

**SUFFICIENCY OF THE EVIDENCE
ERROR AT TRIAL OR HEARING
PRETRIAL AND POSTTRIAL MOTIONS
SENTENCING
DEPENDENCY CASES
HABEAS PROCEEDINGS
MISCELLANEOUS**

SUFFICIENCY OF THE EVIDENCE

ERROR AT TRIAL OR HEARING

People v. Diego Morales (H049694)

Carrie Kojimoto

May 18, 2023

The gang enhancement was reversed due to a change in the law. (Paul Couenhoven)

People v. John Thomas (H047082)

Paul Couenhoven

April 20, 2023

The conviction was reversed because the court did not permit the defense to cross-examine the witness who identified appellant as the culprit about the witness's pending criminal matters in the same county. Further, the prosecution misstated the burden of proof by arguing the defense failed to present evidence of innocence.

People v. Ivan Hernandez (H048717)

Marc Zilversmit

April 6, 2023

The gang enhancement was reversed under A.B. 333. (Staff attorney William Robinson)

People v. Janessa Kic (H047226)

Shannon Chase

April 4, 2023

The court improperly instructed the jury that conspiracy to commit murder could be based on an implied malice theory, requiring reversal of the conspiracy conviction. (Staff attorney William Robinson)

People v. Deltoro (H048311)
Randy Kravis
February 24, 2023

The court of appeal decided the prosecution improperly used CSAAS evidence as proof of guilt. Further, the court during jury selection made it appear that the word of the complaining witness was sufficient for conviction, regardless of credibility. After one of the complaining witnesses testified, the court stated in front of the jury that the witness appeared to be traumatized. While the court of appeal did not believe any one error was prejudicial, it decided the cumulative effect required reversal. (SDAP was not involved in the matter)

People v. Roderick Reynolds (H047947)
Michelle Spencer
January 13, 2023

The denial of a suppression motion was reversed. The defendant was a passenger in a car stop. He made some furtive gestures with another passenger for a few seconds. However, the body camera recording did not show any more furtive movement beyond this. The officer did not appear to think there was any danger, based on his subsequent conduct at the scene. Nonetheless, he pat searched the defendant. The Court of Appeal held there was insufficient evidence to support a finding there was a reasonable suspicion the defendant was armed. After the pat search, defendant struggled with the officer, and he dropped some suspected methamphetamine. The court held this was not abandoned. (Staff attorney William Robinson)

In re Adrian L. (H048507)
Evan Greenberg
January 9, 2023

There was insufficient evidence to support the gang enhancement under A.B. 333. (Staff attorney Lori Quick)

People v. Francisco Bravo (H048468)
People v. Sergio Rodriguez (H048574)
Gordon Brownell and Shannon Chase
January 3, 2023

Gang-related enhancements were reversed under A.B. 333. (Staff attorneys Lori Quick and Jonathan Grossman)

PRETRIAL AND POSTTRIAL MOTIONS

People v. Ryan Francis (H050064)

Robert Werth

May 31, 2023

Appellant entered into a plea bargain where two counts would be dismissed. However, the court never actually dismissed them. The matter was remanded for the court to do this. (Staff attorney Lori Quick)

People v. Hector Gonzalez (H049799)

Joy Maulitz

May 18, 2023

The court's order denying a request to recall the sentence under Penal Code section 1172.1 was reversed due to a change in the law. (Jonathan Grossman)

People v. Raymond Johnson (H049600)

Robert Angres

May 8, 2023

The denial of the request to be resentenced under Penal Code section 1172.1 must be reversed due to a change in the law. (Lori Quick)

People v. Jesus Lopez (H050257)

Michael Ogul

May 5, 2023

The court erred in denying an order to show cause under Penal Code section 1172.6. Appellant had been involved with several people in shooting the victim, and he pled to attempted murder. The court of appeal determined there was a plausible theory that he was guilty under the natural and probable cause theory of aiding and abetting, requiring the issuance of an osc. (Joseph Doyle)

William Garcia-Fuentes v. Superior Court (H050346)

