

**SUFFICIENCY OF THE EVIDENCE
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SUFFICIENCY OF THE EVIDENCE

People v. Fitch, H049201

Julie Dunger

March 24, 2025

Following defendant's arrest in the "meat market robberies" of 2014 and 2015, a jury convicted him of conspiracy to commit robbery, participation in a criminal street gang (count 2), 24 counts of second degree robbery, five counts of felony false imprisonment, four counts of attempted second degree robbery, dissuading a witness by force (count 60), two counts of dissuading a witness with an act done in furtherance of a conspiracy (counts 61, 76) and possession of a firearm by a person prohibited (count 73). The jury also found numerous gang and firearm allegations true, and the trial court found a prior strike and prior serious felony enhancement proven. The trial court imposed 14 years to life on count 60 and a consecutive term of 14 years to life on count 76, plus a term of 14 years to life stayed pursuant to section 654 on count 61, and sentenced defendant to a total of 60 years in prison for the remaining offenses. On defendant's appeal, the Court of Appeal accepted the Attorney General's concessions that (1) it should reverse defendant's conviction on count 2 and vacate the gang and firearm enhancements because the trial court had not instructed the jury in accordance with amendments to section 186.22 that took effect after defendant's trial and because the jury would not have convicted defendant of this offense and would not have found the enhancements true had it been instructed in accordance with current law; (2) that the prosecution may not retry this offense and these allegations because under the law that existed at the time of defendant's trial, substantial evidence does not support the conviction on the gang offense and the true findings on the gang-related allegations; and (3) that the trial court must modify the sentences on counts 61 and 76 because the true findings on the gang-related allegations affect the sentences for these counts. The Court of Appeal further concluded that, after the prosecution had relied on two "rap videos" featuring (appellate counsel contended) racial epithets, profanity, drug references, crude sexual references, with accompanying images portraying Black men as armed, violent, and angry, trial counsel had provided ineffective assistance of counsel by failing to file a motion under the Racial Justice Act in the trial court. The Court reversed the conviction on count 2, vacated the true findings on the gang-related allegations and remanded the matter to the trial court for an opportunity for defendant to bring a Racial Justice Act motion, and, depending on the trial court's action on that motion, a new sentencing hearing. (Jonathan Grossman)

ERROR AT TRIAL OR HEARING

People v. Bacci, H051597

Sara Ruddy

January 31, 2025

A jury convicted appellant of multiple counts and a great bodily injury enhancement arising from a carjacking incident. The trial court struck two prior strikes and sentenced appellant to serve 33 years eight months, which included upper-term sentences on three counts and two five-year prior serious felony enhancements. On direct appeal, the Sixth District reversed and remanded for resentencing in compliance with retroactive application of Senate Bill 567, which required aggravating factors relied upon by the trial court at sentencing to have been either stipulated to by the defendant or found true beyond a reasonable doubt at a jury or court trial. At the resentencing hearing, the court permitted appellant to represent himself after advising against this “bad idea.” Appellant then argued that his prior serious felony enhancements no longer applied to his case. The trial court disagreed but reduced the upper-term sentences on three counts to middle term sentences and resentenced appellant to serve 25 years eight months. On appeal of the resentencing, appellant argued that he had not knowingly and intelligently waived counsel because the trial court had failed to advise him of the consequences of self-representation. The Sixth District agreed and found the error prejudicial because it could not conclude beyond a reasonable doubt (1) that appellant, if properly advised of the risks of self-representation, would have still proceeded to resentencing without counsel, and (2) that the absence of counsel had no effect on the outcome of the proceeding at hand. The Court remanded the matter so that the trial court can properly advise appellant of the pitfalls of self-representation and reconsider his *Faretta* motion, and ordered that if appellant decides to waive counsel, the trial court should reinstate its prior judgment. Alternatively, if appellant declines to waive counsel, or the trial court doubts appellant’s competency to waive his right to counsel or otherwise denies any renewed request to waive counsel, the trial court should conduct further proceedings as required, including a new resentencing hearing with appellant assisted by defense counsel. (Mi Kim)

