

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

SUFFICIENCY OF THE EVIDENCE

People v. Stringer (H045540)

Panel attorney: Ron Boyer

Date: September 15, 2020

The defendant can be convicted only once of possession of child pornography, even if there are multiple photographs. (Staff attorney Paul Couenhoven)

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. Fabian Alvarado (H045500)

Panel attorney: George Schraer

Date: May 1, 2020

There was insufficient evidence to support one of the convictions for attempted murder based on the kill zone theory. Further, the punishment for the gang enhancement must be stayed in light of the punishment for the firearms enhancement. (Staff attorney Lori Quick)

People v. Darryl Poteat (H044729)

Panel attorney: Victoria Stafford

Date: April 1, 2020

There was insufficient evidence of kidnapping for robbery for moving a store employee to the cash register and then to a storage room where items were taken. Further, the punishment for kidnapping several customers must be stayed because the crimes were committed for purposes of the robbery. Finally, the trial court shall exercise its discretion whether to dismiss the prior serious felony conviction. (Staff attorney Jonathan Grossman)

ERROR AT TRIAL OR HEARING

People v. Monica Martinez (H046164)

Staff attorney: Lori Quick

Date: December 30, 2020

Appellant was convicted of violating Insurance Code section 1814 for violating title 10, section 2076 of California Code of Regulations. The court declared in a published decision that section 2076 violated the First Amendment right to free speech and thus the conviction was invalid.

People v. Brad Ascona (H045676)

Panel attorney: Stephen Bedrick

Date: December 10, 2020

Hearsay evidence admitted through the firearms expert violated the confrontation clause and required reversal of three of the convictions. (Staff attorney William Robinson)

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. 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. Demie Sample (H047058)

Panel attorney: Rudy Alejo

Date: May 12, 2020

Appellant was charged with attempting to dissuade a witness to call law enforcement based in part on telling the witness not to call her family. The court deleted language concerning reporting to law enforcement in the jury instruction. Since the jury could have acquitted appellant of the crime based on him only dissuading her from reporting it to her family, the instructional error was

prejudicial. Further, the prison prior must be dismissed in light of Senate Bill No. 136. (Staff attorney Jonathan Grossman)

People v. Garcia et al. (H043870)

Panel attorneys: Ed Haggerty (Garcia), Meribeth Halloran (Austin)

Date: March 6, 2020

In a published decision, the court of appeal held that the jury instruction on the felony murder special circumstance was erroneous because it permitted, as argued by the prosecution, the jury to find Austin to be an actual killer when he supplied duct tape to the one who killed the victim. Use of a record of conviction to prove the predicate offenses of a gang enhancement can violate the right to confrontation because a record of conviction can be used to prove nothing more than the bare fact of the conviction. (*Kirby v. United States* (1899) 174 U.S. 47.) In the unpublished portion of the opinion, the court decided a ten year gang enhancement cannot be added to an indeterminate term. Finally, the matters must be remanded to dismiss the prison prior in light of Senate Bill No. 136 and for the superior court to exercise its discretion whether to dismiss the prior serious felony conviction under Senate Bill No. 1393. (Staff attorney Paul Couenhoven)

PRETRIAL AND POSTTRIAL MOTIONS

People v. Rubi Garcia (H047574)

Panel attorney: Scott Handleman

Date: December 30, 2020

The court erred in making factual findings in summarily denying a petition to vacate the murder conviction under S.B. 1437. (Staff attorney William Robinson)

People v. Benny Olivencia (H047319)

Panel attorney: Gene Vorobyov

Date: December 17, 2020

The trial court erred in ruling that S.B. 1437 was unconstitutional. (Staff attorney Lori Quick)

People v. Manuel Madril (H047525)

Panel attorney: Jeffrey Kross

Date: December 15, 2020

Appellant properly pled for relief under S.B. 1437, and so the denial of an order to show cause was reversed. (Staff attorney Paul Couenhoven)

People v. Edmundo Pulido (H047751)
Panel attorney: Richard Fitzer
Date: December 8, 2020

The court erred in ruling a prima facie case for relief had not been made for relief under under S.B. 1437. (Staff attorney Jonathan Grossman)

People v. Eugene Ballance (H047696)
Panel attorney: Michael McCormick
Date: October 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)

People v. Leo Quintos (H047591)
Panel attorney: Rachel Varnell
Date: October 6, 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)

People v. Tera Lynn Patrick (H047628)
Staff attorney: Jonathan Grossman
Date: October 6, 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.