Stuart Kirchick

April 13, 2023

After being held to answer on gang allegations, the defendants filed a motion to dismiss under Penal Code section 995. When the motion was denied, they filed a petition for writ of

mandate. This time the prosecution conceded there was insufficient evidence to support the allegation because the only evidence the crimes would benefit the gang was that it would improve the gang's reputation. (SDAP did not participate in the matter)

People v. Superior Court (H050025)
Rebecca Kahan
March 27, 2023

The defendant was convicted and appealed. The court of appeal reversed for the trial court to exercise its new discretion to consider mental health diversion. After the court on remand diverted the defendant, the prosecution filed a petition for writ of mandate. The court of appeal ruled in favor of the defendant. The court had the authority to assign the case to a judge who had not presided over the trial, and the decision to grant diversion was not an abuse of discretion. (SDAP was not involved)

People v. Cedillo (H049841)
Rachel Varnell
March 24, 2023

The defendant filed a second petition under S.B. 1437. However, the relevant law changed with the passage of S.B. 775. The court denied the petition because the previous petition had been denied. The court of appeal reversed, holding the trial court was required to make an independent determination whether to issue an order to show cause. (Staff attorney William Robinson)

People v. Raul Ramirez (H050178)
Laura Arnold
March 22, 2023

The court erred in summarily denying the S.B. 1437 petition based on factual findings made from the preliminary hearing transcript. (Staff attorney Jonathan Grossman)

People v. Richard Gonzales (H049102)
Donald Landis
March 15, 2023

The court's decision not to recall the sentence under Penal Code section 1172.1 was reversed in light of changes to the law. (Staff attorney William Robinson)

People v. Lester Polk (H047953)

Donald Landis
March 8, 2023

The felony murder special circumstance did not categorically preclude relief under S.B. 1437.
(Staff attorney William Robinson)

People v. McWilliams (S268320)
William Robinson
February 23, 2023

The Supreme Court decided a parole search was illegal when officers learned of the defendant's parole status only after an illegal detention.

People v. Matthew Jennings (H049043)
Vanessa Place
January 25, 2023

The felony murder special circumstance did not categorically preclude relief under S.B. 1437.
(Staff attorney Jonathan Grossman)

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People v. Edward Miller (H048932)
Ed Haggerty
January 19, 2023

The felony murder special circumstance did not categorically preclude relief under S.B. 1437.
(Staff attorney Paul Couenhoven)

SENTENCING

People v. Moses Cortinas (H047790)
Jeffrey Glick
May 30, 2023

The gang allegations must be reversed due to AB 333. Further, the term for the enhancement under Penal Code section 12022.53, subdivision (c) is 20 years, not 20 years to life. Finally, the balance of the criminal justice administration fee must be vacated. (Staff attorney William Robinson)

People v. Anthony Garcia (H049305)
Randall Conner

May 1, 2023

Penal Code section 654 prevented punishing the defendant for both being a felon in possession of a firearm and possession of ammunition. (William Robinson)

People v. Epifanio Montoya (H048965)
Julie Caleca
April 27, 2023

The abstract of judgment must be modified to reflect the correct amount of the restitution fines. (Staff attorney William Robinson)

People v. Kye Kitzman (H048726)
Lori Quick
April 19, 2023

Appellant was entitled to 3 additional days of actual credit and to have the balance of some of his fees stricken.

People v. Daniel Sanchez (H049354)
William Safford
March 21, 2023

The court remanded the matter for a new sentencing hearing for the court to consider changes to Penal Code section 1170. (Staff attorney Joe Doyle)

People v. Irvin Chavez (H048484)
Michael Sampson
March 20, 2023

The matter was remanded for the court to consider its new discretion under A.B. 518 to decide which punishment to stay under Penal Code section 654. (Staff attorney Joe Doyle)

People v. Damou Evans (H047340)
Gordon Brownell
March 16, 2023

A prior serious felony conviction does not apply when the current offense is not a serious

felony. (Staff attorney Anna Stuart)

People v. Carlos Roman (H049499)

Elisa Brandes

March 15, 2023

The matter was remanded for a new sentencing hearing in light of recent changes to Penal Code sections 1170 and 654. (Staff attorney Lori Quick)

People v. Richard Bess (H048744)