PRETRIAL AND POSTTRIAL MOTIONS

People v. Navarro, H051272

Paul Kraus

March 19, 2025

Resolving four felony cases, a trial court sentenced appellant to serve 20 years in state prison and struck punishment on two prior prison term enhancements. Appellant subsequently asked the trial court to dismiss the now-invalid prior prison term enhancements. However, the court found appellant ineligible for relief because it had struck the punishment on the enhancements. The Sixth District reversed and remanded for resentencing, reasoning that section 1172.75 applies to prior prison terms that have been stayed or stricken. (Randall Conner)

People v. Madrigal-Aguilar, H051589
Joe Doyle
March 24, 2025

Defendant pleaded guilty in 2018 to one count of first-degree murder (count 1) and one count of second-degree robbery (count 2). As to both counts, defendant admitted gang enhancements and that he was 17 years old at the time of the commission of the offenses. The trial court sentenced defendant to a total term of 25 years to life in prison. In March 2022, defendant filed a former section 1170.95 (now § 1172.6) petition for resentencing on count 1. The trial court denied the petition at the prima facie stage, reasoning that defendant's plea admissions rendered him ineligible for relief as a matter of law. The Court of Appeal reversed, reasoning that the information had pleaded two theories of first-degree murder, including felony-murder, and that defendant "did not specifically admit his guilt under any particular theory of murder." Thus, defendant "could have admitted his guilt solely under the felony-murder theory, a theory impacted by Senate Bill 1437." The Court reversed the trial court's order and remanded the matter with directions to issue an order to show cause and hold further proceedings under section 1172.6. (Lori Quick)

People v. Aguero, H051042
Michelle Peterson
February 26, 2025

In 2017 the Santa Clara County District Attorney charged appellant with murder, and in 2019 Senate Bill No. 1437 took effect. Appellant, while not the actual killer, pled to voluntary manslaughter and admitted a weapons enhancement and a prior serious felony enhancement in exchange for a 17-year sentence. In January 2020, the trial court struck punishment for the weapons enhancement and sentenced appellant to serve 16 years. When appellant later petitioned for resentencing under Penal Code section 1170.95 (now section 1172.6), the trial court denied the petition at the prima facie stage because the plea had followed Senate Bill 1437's effective date. In appellant's appeal, the Attorney General argued that he lacked eligibility for relief because the prosecution could not have proceeded under former murder law had the case gone to trial. But the Sixth District disagreed and reversed with directions to hold an evidentiary hearing, reasoning that appellant had presented uncontroverted evidence to the trial court of (1) the district attorney's concerted resistance to Senate Bill 1437, (2) the superior court's consistent acceptance of the district attorney's constitutional claims, and (3) that the litigation over Senate Bill 1437 had influenced the parties' plea negotiations and appellant's decision to accept a manslaughter conviction. Based on this evidence, the Sixth District found that under the circumstances, the alternative to appellant's plea "was a trial at which the district attorney would continue to assert that Senate Bill 1437 was unconstitutional, when every superior court judge to have considered this issue had ruled for the district attorney." The Court also found that appellant's evidence in the trial court distinguished his case from opinions in *People v. Lezama* (2024) 101 Cal.App.5th 583 and *People v. Gallegos* (2024) 105 Cal.App.5th 434 finding ineligibility as a matter of law when the defendant's plea post-dated Senate Bill 1437's effective date. (Anna Stuart)

People v. Hawkins, H051642
Michelle Spencer
February 24, 2025

In 1996, a jury convicted appellant of attempted first-degree murder, felony and first degree burglary and found deadly weapon and great bodily injury enhancements proven. In a bifurcated proceeding, the trial court found to prior prison term enhancements, two prior serious felony enhancements and two prior strikes proven. The trial court sentenced appellant to 25 years to life in prison for the attempted murder plus 10 years for the two prior serious felony enhancements, stayed the remaining counts pursuant to section 654 and stayed or struck the punishment on the prior prison term enhancements and on the remaining enhancements. In 2022 the CDCR identified appellant to the trial court as a person serving a term for a judgment that includes a legally invalid prior prison term enhancement. Appellant subsequently asked the trial court to dismiss the invalid prior prison term enhancements and to dismiss the remaining enhancements, the two prior serious felony enhancements and the two strike priors, but the trial court refused to reduce appellant's sentence. The Sixth District reversed and remanded for resentencing, reasoning that section 1172.75 applies to prior prison terms that have been stayed or stricken and that the trial court prejudicially erred by holding the resentencing hearing without a valid waiver of appellant's right to attend the hearing.

