivision (a) would amount to surplusage. No evidence established that the flare gun met the ordinary definition of a "weapon", i.e., an object "used or designed to injure, kill, defeat, destroy, attack or defend against an attack in combat, or contend against any person." The Court reversed the judgment, vacated the firearm conviction, and remanded the matter for resentencing.

People v. Rowell, F085904
Paul Kraus
April 2, 2025

In 2016, defendant pleaded no contest to one count of first-degree burglary, two counts of infliction of corporal injury, and assault with a deadly weapon. Defendant also admitted personal use of a deadly weapon enhancements as to the corporal injury counts, and admitted a prior strike, two prior serious felony enhancements and a prior prison term enhancement. The court sentenced defendant to the bargained-for sentence of 29 years eight months. In 2023, the trial court struck the now-invalid prior prison term enhancement but reasoned that the plea bargain foreclosed further amendment of the sentence. The Court of Appeal reversed, reasoning that section 1171, effective January 1, 2025, required the sentencing court to "consider any

pertinent circumstances that have arisen since the prior sentence was imposed” and granted the sentencing court “jurisdiction to modify every aspect” of a sentence, even if “it was imposed after a guilty plea.” Section 1171 further provides that “[a]ny changes to a sentence shall not be a basis for a prosecutor or court to rescind a plea agreement.” Rejecting the Attorney General’s arguments, the Court found that section 1171 applies retroactively to the 2023 resentencing and that remand for the court to apply its discretion would not prove an idle act. (Randall Conner)