People v. Miguel Gonzalez (H047079)
Panel attorney: J. Wilder Lee
Date: October 2, 2020

The court abused its discretion in denying a petition to modify his three strikes sentence under Proposition 36 because it considered whether the defendant would be unsuitable for parole at the time of the hearing instead of the time of his expected release. (Staff attorney Jonathan Grossman)

People v. Alfred Johnson (H047033)
Panel attorney: Alissa Bjerkhoel

Date: September 18, 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 Anna Stuart)

People v. Ratha Seth (H047307)
Staff attorney: Jonathan Grossman
Date: August 27, 2020

S.B. 1437 is constitutional.

People v. Forrest Brownnton (H045628)
Panel attorney: Michael Allen and Hilda Scheib
Date: August 26, 2020

There was an in camera hearing held pursuant to *Pitches 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. 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 Calvin Ung (H048152)

Attorneys: Sarah Wheatley and Carson White

Date: August 10, 2020

The defendant was accused of stealing a large sum 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. Johnny Martinez (H047303)

Panel attorney: Richard Fitzer

Date: July 16, 2020

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

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. 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. Alejandro Hernandez-Delgado (H047257)
Panel attorney: James Thomson
Date: May 1, 2020

Appellant moved for disclosure of confidential juror information in order to investigate an allegation of juror misconduct based on alleged expressions of racism toward appellant by a juror. The superior court denied the request. The court of appeal reversed, deciding this was good cause for disclosure. (Staff attorney Jonathan Grossman)

People v. Raul Guerrero (H041900, S253405)
Panel attorney: Randall Conner
Date: April 30, 2020

The California Supreme Court held that a defendant possessing separate stolen identification and forged instruments together at the same time does not bar him from a sentence reduction under Proposition 47. (Staff attorney William Robinson)

In re M.R. (H044429)
Panel attorney: Kathleen Sherman
Date: February 20, 2020

Trial counsel was ineffective for failing to move to exclude the minor's involuntary statements. The interrogating officer told the minor she was not interested in getting him in trouble

but wanted to know about the roles of the confederates. (Staff attorney William Robinson)

SENTENCING

People v. Jose Barillas (H045024)

Panel attorney: Jeffrey Glick

Date: December 17, 2020

There was insufficient evidence to order appellant be tested for the HIV virus. (Staff attorney Lori Quick)

People v. James Henderson (H046281)

Panel attorney: Matthew Alger

Date: December 17, 2020

A parole revocation fine cannot be imposed for a sentence of life without parole. (Staff attorney Patrick McKenna)

People v. Juan Salazar (H047530)

Panel attorney: Shannon Chase

Date: December 15, 2020

The matter had been remanded for the trial court to exercise its new discretion whether to strike the firearms enhancement. On remand, the court denied the motion based on an inaccurate description of the facts of the case. Accordingly, the court abused its discretion. (Staff attorney William Robinson)

People v. Merlin Jones (H046461)

Panel attorney: Victoria Stafford

Date: November 25, 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. Further, the defendant was entitled to additional presentence credits. (Staff attorney Jonathan Grossman)

In re R.R. (H047686)

Panel attorney: Sangeeta Sinha

Date: November 23, 2020

The minor possessed a concealed firearm and ammunition. The Court of Appeal agreed that the electronic search condition as worded was unreasonable. (Staff attorney William Robinson)

People v. John Detches (H045896)

Panel attorney: Frank McCabe

Date: November 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 Patrick McKenna)

In re A.O. (H047583)

Panel attorney: Sidney Hollar

Date: November 20, 2020

The matter was remanded for the court to determine whether the adjudication for receiving stolen property was a felony or misdemeanor. (Staff attorney Paul Couenhoven)

People v. Michael Atwell (H047618)

Panel attorney: Lise Breakey

Date: November 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 Lori Quick)