People v. Rogers, H051665
Robert Angres
January 27, 2025

In 1998 a jury convicted appellant of three counts of robbery (counts 1, 4 & 5) and false imprisonment (count 2), and the trial court found proven seven prior serious felony enhancements, seven prior strike convictions and three prior prison term enhancements. On March 30, 1998, the trial court sentenced appellant to consecutive 25 years-to-life terms on counts 1, 4 and 5, with a consecutive 17-year term for three of the prior serious felony enhancements and two of the prior prison term enhancements. In 2023, appellant filed a Penal Code section 1172.75 resentencing motion. The trial court subsequently resentenced appellant to a 39-year term, consisting of the five-year upper term on count 1, doubled to 10 years by a prior strike, two years each on counts 4 and 5, and 25 years for five prior serious felony enhancements. The District Attorney appealed the trial court's decision to strike all but one of the prior strikes. In a published opinion, the Sixth District found that section 1172.75 authorized the trial court to strike appellant's prior strikes, reasoning that section 1172.75 did not "divest the trial court of its authority under section 1385(a) at resentencing" and that "there is no requirement in section 1172.75 that all resentencing decisions be tethered to a post-original sentencing change in the law or changes specifically identified in section 1172.75." However, the Sixth District found that the trial court had failed to explain its reasons for striking six of appellant's prior strikes. Therefore, Court reversed the trial court's resentencing order and remanded the case for a hearing at which the trial court must state its reasons for striking the strike

priors and resentence appellant accordingly or revisit its earlier decision to strike six of appellant's strike priors. (Julie Caleca)

People v. Tinajero, H051282

Karriem Baker

January 27, 2025

In October 2008, appellant pleaded guilty to second-degree robbery, attempted robbery, illegal possession of a concealed weapon, and second-degree burglary, and admitted allegations of firearm use during the robbery and attempted robbery, two prior strike convictions, violent felony convictions, and one prior prison term enhancement. In May 2009, the trial court struck a prior strike and sentenced appellant to 20 years eight months in state prison, consisting of the five-year upper term on the robbery count, doubled to 10 years by the remaining strike, with one year four months on the attempted robbery, four years for the firearm enhancement on the robbery count, one year four months for the firearm enhancement on the attempted robbery count, three years for the violent felony enhancement and one year for the prior prison term enhancement. In July 2023, in a resentencing hearing, the trial court struck the prior prison term enhancement and reduced appellant's sentence by one year but declined to consider appellant's request to strike the firearm enhancements. Appellant argued in his appeal that the trial court failed to comply with Penal Code section 1172.75's full resentencing requirement. The Attorney General conceded error. The Court of Appeal accepted the concession and remanded the matter to the trial court with directions to conduct a full resentencing under current law. (Lori Quick)

People v. O'Bannon, H051267

Maggie Shrout

January 3, 2025

In 2011, appellant pleaded guilty to five counts of second-degree burglary and to one count of using personal identifying information without authorization and admitted three prior prison term enhancements and two prior strikes. The trial court sentenced appellant to serve 28 years and four months. In 2023, the trial court denied appellant's section 1172.75 resentencing petition on the grounds that his sentence included prior prison term enhancements with the punishment stricken or suspended. However, the Court of Appeal found that, while the clerk's minutes and the abstract of judgment had represented that the trial court had struck the prior prison term enhancements, the trial court had not pronounced the prior prison term enhancements stricken. Therefore, the Court reasoned that the sentence as orally pronounced had violated the rule requiring the sentencing court to strike or impose a prior prison term enhancement. Conversely, the sentence represented in the clerk's minutes and abstract of judgment would violate section 1385's requirement that the minutes must record the court's reasons for the exercise of discretion to strike the prior prison term enhancements. The Court therefore remanded the matter to the trial court to determine whether the judgment lacks a prior prison term enhancement, thereby violating the strike or impose rule, or

includes a prior prison term enhancement that violates section 1385. The Court instructed that if the trial court finds that the judgment does not include a now-invalid prior prison term enhancement but determines that the reason for this omission was the sentencing court's imposition of an unauthorized sentence, the court may exercise its discretion to recall and correct the unauthorized sentence, applying current sentencing law in a full resentencing hearing. If the trial court finds that the judgment includes a now-invalid prior prison term enhancement, it shall afford appellant a full resentencing hearing consistent with section 1172.75. (Michelle Spencer)

