

**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. German Sanchez (H047350)

Panel attorney: Teresa Biagini

Date: June 30, 2021

Appellant was driving with methamphetamine in the passenger compartment and a loaded rifle in the bed of his pickup. He was convicted of possession of drugs with a loaded firearm under Health and Safety Code section 11370.1. In a published decision, the Court of Appeal reversed for insufficient evidence, holding that the rifle in the bed of the pickup was not “available for immediate offensive or defensive use” as required by the statute. (Staff attorney William Robinson)

In re R.A. (H047451)

Panel attorney: Eileen Manning-Villar

Date: May 12, 2021

The court miscalculated the maximum confinement time. Further, S.B. 823, limiting the maximum confinement time, applied retroactively to cases on appeal. (Staff attorney Lori Quick)

In re E.M.( H047860)

Panel attorney: Sangeeta Sinha

Date: March 30, 2021

The juvenile court found the minor possessed stolen property. The Court of Appeal held there was insufficient evidence the minor knew a bicycle was stolen when he asked a friend to hold on to it about a month after it had been stolen. (Staff attorney Jonathan Grossman)

**ERROR AT TRIAL OR HEARING**

People v. Randolph Sandoval (H047410)

Panel attorney: Alex Coolman

Date: December 27, 2021

The conviction for second degree murder was reversed when the jury was instructed on direct

aiding and abetting, the natural and probable consequence from aiding and abetting, and conspiracy to commit murder because it cannot be shown the jury did not rely on an invalid theory under S.B. 1437 and S.B. 775. (Staff attorney Lori Quick)

People v. Gabriel Quihuiz (H045671)

Panel attorney: Caitlin Plummer

Date: November 30, 2021

The conviction for attempted murder was conditionally reversed because the court failed to hold a competency hearing after the defendant stopped taking his medication and decompensated during the trial. (Staff attorney William Robinson)

People v. Anthony Pearl (H045559)

Panel attorney: Kevin Lindsley

Date: October 28, 2021

Appellant was convicted of knowingly bringing drugs into the jail, among other things. After he had been arrested and drugs were seized from him, he was asked if he had any more. He replied that drugs were “up there on the dashboard,” and “Well, you guys found the 13 grams right?” The Court of Appeal decided this was not hearsay because it was not offered to prove that he had 13 grams on the dashboard but as circumstantial evidence that he did not know he had more drugs on him before he entered the jail. (Staff attorney William Robinson)

People v. Simpson (H045973)

Attorney: Marc Zilversmit

Date: October 18, 2021

Appellant was tried for lewd conduct on two minors. The court held he received ineffective assistance of counsel for not objecting to the admission of testimony concerning the statistical rarity of false allegations and for failing to present a *Stoll* expert. Further, the court abused its discretion in admitting evidence that appellant once drew a cartoon of a naked male under Evidence Code section 1108 and misinstructed the jury on the use of the evidence. The cumulative prejudice required reversal. (SDAP was not involved in the matter)

People v. Byron Sumagang (H044023)

Staff attorney: Patrick McKenna

Date: September 29, 2021

Appellant confessed that he killed his girlfriend as part of a botched double suicide attempt.

He was first questioned by police while in custody without being *Mirandized*. He was then *Mirandized* and repeated the confession. The Court of Appeal held in a published case that the admission of his post-*Mirandized* statements violated the Constitution.

People v. Miguel Arellano (H045762)

Panel attorney: Jean Marinovich

Date: August 9, 2021

The conviction for misdemeanor assault must be dismissed because it was a lesser included offense of the conviction for assault with a deadly weapon. (Staff attorney William Robinson)

People v. Hernandez (H045625)

Panel attorney: Julie Dunger

Date: March 30, 2021

A jury convicted the defendant of child molest, and he was sentenced to serve 145 years to life. The judgment was reversed because the testimony from a child sexual abuse accommodation syndrome expert about the low percentage of false allegations was prejudicial under the facts of the case. (Staff attorney Jonathan Grossman)