People v. Lara (H046775)

Panel attorney: Matthew Alger

Date: November 20, 2020

Appellant was incorrectly sentenced because a violation of Penal Code section 288, subdivision (c)(1) is not governed by section 667.6. Further, he was entitled to additional presentence credits. (Staff attorney Anna Stuart)

People v. Noe Quintero (H045232)

Panel attorney: Jeffrey Glick

Date: November 19, 2020

The matter was remanded for the trial court to correctly calculate penalty assessments

attached to fines. (Staff attorney Patrick McKenna)

People v. Ricardo Espana (H046062)

Staff attorney: Jonathan Grossman

Date: November 19, 2020

The matter must be remanded to dismiss the prison prior in light of Senate Bill No. 136 and to give the court the opportunity to exercise its discretion whether to strike the firearms enhancement under S.B. 620.

People v. Antonio Vargas (H047436)

Staff attorney: Lori Quick

Date: November 17, 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.

In re C.O. (H047274)

Panel attorney: Jennifer Bruno

Date: November 16, 2020

The matter was remanded for the court to determine if a stalking count was a felony or misdemeanor. Further, a condition not to possess pornography was unconstitutionally vague. (Staff attorney Jonathan Grossman)

People v. Gustavo Lopez (H046618)

Staff attorney: Lori Quick

Date: November 13, 2020

In a published decision, the court decided a statute can be applied retroactively when the defendant is on mandatory supervision.

People v. Perry Rush (H045678)

Panel attorney: Kevin Lindsley

Date: November 9, 2020

The matter was remanded because the trial court failed to pronounce judgment on some of the counts. (Staff attorney Patrick McKenna)

People v. Danny Peralez (H046144)
Panel attorney: Jeffrey Glick
Date: November 3, 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 Lori Quick)

People v. Sean Pelton (H046957)
Panel attorney: Nicholas Seymour
Date: October 29, 2020

The matter must be remanded to dismiss the prison prior in light of Senate Bill No. 136. (Staff attorney Jonathan Grossman)

People v. Brett Jones (H046958)
Staff attorneys: Marc McKenna
Date: October 28, 2020

There was insufficient evidence to support a prior strike conviction based on the elements test described in *People v. Gallardo* (2017) 4 Cal.5th 120. (Staff attorney Paul Couenhoven)

People v. Raymond Merritt (H046069)
Panel attorney: Alissa Bjerkhoel
Date: October 5, 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 Jonathan Grossman)

People v. Brandon Keen (H046654)
Panel attorney: Michael Sampson
Date: September 25, 2020

Appellant's admission of his prior convictions after a jury trial was invalid because he was not advised of his rights to a jury trial on the priors. Further, the punishment for possession of a weapon in prison must be stayed in light of the punishment for assault with a weapon. Finally, one of the serious felony priors could not be imposed because it was not brought and tried separately. (Staff attorney Jonathan Grossman)

People v. Damian Baxter (H045042)
Panel attorney: Jennifer Mannix
Date: September 24, 2020

The matter must be remanded to dismiss the prison prior in light of Senate Bill No. 136 and to give the court the opportunity to exercise its discretion whether to strike the firearms enhancement under S.B. 620. (Staff attorney Jonathan Grossman)

In re R.R. (H047519)
Panel attorney: Paul Kraus
Date: September 24, 2020

The electronic search condition of probation was unreasonable. (Staff attorney Lori Quick)

People v. Phillip Ortega (H045850)
Panel attorney: Sara Ruddy
Date: September 23, 2020

The matter must be remanded to give the court the opportunity to exercise its discretion whether to strike the firearms enhancement under S.B. 620. (Staff attorney Lori Quick)

People v. Curtis Hautman (H047735)
Panel attorney: Allen Weinberg
Date: September 18, 2020

The matter was remanded for the court to determine presentence conduct credits to which appellant was entitled for court-ordered home detention before conviction. (Staff attorney Lori Quick)

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. 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. 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)

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)

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. 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)

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

The court ordered that appellant receive additional presentence credits.