SENTENCING

People v. Rodriguez, H049398

Lise Breakey

March 28, 2025

Defendant pleaded no contest to charges of forcible rape, a lewd act upon a child under the age of 14, and assault with intent to commit a lewd act upon a child under the age of 18. He admitted he committed the rape upon a child under the age of 14. The trial court imposed a stipulated sentence of 15 years in prison, including the upper term of 13 years on count 1. Upon remand for reconsideration of the case in light of *People v. Lynch* (2024) 16 Cal.5th 730, defendant contended that the trial court had imposed the upper term on count 1 without any aggravating facts found true by a jury or the court, and without his stipulation to any such facts. The Sixth District agreed that section 1170, subdivision (b) applies retroactively even where the defendant agreed to the upper term as part of a negotiated disposition and that appellant's waiver of appellate rights did not bar his claim for relief. As to prejudice, under *Lynch*, in a case where the judgment is not yet final, a sentence imposed under former section 1170(b) must be reversed and remanded unless the reviewing court concludes beyond a reasonable doubt that a jury, applying that same standard, would have found true all of the aggravating facts upon which the court relied to conclude the upper term was justified, or that those facts were otherwise proved true in compliance with the current statute. Here, the trial court at sentencing did not set forth any facts or reasons for imposing an upper term on count 1 except to say the upper term was part of the stipulated sentence. The Court therefore could not determine that every aggravating fact the trial court would have relied on would be found true by a jury beyond a reasonable doubt under the standard set forth in *Lynch*. The Court remanded the matter to give defendant the opportunity to seek relief under section 1170 as amended by Senate Bill 567. (Anna Stuart)

People v. Alegre, H051188

Michelle Spencer

March 26, 2025

Defendant pleaded no contest in 2010 to three counts of second-degree robbery and admitted personally discharging a firearm, one prior strike conviction and three prior prison terms. The court sentenced defendant to 33 years in prison, consisting of consecutive terms totaling 10

years on the three robbery counts, a consecutive 20-year firearm enhancement and three consecutive one-year prior prison term enhancements. In 2023, the trial court resentenced defendant after legislation rendered the prior prison term enhancements legally invalid. Defense counsel also asked the court to exercise its discretion to dismiss the firearm enhancement under section 1385. The prosecution agreed the court should strike the prior prison term enhancements but opposed any other change. The trial court found that dismissing or reducing the firearm enhancement would present a likelihood of physical injury or serious danger to others and would not further the interests of justice. The Court of Appeal reversed and remanded for a new sentencing hearing, reasoning that the trial court had relied on a “significant” misunderstanding of the facts, because defendant’s son, not the defendant, had pointed a gun at a juvenile victim, kicked a juvenile victim, and threatened to shoot the juvenile victims.

People v. Seals, H050927
Evan Greenberg
March 12, 2025

A jury convicted appellant of carrying a loaded firearm not registered to him in violation of Penal Code section 25850, subdivisions (a) and (c)(6). Prior to sentencing, the probation officer recommended a two-year state prison sentence. The trial court sentenced appellant to serve the two-year “middle term” in state prison, but found his sentence satisfied by credit for time served. On appeal, the Attorney General conceded sentencing error. The Sixth District accepted the concession, reasoning that section 25850, subdivision (c)(6) authorizes imprisonment pursuant to section 1170, subdivision (h) or by imprisonment in a county jail not to exceed one year, and that barring exceptions that did not apply, section 1170, subdivision (h)(1) provides for punishment “by a term of imprisonment *in a county jail* for 16 months, or two to three years.” Therefore, the trial court had erred in committing appellant to state prison rather than to county jail and had also erred by placing appellant on parole. The Court modified appellant’s judgment to reflect that his sentence of two years should have been deemed served in county jail and that he should not have been ordered to serve a parole term. (Jonathan Grossman)