Sara Coppin

March 8, 2023

The matter was remanded for a new sentencing hearing in light of recent changes to Penal Code section 1170. (Staff attorney Joe Doyle)

People v. Tan Nguyen (H047090)

Jennifer Mannix

March 6, 2023

The matter was remanded for a new sentencing hearing in light of recent changes to Penal Code section 1170. The balance of certain fees were stricken pursuant to A.B. 1869. (Staff attorney Lori Quick)

People v. Leeanna Martinez (H049732)

Aaron Schechter

March 6, 2023

The matter was remanded for a new sentencing hearing in light of recent changes to Penal Code section 1170. (Staff attorney Jonathan Grossman)

People v. Rodrigo Bejarano (H047892)

Randy Kravis

March 3, 2023

The balance of certain fees were stricken pursuant to A.B. 1869. (Staff attorney Jonathan Grossman)

People v. Edgardo Gutierrez (H048625)
John Dwyer
February 9, 2023

The matter was remanded for a new sentencing hearing due to changes to Penal Code section 1170. (Staff attorney William Robinson)

People v. Edgardo Gutierrez (H048625)
John Dwyer
February 9, 2023

The matter was remanded for a new sentencing hearing due to changes to Penal Code section 1170. (Staff attorney William Robinson)

In re D.C. (H049939)
Michael Sampson
February 6, 2023

The court abused its discretion denying the minor's petition to modify a DJJ commitment under Welfare and Institutions Code section 779. The court erroneously believed that the plea agreement prevented it from considering the petition. (Staff attorney William Robinson; trial counsel Nisreen Baroudi skillfully argued the modification petition)

People v. Sean Roozen (H047858)
Meredith Fahn
February 3, 2023

The court tentatively awarded \$60,000 in victim restitution and set the matter for a hearing. At the hearing, the defense explained the prosecution had not yet provided necessary discovery. However, the defendant failed to appear, and the court imposed the \$60,000 amount as a "default judgment." Because the court had not warned the defendant this was a potential outcome for not appearing, the order violated due process. (Staff attorney Anna Stuart)

People v. Robert Moody (H049039)
Kathleen Sherman
February 1, 2023

The outstanding balance of the criminal justice administration fee was stricken. (Staff attorney William Robinson)

People v. Ignacio Ramirez (H049485)
Brad Kaiserman
January 30, 2023

The matter was remanded for the court to consider its new discretion under A.B. 518 to decide which punishment to stay under Penal Code section 654. (Staff attorney William Robinson)

People v. Ivan Vargasarellano (H048062)
Jean Matulis
January 20, 2023

The gang enhancement was reversed under A.B. 333. The matter was remanded for the court to consider its new discretion under A.B. 518 to decide which punishment to stay under Penal Code section 654. Further, the abstract of judgment must be amended to reflect the court “stayed” some of the fines and fees. (Staff attorney Paul Couenhoven)

People v. Ricardo Villanueva (H049951)
James Donnelly-Saalfield
January 19, 2023

The court erred in summarily denying the S.B. 1437 petition based on findings made before an evidentiary hearing. (Panel attorney Lori Quick)

People v. Robert Borquez (H046457)
Heather MacKay
January 17, 2023

The matter was remanded for the court to dismiss the prior serious felony enhancement under current law, and the outstanding balance of the criminal justice administration fee was stricken. (Staff attorney Paul Couenhoven)

People v. Nix (H049984)
Lori Quick
January 5, 2023

A condition of probation not to “date, socialize with or form a romantic relationship” with certain people was unconstitutionally vague. The term “socialize with” was stricken. Further, probation was limited to two years.

DEPENDENCY CASES

In re J.A. (H050310)

Jamie Moran

March 30, 2023

County counsel agreed to a stipulated reversal based on ICWA error. (Staff attorney Jonathan Grossman)

In re C.C. (H050220)

Paul Swiller

January 30, 2023

Summary reversal was granted due to failure to make proper ICWA inquiry. (Staff attorney Joe Doyle)

In re J.M. and O.M. (H049925, H049976)

Jamie Moran

January 12, 2023

Summary reversal was granted due to failure to make proper ICWA inquiry. (Staff attorney Anna Stuart)

HABEAS CORPUS

MISCELLANEOUS