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. 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)

People v. Joshua Tannahill (H047468)
Panel attorney: Michael Sampson

Date: May 29, 2020

The matter must be remanded to dismiss the prison prior in light of Senate Bill No. 136. (Staff attorney Patrick McKenna)

People v. Daisy Robles (H045795)
Panel attorney: Gene Vorobyov
Date: May 29, 2020

The court lacked the authority to impose an administrative fee for collecting victim restitution for one on mandatory supervision. (Staff attorney Jonathan Grossman)

People v. Ricardo Gomez (H046937)
Panel attorney: Rudy Alejo
Date: May 19, 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 Jonathan Grossman)

In re I.R. (H047069)
Panel attorney: Michael Reed
Date: May 12, 2020

An electronic search condition was unreasonable for a minor who had not used electronic devices in his offenses. (Staff attorney Lori Quick)

People v. William Lindley (H045361)
Panel attorney: Joy Maulitz
Date: May 4, 2020

The matter must be remanded to dismiss the prison prior in light of Senate Bill No. 136 (Staff attorney Jonathan Grossman)

People v. Jose Romero (H046964)
Staff attorney: Paul Couenhoven
Date: April 17, 2020

The prison prior must be stricken in light of Senate Bill No. 136.

People v. Davion Smith (H045505)

Panel attorney: Candace Hale

Date: April 14, 2020

There was insufficient evidence appellant was at least 16 years old when he suffered the juvenile strike. Further, the prison prior in light of Senate Bill No. 136. (Staff attorney William Robinson)

People v. John Rogan (H046394)

Staff attorney: Lori Quick

Date: April 7, 2020

The prior prison commitments must be stricken in light of Senate Bill No. 136.

People v. Eddie Criado (H045429)

Panel attorney: Paul Kraus

Date: April 1, 2020

The prior prison commitment must be stricken in light of Senate Bill No. 136. (Staff attorney Paul Couenhoven)

People v. Felipe Yanez (H042268)

Panel attorney: Stephanie Adratkas

Date: March 20, 2020

The matter was remanded to dismiss prior drug trafficking conviction and the prior prison commitment, and for the court to exercise its discretion whether to dismiss the prior serious felony conviction. (Staff attorney Lori Quick)

People v. Kevin Phaing (H043958 et al.)

Attorneys: Paul Carroll and William Robinson

Date: March 20, 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.

People v. Julio Herrera (H044475)
Attorneys: Lauren Dodge and William Robinson
Date: March 20, 2020

The prior prison commitments must be stricken in light of Senate Bill No. 136.

People v. Terry Pinaire (H044338)
Panel attorney: Jeffrey Glick
Date: March 9, 2020

The prior prison commitment must be stricken in light of Senate Bill No. 136. (Staff attorney Paul Couenhoven)

In re J.Q. (H046988)
Panel attorney: Michael Reed
Date: March 8, 2020

The juvenile court found the minor committed an assault with a deadly weapon, among other things, and ordered he serve a year in juvenile hall. The matter was remanded for the court to declare whether the offense was a felony or a misdemeanor and to determine the maximum confinement time. (Staff attorney Jonathan Grossman)

People v. Paul Aledo (H045164)
Panel attorney: Jeffrey Kross
Date: February 25, 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. Antonio Villa (H046515)
Panel attorney: Karriem Baker
Date: February 21, 2020

The prior prison commitment must be stricken in light of Senate Bill No. 136. (Staff attorney Jonathan Grossman)

People v. Khai Ashford (H045811)
Panel attorney: Michael Sampson

Date: February 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 Lori Quick)

People v. Omar Ramirez (H046181)

Panel attorney: Rachel Varnell

Date: February 11, 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 Jonathan Grossman)

People v. Bobadilla (H046381)

Panel Attorney: Caitlin Plummer

Date: February 7, 2020

The minute order of the sentencing and the abstract of judgment were amended to correctly reflect the sentence. (Staff attorney Jonathan Grossman)

People v. Shane Murray (H046565)

Staff attorney: Paul Couenhoven

Date: January 22, 2020

The punishment for possession for sale must be stayed in lieu of the punishment for transporting the drugs for sale.

People v. Jose Santana (H044594)

Staff attorney: Anna Stuart

Date: January 21, 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 and to strike the prior prison commitment enhancement under Senate Bill No. 136.