People v. Ledesma, H050930
Jennifer Mannix
March 3, 2025

A jury convicted appellant of robbery, burglary, assault with a firearm, and shooting at an inhabited dwelling, and the trial court sentenced appellant to prison for 51 years to life consecutive to 20 years for a firearm enhancement. In denying appellant’s request to strike the firearm enhancement, the trial court found that aggravating factors far outweighed any mitigating factors. The Sixth District reversed the judgment and remanded for resentencing, reasoning that the trial court had applied the wrong standard when considering appellant’s request to strike the firearm enhancement. Even without the enhancement, appellant, age 49 when he committed the

offenses, cannot obtain a parole hearing before he turns 90 years old. The trial court failed to consider “the marginal impact on public safety of allowing for the Board of Parole Hearings to assess [appellant’s] suitability for parole in his 90’s, rather than making [appellant] ineligible for parole until beyond any reasonable life expectancy.” The error caused prejudice because the record does not “clearly indicate” that the trial court would have imposed the same sentence had it been aware of section 1385(c)(2)’s constraints on its discretion, as later clarified through *People v. Gonzalez* (2024) 103 Cal.App.5th 215 and *People v. Walker* (2024) 16 Cal.5th 1024. (Randall Conner)

People v. Sebold, H052162, H052329
Jonathan Grossman
February 25, 2025

The trial court placed appellant on probation on condition she “waive all credits in excess of 250 days,” which she did. Based on recalculation of credit, the trial court awarded appellant 249 days of presentence credit, consisting 125 days of credit for actual custody and 124 days of credit for good conduct in custody. The Court of Appeal found that appellant’s waiver entitled her to 250 days of credit. Because this award requires deviation from the section 4019 formula for calculating credit for good conduct in pre-sentence custody, the court modified the order to reflect 249 days of actual custody and one day of conduct credit.

People v. Chavez, H049752
Alexis Haller
February 28, 2025

A jury convicted appellant of 10 sex crimes against a minor and the trial court sentenced him to 130 years to life in prison, including five consecutive, determinate upper terms of 11 years (counts 6-10). In a prior opinion, the Sixth District found no prejudicial error and affirmed the judgment. The Supreme Court granted appellant’s petition for review and subsequently transferred the matter back to the Sixth District with instruction to reconsider the matter in light of *People v. Salazar* (2023) 15 Cal.5th 416 (Salazar) and *People v. Lynch* (2024) 16 Cal.5th 730. Upon reconsideration, the Sixth District vacated the sentence and remanded for resentencing. The Court reasoned that amendments to section 1170(b) apply retroactively to cases not yet final on appeal; that the amendments trigger the Sixth Amendment jury trial right with respect to every aggravating fact (other than a prior conviction) the trial court uses to justify an upper term sentence; and that an appellate court must find a violation prejudicial unless it can conclude beyond a reasonable doubt that a jury would have found true all of the aggravating facts relied upon by the trial court to justify an upper term sentence, or that those facts were otherwise proved true in compliance with the current statutory requirements. Here, while the trial court had noted “the numerous aggravators in this case” and found the upper terms on counts 6 through 10 “appropriate,” the record failed to clearly indicate that the trial court would necessarily have

departed “from the legislative mandate for no more than a middle term sentence.” (Anna Stuart)

People v. Urena, H051586
Geoff Jones
February 20, 2025

In 2017, a jury convicted appellant of second-degree murder and possession of a firearm as a felon and found true that appellant personally discharged a firearm during the murder. In a bifurcated court trial on remaining special allegations, the trial court found true an allegation that defendant had suffered a prior serious felony conviction and a prior strike conviction. The court sentenced appellant to 55 years to life, consecutive to seven years eight months. In appellant’s appeal, the Fourth Appellate District’s Division One found no prejudicial error related to the jury trial but remanded the matter “for the court to permit Urena to seek relief under Senate Bill No. 1393.” On remand, appellant asked the court to exercise its discretion under Senate Bill No. 1393 to strike the prior serious felony enhancement and to exercise its discretion under Senate Bill No. 81, enacted after appellant’s original sentencing. Appellant argued Senate Bill No. 81 required the trial court to consider whether to strike the firearm enhancement and the prior strike conviction finding. After a hearing in October 2023, the trial court struck the prior serious felony conviction but denied other relief, interpreting the dispositional language from the direct appeal as conferring “jurisdiction only to address the issue regarding the Penal Code Section 667(a) five-year prior.” In a memorandum opinion, the Sixth District reversed and remanded, reasoning that Senate Bill No. 81, which added subdivision (c) to Penal Code section 1385, applies to all sentencing occurring after January 1, 2022, and that when the trial court had decided to strike the prior serious felony on remand, it triggered the full resentencing rule and its authority to apply Penal Code section 1385, subdivision (c) to appellant’s sentence. (Jonathan Grossman)