People v. Weissman (H045863)

Attorneys: Marc Zilversmit and Gail Shifman

Date: February 26, 2021

Appellant was convicted of multiple counts of child molestation. One witness testified that he felt appellant have an erection when they were spooning. The witness did not tell the police this, but he said he told the prosecutor before he testified. After the trial, the prosecutor acknowledged the witness had not disclosed this before testifying. The court of appeal reversed some of the convictions because the prosecutor failed to correct false testimony. (SDAP was not involved)

People v. James Dryden (H043029)

Panel attorney: Jin Kim

Date: February 16, 2021

Appellant was convicted of assault with deadly weapon with two prior strike convictions and sentenced to 25 years to life. In a published decision, the court reversed the judgment because admission of uncharged incidents of appellant being in fights under Evidence Code section 1101, subdivision (b) was an abuse of discretion. The incidents were old, lacked probative value of showing intent or lack of self-defense, and were prejudicial. (Staff attorney William Robinson)

People v. Leonard Fox (H047165)  
Panel attorney: Susannah McNamara  
Date: January 29, 2021

Appellant waived his right to a preliminary hearing but not to the trial. He did waive his right to be present. The court subsequently held a court trial based on its review of documents. The Court of Appeal concluded this amounted to a slow plea, which was invalid because appellant was not properly advised nor did he personally waive his right to a jury or his other trial rights. (Staff attorney Jonathan Grossman)

### **PRETRIAL AND POSTTRIAL MOTIONS**

People v. Julie McClure (H048280)  
Staff attorney: William Robinson  
Date: December 6, 2021

Under S.B. 775, Penal Code section 1170.95 now applies to voluntary manslaughter.

People v. Juan Soto (H047919)  
Attorney: Joseph Markus and Arthur Dudley  
Date: November 17, 2021

The superior court used the wrong standard is summarily denying the prisoner's petition for resentencing under Penal Code section 1170.95. (SDAP was not involved in the matter)

People v. Hiep Nguyen (D079035)  
Staff attorney: Jonathan Grossman  
Date: October 26, 2021

The superior court granted appellant's motion to vacate his murder conviction and placed him on parole. However, it should have credited excess time in custody toward his fines, and his booking fee was vacated pursuant to A.B. 1869.

People v. Emanuel Holland (H048573)  
Panel attorney: Julie Dunger  
Date: October 19, 2021

The superior court erred in using the substantial evidence test and making findings of fact to summarily deny a petition to vacate a murder conviction under S.B. 1437. (Staff attorney Lori

Quick)

People v. Eric Williams (H048050)

Panel attorney: Michelle Peterson

Date: October 7, 2021

The court erred in summarily denying the petition to vacate the murder conviction under S.B. 1437 by weighing the evidence. (Panel attorney Paul Couenhoven)

People v. Arturo Mendoza (H047430)

Panel attorney: Alissa Bjerkhoel

Date: September 22, 2021

The Court of Appeal held that the existence of a felony murder special circumstance before *Banks* was decided did not automatically preclude relief under Penal Code section 1170.95. (Staff attorney Paul Couenhoven)

People v. Glen Ramirez (H047929)

Panel attorney: William Melcher

Date: September 7, 2021

The superior court abused its discretion in summarily denying the request by CDCR to recall appellant's sentence under Penal Code section 1170, subdivision (d)(1) because the court failed to consider all of the relevant factors. (Staff attorney William Robinson)

People v. Ali Garcia (H047770)

Panel attorney: Alex Green

Date: August 31, 2021

Because the defendant was not precluded from relief as a matter of law, the superior court should have found that the S.B. 1437 petition stated a prima facie case. (Staff attorney Paul Couenhoven)

People v. Jeremy Towner

Attorney: Charles Carbone

Date: August 30, 2021

Because the defendant was not precluded from relief as a matter of law, the superior court

should have found that the S.B. 1437 petition stated a prima facie case. (SDAP was not involved in the matter)

People v. Sergio Pineda (H047709)  
Panel attorney: Scott Handleman  
Date: July 19, 2021

In a published decision, the court held that a verdict for the felony murder special circumstances before *Banks* does not automatically disqualify a defendant for relief under S.B. 1437. (Staff attorney Lori Quick)

People v. Robert Brooks (H048250)  
Staff attorney: William Robinson  
Date: June 29, 2021

The Court of Appeal agreed the defendant was entitled to a hearing under *People v. Franklin* (2016) 63 Cal.4th 261, though he had already received a parole hearing.