People v. Jose Sotelo (H045745)

Staff attorneys: Patrick McKenna and William Robinson

Date: January 14, 2020

Under *In re Ricardo P.*, a probation condition requiring retention of Internet browsing history was unreasonable.

People v. Kenneth Wilder (H046983)
Staff attorney: Lori Quick
Date: January 13, 2020

The minute order was amended to reflect that certain allegations were dismissed as part of the plea bargain.

People v. Duane Jefferson (H045728)
Panel attorney: Joy Maulitz
Date: January 8, 2020

Appellant was convicted of possession of drugs for sale with a gang enhancement. The gang enhancement made the possession charge a serious felony and subject to a three strikes sentence, and it permitted a five year term due to a prior serious felony conviction. The court also added two years for the gang enhancement. Because appellant was subject to double punishment for the gang enhancement, the two years must be stayed under Penal Code section 654. Also, 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. John Wardzala (H046149)
Panel attorney: Edward Mahler
Date: January 8, 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 and to correctly calculate presentence credits. (Staff attorney William Robinson)

DEPENDENCY CASES

In re A.G. (H047951)
Panel attorney: Leslie Barry
Date: December 18, 2020

In a published decision, the court decided there was a sufficient offer of proof to require a contested hearing on whether the parent-child exception to adoption applied. The opinion is useful for its in depth explanation of what constitutes an adequate offer of proof in general. (Staff attorney Jonathan Grossman)

In re N.T. (H047669)
Panel attorney: Patricia Saucier
Date: October 14, 2020

Information that the maternal grandfather was part of a tribe triggered a duty of inquiry under the Indian Child Welfare Act. (Staff attorney Paul Couenhoven)

In re M.P. (H047472)
Panel attorneys: James Haworth (minor), Julie Braden (father)
Date: October 8, 2020

The mother appealed the exit order permitting only supervised visitation with the child, who was in the custody of the father. It was determined the court did not abuse its discretion. (Staff attorneys Jonathan Grossman and Paul Couenhoven)

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)

In re S.W. (H047682)
Panel attorney: Nicole Williams
Date: May 28, 2020

The matter was remanded in order to provide proper notice under the Indian Child Welfare Act. (Staff attorney Jonathan Grossman)

In re K.S. (H047377)
Panel attorney: Jamie Moran
Date: March 24, 2020

The matter was remanded so that child protective services can comply with the notice requirement of the Indian Child Welfare Act. (Staff attorney Jonathan Grossman)

J.R. v. Superior Court (H047279)
Attorney: John Nieman, Office of Dependency Counsel
Date: February 5, 2020

The court granted relief on a petition for an extraordinary dependency writ. The juvenile court violated due process in proceeding to a hearing to terminate reunification services just one day after an addendum social worker report was issued that was lengthy and contained significant evidence in support of the Department's position. (SDAP was not involved in this matter)

M.M. v. Superior Court (H047564)
In pro per
Date: February 5, 2020

The court granted relief on a petition for an extraordinary dependency writ for failure to provide reasonable services in arranging visitation. (SDAP was not involved in this matter)

HABEAS CORPUS

In re Guillermo Bran (H046835)
Panel attorney: Brian McComas
Date: August 31, 2020

Petitioner filed a petition to vacate his conviction under Penal Code section 1437.7 because he was not properly advised of immigration consequences. The petition was denied because he was still in constructive custody; the petition to vacate applies only if the person is not in custody. The proper habeas corpus petition was filed in the Court of Appeal, which resulted in the issuance of an order to show cause. (Staff attorney Lori Quick)

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.

In re Camarillo (H047265)
Panel attorney: Caitlin Plummer
Date: March 10, 2020

The court of appeal issued an order to show cause. Appellant claimed on habeas corpus he

was deprived of effective assistance of counsel at sentencing. He hired a new attorney to bring a new trial motion. When the motion was denied, the court proceeded to sentencing, despite the new attorney stating he was retained only for the new trial motion was not prepared for the sentencing hearing. (Staff attorney Jonathan Grossman)

MISCELLANEOUS

None