

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

SUFFICIENCY OF THE EVIDENCE

People v. Raymond Reynoza, S273797

Nancy Brandt

April 22, 2024

The Supreme Court held dissuading a witness from assisting the prosecution under Penal Code section 136.1, subdivision (b)(2) applies to pre-complaint conduct. Since the evidence was that appellant's purported dissuasion occurred after the complaint was filed, there was insufficient evidence to support the conviction. (Jonathan Grossman)

ERROR AT TRIAL OR HEARING

People v. Tatum-Delacruz, H050291

Carrie Kojimoto

April 30, 2024

The court erred in instructing a car is an "inherently deadly" weapon, requiring reversal of the conviction for assault with a deadly weapon. (Paul Couenhoven)

People v. Paul Lacerda, H049690

Ed Mahler

March 1, 2024

The defendant's conviction for assault with a deadly weapon was reversed due to instructional error. The instruction said a deadly weapon was one that was inherently deadly or used in such a way that is capable of causing great bodily injury. Since the alleged weapon was a car, however, the court needed to instruct the jury when an object that was not inherently deadly becomes a weapon. Further, the punishment for several counts should have been stayed under Penal Code section 654, and the maximum punishment for certain misdemeanors was six months, not one year. The defendant was entitled to resentencing under current law. (Lori Quick)

PRETRIAL AND POSTTRIAL MOTIONS

People v. Mario Rivera, H050623

Michael Poole
April 22, 2024

The court's denial of a petition to vacate a conviction under Penal Code section 1473.7 was reversed because the trial court misunderstood the immigration consequences of the conviction. (SDAP was not involved in the matter)

People v. Raul Lopez, H050284
Patricia Lai
February 9, 2024

Appellant pled to voluntary manslaughter with a gang enhancement in a killing inflicted by a fellow gang member. The trial court erred in summarily denying appellant's petition under Penal Code section 1172.6. (Michelle Spencer)

People v. Rayshawn Ford, H050467
Lori Quick
January 10, 2024

A person is entitled to relief under Penal Code section 1172.75, even if the punishment for the prison priors was stricken.

People v. Travis Williams, H050558
Jeffrey Kross
January 2, 2024

The court of appeal reversed the denial after an evidentiary hearing of a petition to vacate the conviction for attempted murder under Penal Code section 1172.6. The hearing was limited to certain documents. The defendant had pled no contest under *People v. West* (1970) 3 Cal.3d 595. The court of appeal held this meant the defendant did not admit to a factual basis for the plea. Further, the superior court erred in relying on a felony murder theory because felony murder did not apply to attempted murder. Finally, there was insufficient evidence the defendant was a direct aider and abettor in attempted murder with the intent to kill. At most, the evidence showed the defendant intended to aid in the shooting of a house, but there was insufficient evidence he knew anyone was inside or had the intent to kill anyone inside. The court rejected the argument the kill zone theory applied. (Lori Quick)

SENTENCING

People v. Jose Torres, H050651

John Dwyer
April 9, 2024

The matter had been remanded for a new sentencing hearing. At that hearing, the court corrected the sentence as described in the previous appeal but refused to further consider resentencing the defendant due to changes in the law. In the second appeal, the order was reversed. AB 333 required reconsideration of the gang allegations. (Lori Quick)

People v. Jason Gray, H049267
Anna Stuart
April 4, 2024

The imposition of the upper term was no longer valid under S.B. 567 and administrative fees needed to be stricken.

People v Julian Romero, H050553
Patricia Lai
March 28, 2024

The matter was remanded for the court to exercise its new discretion of which punishment to stay under Penal Code section 654. (Anna Stuart)

People v. James Correa, H050915
William Melcher
March 20, 2024

The court failed to provide a hearing on the amount of restitution owed to the Victim Compensation Board. (Lori Quick)

People v. Stephen Stewart, H051171
Lori Quick
March 20, 2024

The condition of probation, “Don’t bother anybody,” was unconstitutionally vague.

People v. Fernando Mateo Lopez, H050372, H050242
Mark Greenberg
March 5, 2024

Due to changes in the law, the gang enhancement and the firearms enhancement (dependent upon the offense being a gang crime) were reversed. Further, the trial court improperly summarily denied his SB 1437 petition as to the attempted murder conviction, which could have been based on a natural and probable cause theory. (Jonathan Grossman)

In re A.R., H051036
Michelle Spencer
February 20, 2024

The condition of juvenile probation to “participate in a counseling or education program as determined by the probation officer” amounted to an improper delegation of judicial authority. Under Welfare and Institutions Code section 729.6, subdivision (b), it is up to the juvenile court to determine what type of counseling or education programs the youth should be required to do.

Eduardo Gonzalez, H049857
Julie Caleca
February 15, 2024

The appellate court remanded the matter for the trial court to consider its new discretion under Penal Code section 654. (Lori Quick)

People v. Sepulvada, H051142
Brad Kaiserman
February 9, 2024

The sentencing court erred in concluding Penal Code section 654 did not apply to a one strike offense. (Paul Couenhoven)

People v. Samantha Torres, H048742
Frederick Schnider
January 24, 2024

Due to changes in the law, probation could not be longer than two years, and the probation supervision fee must be vacated. (Lori Quick)

DEPENDENCY CASES

In re D.H., H051177
John Dodd

February 16, 2024

In an earlier dependency proceeding, the court determined ICWA did not apply. In the second dependency proceeding, there was no effort to obtain additional information. The court of appeal reversed for lack of making an adequate inquiry. (Anna Stuart)

In re A.H., H050792
Megan Schirn, Sarah Vaona
January 12, 2024

The court agreed to a stipulated reversal so that the department can comply with the Indian Child Welfare Act. (Anna Stuart and Jonathan Grossman)

HABEAS CORPUS

Im re Mariana De La Rosa Burgara, H051440
Anna Stuart
April 10, 2024

The Court of Appeal issued an order to show cause the client received ineffective assistance of counsel when trial counsel failed to advise the client of the immigration consequences of the plea bargain, failed to negotiate an immigration-neutral plea bargain, and failed to determine if the plea was voluntary when it was part of a package deal with a codefendant.

In re Jesse Quiming, H050201
Alexis Haller
March 28, 2024

The murder conviction was reversed on habeas corpus because trial counsel was ineffective for failing to investigate a mental health defense. (Anna Stuart)

MISCELLANEOUS

People v. Rudy Gonzalez, H049335
Jason Szydlik
March 11, 2024

The two year maximum commitment of one found incompetent to stand trial does not end until the court finds the defendant to be competent. (Paul Couenhoven)

People v. Orrin Payne, H050013
Sara Ruddy
February 20, 2024

Appellant was convicted in a 1983 bench trial of murder with the felony murder special circumstance. At the time of the trial, it was not clear if the defendant or the actual killer needed to have the intent to kill. Consequently, the trial court erred in summarily denying the Penal Code section 1172.6 petition. (SDAP was not involved in this appeal)