People v. Steward, H046931
Candace Hale
January 29, 2025

A jury convicted appellant of, among other things, burglary and multiple counts of robbery related to crimes that occurred in 2015 and 2016. The trial court sentenced appellant to serve 49 years, including an upper-term six-year sentence for robbery (count 1), doubled to 12 years by a prior strike. Prior to decision on appellant’s appeal, the California Supreme Court granted review in *People v. Lynch* (May 27, 2022, C094174) (nonpub. opn.), review granted August 10, 2022, S274942, to decide what prejudice standard applies on appeal when determining whether a case with an upper term sentence should be remanded for resentencing under Senate Bill 567. In November 2022, in appellant’s case, the Sixth District affirmed the convictions and sentence as modified to strike a prior prison term enhancement, finding any error with respect to sentencing on count 1 harmless. In January 2023, the California Supreme Court granted review of appellant’s case pending decision in *Lynch*. The Court subsequently found that a non-final judgment imposed

before the recent amendments to section 1170, subdivision (b) “must be reversed and remanded unless the reviewing court concludes beyond a reasonable doubt that a jury, applying that same standard, would have found true all of the aggravating facts upon which the court relied to conclude the upper term was justified, or that those facts were otherwise proved true in compliance with the current statute.” (*People v. Lynch* (2024) 16 Cal.5th 730, 743.) The Court remanded appellant’s case to the Sixth District for reconsideration under *Lynch*. On remand, the Attorney General conceded that the record did not support a harmless error determination. The Sixth District therefore reversed and remanded the case to the trial court for a full resentencing. (Randall Conner)

People v. Campbell, H050890
Carrie Kojimoto
January 22, 2025

Following multiple convictions arising from two home-invasion robberies, with firearm enhancements, two prior prison term enhancements, a prior serious felony enhancement and a prior strike, the trial court sentenced appellant to serve 46 years 4 months, in addition to 16 months consecutive in a second case and 16 months consecutive in a third case. The Court of Appeal remanded for resentencing to address post-sentencing Penal Code amendments. At resentencing the trial court imposed an aggregate 30-year sentence but found that it need not consider if a 10-year firearm enhancement to one of the robberies would result in a sentence exceeding 20 years in the robbery case. On appeal, the Attorney General conceded error but argued appellant had suffered no prejudice. The Court of Appeal reversed for resentencing, reasoning that the record had not clearly indicated the trial court would have made the same sentencing choices had it considered the sentencing factor at issue. (Lori Quick)

People v. Reyes, H051054
Jennifer Bruno
January 15, 2025

A jury convicted appellant of one count of assault with a deadly weapon and one count of corporal injury to a former cohabitant or dating partner, and the trial court placed her on three years of conditional probation and ordered her to serve 180 days in the county jail. The probation conditions included “Participate and comply with treatment case plan as directed by the Monterey County Department of Behavioral Health and/or provider.” The Sixth District reasoned that the probation officer and the trial court could have intended the treatment case plan referenced the probation condition to refer to substance abuse treatment, domestic violence counseling, both, and/or some other category of treatment, such as anger management. The Court concluded that the probation condition failed to provide appellant with notice of the type of treatment she must undergo. The Court remanded the matter to the trial court to clarify the treatment required by the Monterey County Department of Behavioral Health’s treatment case plan. (Anna Stuart)

In re B.P., H051748, H052054
Liana Serobian (Father)
January 9, 2025

In a juvenile dependency court action regarding four children, Mother submitted to dependency reports and the court made jurisdictional orders as to Mother. The court subsequently found that Father had waived his right to contest jurisdiction because the court had already found jurisdiction based upon Mother's submission. The Sixth District found that conducting separate jurisdiction or disposition hearings for each parent, a disfavored procedure known as "splitting", had violated Father's due process right to a meaningful hearing under the harmless beyond a reasonable doubt standard or the clear and convincing proof standard because no sufficient evidence supported the allegations of abuse and neglect as to three of the children. Specifically, no sufficient evidence supported the dependency court's finding that Father had inflicted physical injuries, or excessively used drugs or alcohol, or engaged in domestic violence, or had provided uninhabitable living conditions. The Court therefore reversed the dispositional orders removing the children from Father's care and remanded the matter for the juvenile court to make appropriate determinations under section 361, subdivision (c). (Anna Stuart)