People v. Larry Rodriguez (H046731)  
Panel attorney: Michael Sampson  
Date: June 25, 2021

The court reversed in order to permit appellant to seek mental health diversion under Penal Code section 1001.36. (Staff attorney William Robinson)

People v. David Pilipina et al. (H045025)  
Panel attorneys: Solomon Wollack and Eddie Rivera  
Date: May 14, 2021

The defendants were convicted of murder and attempted murder by using a knife. They claimed self-defense. Pilipina wore gloves. An officer testified as an expert that the gloves are worn in 30 to 40 percent of stabbings, and thus this stabbing was planned. It was later learned that in over 100 recent stabbings documented by the sheriff's department, only two wore gloves. The superior court granted a new trial motion based on false evidence. The prosecution appealed. The Court of Appeal upheld the reversal of the convictions, ruling the trial court did not abuse its discretion. (Staff attorney Patrick McKenna)

People v. Jeffrey Cho (H046609)

Panel attorney: Julie Caleca  
Date: May 13, 2021

As appellant was walking down a street, a police officer stopped his patrol car along side appellant, immediately got out, illuminated him with a spotlight, and approached him while asking accusatory questions. The Court of Appeal reversed the denial of the suppression motions, deciding that this amounted to a detention. Although there was evidence that appellant might have been drinking from an open container in a paper bag, the officer did not look into this until well after the detention started. Since this was not the purpose of the stop and there were no other grounds for finding reasonable suspicion, the stop was illegal. (Staff attorney William Robinson)

People v. Joseph Nunes (H046395)  
Panel attorney: Laurel Simmons  
Date: May 6, 2021

The police and fire departments responded to a report of smoke from appellant's home or backyard. An officer went into the backyard and did not see any smoke, but there was a burnt smell. The officer looked into a metal cabinet in the backyard for no particular reason. In a published decision, the Court of Appeal decided the search of the cabinet was unlawful. (Staff attorney Jonathan Grossman)

People v. Charles Martinez (H048045)  
Staff attorney: Joseph Doyle  
Date: April 21, 2021

The court denied the prison request to recall the sentence under Penal Code section 1170, subdivision (d). The Court of Appeal reversed because the court was mistaken as to the basis for the prison's request and failed to take into account the defendant's individual merit.

People v. David Olayo (H047230)  
Panel attorney: Michael Sampson  
Date: April 20, 2021

The decision summarily denying a petition to vacate the murder conviction under S.B. 1437 was reversed because the statute was constitutional and the court used too high of a test in determining whether there were a prima facie case. (Staff attorney William Robinson)

People v. Francisco Zendejas (H048029)  
Panel attorney: Michael Sampson

Date: March 16, 2020

The defendant was entitled to withdraw his plea because the court's statements at the time of his plea would reasonably be understood to be a promise that he would be placed on mental health probation; instead, he was sentenced to prison. (Staff attorney Jonathan Grossman)

People v. Daniel Teran (H047228)

Panel attorney: Julie Caleca

Date: January 21, 2021

The police received a report of a man being chased by a woman with a bat. When an officer responded to the area, he saw appellant and asked to speak with him. Appellant walked away. The officer stopped him and later found contraband. The court reversed the denial of the motion to suppress. Being a possible victim and walking away from the officer did not amount to reasonable suspicion. Nor were there exigent circumstances since there was no evidence appellant was harmed or in imminent danger of being harmed. (Staff attorney William Robinson)

People v. Jackson Cayot (H045861)

Panel attorney: Sara Coppin

Date: January 13, 2021

The matter was remanded to consider whether appellant should be placed on diversion. (Staff attorney Patrick McKenna)

People v. Charles George (H046913)

Panel attorney: Steven Schorr

Date: January 8, 2021

The Court of Appeal ordered the Superior Court to issue an order to show cause on appellant's S.B. 1437 petition because it could not be determined as a matter of law he was the actual killer or committed the underlying felony with reckless indifference to human life. (Staff attorney Paul Couenhoven)

## **SENTENCING**

People v. Gregory Jones (H047180)

Staff attorney: Lori Quick

Date: December 30, 2021

The matter was remanded so that the superior court could exercise its discretion whether to

strike the prior serious felony conviction under S,B, 1393. Further, the balance of the criminal justice administration fee shall be vacated under A.B. 1869.

People v. Hazeen (H047550)  
Panel attorney: Michael Sampson  
Date: December 27, 2021

The period of probation can be reduced under A.B. 1950 and the balance of certain fees must be vacated under A.B. 1869. Further, a condition of probation not to “socialize” with one who has custody of a minor was vague. (Staff attorney Jonathan Grossman)

People v. Milton Tejada (H045928)  
Panel attorney: Cliff Gardner  
Date: December 20, 2021

The balance of the booking fee, was vacated in light of A.B. 1869, and the court must list the penalty assessments to the fines. (Staff attorney Paul Couenhoven)

People v. Michael Smith (H048519)  
Panel attorney: Gordon Brownell  
Date: December 20, 2021

The balance of the probation supervision fee was vacated in light of A.B. 1869. (Staff attorney Jonathan Grossman)

People v. Lonnie Mironconk (H048055)  
Panel attorney: Jennifer Sheetz  
Date: November 29, 2021

The balance of the booking fee, was vacated in light of A.B. 1869. (Staff attorney Anna Stuart)

People v. Elias Segovia (H047456)  
Panel attorney: Julie Caleca  
Date: November 19, 2021

The balance of the booking fee, presentence report fee, and probation supervision fees were vacated in light of A.B. 1869. (Staff attorney Paul Couenhoven)

People v. Artierey Sherry (H047497)  
Panel attorney: Steven Torres  
Date: November 19, 2021

The balance of the booking fee, presentence report fee was vacated in light of A.B. 1869.  
(Staff attorney Anna Stuart)

People v. Roman Alvarado (H046400)  
Panel attorney: Edward Haggerty  
Date: November 18, 2021

The judgment was modified to reflect the correct amount of presentence credits. (Staff attorney Lori Quick)

People v. Brandon Keen (H049197)  
Panel attorney: Michael Sampson  
Date: November 18, 2021

A prior serious felony conviction was stricken because it was not brought and tried separately from another one. (Staff attorney Jonathan Grossman)

People v. John Rumzie (H047970)  
Panel attorney: Michael Sampson  
Date: November 9, 2021

The court decided the period of probation can be reduced under A.B. 1950 and the balance of certain fees must be vacated under A.B. 1869. (Staff attorney Jonathan Grossman)

People v. Enrique Osuna (H047900)  
Panel attorney: Maggie Shrout  
Date: October 29, 2021

The booking fee was vacated pursuant to A.B. 1869. (Staff attorney Anna Stuart)

People v. Jesse Yanez (H044528)  
Panel attorney: Steven Torres  
Date: October 27, 2021

The matter was remanded so that the superior court could exercise its discretion whether to strike the firearms enhancement under Senate Bill No. 620 or the prior serious felony conviction under Senate Bill No. 1393. Further, the punishment for assault with a firearm must be stayed in light of the punishment for robbery. Finally, the abstract of judgment needed to be corrected. (Staff attorney Lori Quick)

People v. Steven Fiorentino (H047912)

Panel attorney: Randy Kravis

Date: October 26, 2021

The period of felony probation was reduced to two years. (Staff attorney Paul Couenhoven)