DEPENDENCY CASES

In re B.P., H051748, H052054
Liana Serobian (Father)
January 9, 2025

In a juvenile dependency court action regarding four children, Mother submitted to dependency reports and the court made jurisdictional orders as to Mother. The court subsequently found that Father had waived his right to contest jurisdiction because the court had already found jurisdiction based upon Mother's submission. The Sixth District found that conducting separate jurisdiction or disposition hearings for each parent, a disfavored procedure known as "splitting", had violated Father's due process right to a meaningful hearing under the harmless beyond a reasonable doubt standard or the clear and convincing proof standard because no sufficient evidence supported the allegations of abuse and neglect as to three of the children. Specifically, no sufficient evidence supported the dependency court's finding that Father had inflicted physical injuries, or excessively used drugs or alcohol, or engaged in domestic violence, or had provided uninhabitable living conditions. The Court therefore reversed the dispositional orders removing the children from Father's care and remanded the matter for the juvenile court to make appropriate determinations under section 361, subdivision (c). (Anna Stuart)

HABEAS CORPUS

In re Bracamontes, H052051

Randy Baker
December 26, 2024

In 2019, a jury found appellant guilty of three counts aggravated sexual assault and four counts of lewd and lascivious acts on Jane Doe I, five counts of lewd and lascivious acts on Jane Doe II, and one count of lewd and lascivious acts on Jane Doe III, with true findings on multiple victim allegations as to each of the lewd acts. The jury found appellant not guilty on three remaining counts. The trial court imposed an aggregate sentence of 170 years to life in prison. On appellant's direct appeal (case No. H048925), the Attorney General conceded that sufficient evidence did not support one conviction for aggravated sexual assault by sexual penetration. The Sixth District accepted the concession, reversed the conviction on that count and remanded for resentencing. In the instant matter, a petition for writ of habeas corpus, appellant presented evidence that Jane Doe I, Jane Doe II and Jane Doe III had each testified falsely as part of a scheme to facilitate their mother's application for a U-visa, which confers lawful temporary immigrant status for up to four years and the opportunity to apply for lawful permanent resident status. The Sixth District issued an order to show cause why petitioner is not entitled to relief based on his claims of false evidence and newly discovered evidence under Penal Code section 1473. (Michelle Spencer)

MISCELLANEOUS

Stubblefield v. Superior Court, H052893
Joe Doyle
February 5, 2025

On December 26, 2024, the Sixth District reversed appellant's convictions for forcible rape, forcible oral copulation, and false imprisonment due to a California Racial Justice Act (RJA) violation and remanded the matter to the trial court for further proceedings. On December 31, 2024, appellant filed a motion in respondent court for release on his own recognizance or on bail pending the final outcome of the appeal. On January 17, 2025, the court denied the motion on the ground that it lacked jurisdiction because the remittitur from the decision on appeal had not yet issued. On January 21, 2025, appellant filed a petition for writ of mandate in the Sixth District, contending that respondent court had not lacked jurisdiction. The Attorney General conceded the argument, and the Sixth District accepted the Attorney General's concession in a published opinion. The Court found that no prior case had addressed an application for release from custody following reversal of a criminal conviction on appeal. However, the Court reasoned that general principles applicable to applications for bail following a felony conviction indicate that the trial court had not lacked jurisdiction. Specifically, while the filing of a valid notice of appeal vests jurisdiction of the cause in the appellate court until determination of the appeal and issuance of the remittitur, the trial court may proceed upon any other matter embraced in the action and not affected by the judgment or order at issue in the appeal. Furthermore, sections 1272 and 1291 authorize a trial court to grant bail to a defendant convicted of an offense not punishable with death or life without possibility of parole. Applying these principles to this first-impression

case, the Court issued a peremptory writ of mandate ordering the trial court to conduct any proceedings necessary to rule on the merits of appellant's motion for release.