People v. Salisa Greeley (H047281)

Panel attorney: Paul Kraus

Date: October 19, 2021

As part of a published opinion, the court decided the period of probation can be reduced under A.B. 1950 and certain fees must be vacated under A.B. 1869. (Staff attorney Jonathan Grossman)

People v. Steven Bowie (H045010)

Panel attorney: Michael Sampson

Date: October 18, 2021

The matter was remanded for a hearing under *People v. Franklin* (2016) 63 Cal.4th 261. (Staff attorney William Robinson)

People v. Catarino (D078832)

Panel attorney: Ronald Boyer

Date: October 14, 2021

An attempted offense does not fall within Penal Code section 667.6. (Staff attorney Jonathan Grossman)

People v. Benny Vaz (H048614)

Panel attorney: William Hassler

Date: October 4, 2021

Appellant was entitled to have the booking fee vacated under A.B. 1869. (Staff attorney Jonathan Grossman)

People v. Garth Hattan (H046904)  
Panel attorney: Alan Siraco  
Date: September 22, 2021

Appellant was placed on probation with execution of sentence suspended. After violating probation, it was revoked. The Court of Appeal agreed he was entitled to ameliorative changes in the law. It ordered that the drug trafficking prior be dismissed, the requirement to register as a narcotics offender be struck, and certain fees and fines be vacated. (Staff attorney Lori Quick)

People v. Dwayne Robinson (H046061)  
Panel attorney: Mary Jo Strnad  
Date: September 7, 2021

Appellant was entitled to additional presentence credits when his mandatory supervision was violated. (Staff attorney William Robinson)

People v. Brian Gillean (H045860)  
Panel attorney: Rudolph Alejo  
Date: September 1, 2021

The punishment for violating Vehicle Code section 2800.4 should have been stayed pursuant to Penal Code section 654 due to his punishment for violating Vehicle Code section 2800.2. Further, the prison prior should be stricken. (Staff attorney Paul Couenhoven)

People v. Oscar Venegas (H047758)  
Panel attorney: Jeffrey Kross  
Date: August 20, 2021

Appellant was entitled to dual credits because the sole basis for the violation of mandatory supervision was the new case. (Staff attorney William Robinson)

People v. Cortez (H047418)  
Panel attorney: Laurie Wilmore  
Date: August 19, 2021

A fee imposed under Penal Code section 1463.07 was stricken because it was unauthorized. A \$55 fee under section 1205, subdivision (e) must be reduced to \$30, the amount provided for in the statute. (Staff attorney Jonathan Grossman)

People v. James and Richard Guerrero (H045752)  
Panel attorneys: Edward Haggerty and Alex Coolman  
Date: August 19, 2021

The punishment for the gang crime must be stayed in lieu of the punishment for the gang enhancement on another count. (Staff attorney Lori Quick)

People v. Isaac Romandia (H048272)  
Panel attorney: Michael Reed  
Date: August 17, 2021

The period of probation should be reduced pursuant to Assembly Bill No. 1950. (Staff attorney Jonathan Grossman)

People v. Joseph Vejar (H044486)  
Panel attorney: Jennifer Peabody  
Date: July 28, 2021

The matter must be remanded to dismiss the prison prior in light of Senate Bill No. 136 and for the court to exercise its discretion whether to strike the prior serious felony conviction under Senate Bill No. 1393. Also, the court must stay the punishment for the gang crime in light of the punishment for the gang enhancements. (Staff attorney Lori Quick)

In re F.M. (H048693)  
Panel attorney: Michael Reed  
Date: July 26, 2021

Under S.B. 92, the minor's maximum confinement time must be reduced. (Staff attorney Joseph Doyle)

In re J.B. (H047828)  
Panel attorney: Evan Greenberg  
Date: July 26, 2021

The probation condition not to associate with probationers or parolees was unreasonable under the facts of the case where the minor had no record or history of associating with people with criminal backgrounds. (Staff attorney William Robinson)

People v. James Wilkins (H047572)  
Panel attorney: Maggie Shrout  
Date: July 26, 2021

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

People v. Robert Ruby (H047648)  
Panel attorney: Rudy Alejo  
Date: July 22, 2021

The prison prior was dismissed in light of Senate Bill No. 136. (Staff attorney Anna Stuart)

People v. Hariberto Guillen (H046547)  
Panel attorney: Jonathan Roberts  
Date: July 19, 2021

The restitution award for attorney fees was unsupported by the evidence. (Staff attorney Lori Quick)

In re R.A. (H047451)  
Panel attorney: Eileen Manning-Villar  
Date: July 15, 2021

Under S.B. 823, the minor's maximum confinement time must be reduced. (Staff attorney Lori Quick)

People v. Alfred Valenzuela (H045756)  
Panel attorney: Karriem Baker  
Date: July 13, 2021

The period of probation should be reduced pursuant to Assembly Bill No. 1950. (Staff attorney Jonathan Grossman)

People v. Carlos Ruipaz et al. (H044593)  
Panel attorneys: Kyle Gee and John Dwyer  
Date: June 25, 2021

The matter was remanded for the court to dismiss the firearms enhancement under Senate Bill No. 620. Also, when the court attempted to impose the minimum restitution fine, it should have set the fine at \$200 because this was the statutory minimum when the offense was committed. (Staff attorney Lori Quick)

People v. Pedro Pedrisco (H045310)  
Panel attorney: Geoff Jones  
Date: June 16, 2021

The matter must be remanded to dismiss the prison prior in light of Senate Bill No. 136 and for the court to exercise its discretion whether to strike the prior serious felony conviction under Senate Bill No. 1393. (Staff attorney Patrick McKenna)

People v. Trujillo (H048255)  
Panel attorney: Michael Sampson  
Date: June 7, 2021

The period of probation should be reduced pursuant to Assembly Bill No. 1950, the condition of probation not to use alcohol must be stricken, and the matter was remanded for the court to consider a lesser period of registration under Senate Bill No. 145. (Staff attorney Jonathan Grossman)

People v. Kevin Cole (H046569)  
Panel attorney: Alex Green  
Date: June 1, 2021

The period of probation should be reduced pursuant to Assembly Bill No. 1950. (Staff attorney Jonathan Grossman)

People v. Clinton Turney (H046292)  
Panel attorney: Carrie Kojimoto  
Date: May 28, 2021

The matter must be remanded to dismiss the prison prior in light of Senate Bill No. 136 and for the court to exercise its discretion whether to strike the prior serious felony conviction under

Senate Bill No. 1393. (Staff attorney Lori Quick)

People v. Shane Thomas (H047467)

Staff attorney: Anna Stuart

Date: May 28, 2021

The matter was remanded for the court to consider dismissing the prison prior in light of Senate Bill No. 136.

People v. Jose Ramos (H046895)

Panel attorney: Shannon Chase

Date: May 25, 2021

The court's punishment of 15 years to life for attempted murder was unauthorized. (Staff attorney Lori Quick)

People v. James Watson (H045141)

Panel attorney: James Thomson

Date: May 21, 2021

The matter was remanded for the court to determine whether to place the defendant on mental health diversion or to exercise its discretion whether to dismiss the firearms enhancement under Senate Bill No. 620. (Staff attorney Lori Quick)

People v. Jose Macedo (H046851)

Staff attorney: Anna Stuart

Date: May 20, 2021

The matter must be remanded to dismiss the prison prior in light of Senate Bill No. 136 and for the court to exercise its discretion whether to strike the prior serious felony conviction under Senate Bill No. 1393.

In re R.A. (H047451)

Panel attorney: Eileen Manning-Villar

Date: May 12, 2021

The court miscalculated the maximum confinement time. Further, S.B. 823, limiting the maximum confinement time, applied retroactively to cases on appeal. (Staff attorney Lori Quick)

People v. Stephen Kennedy (H048014)  
Staff attorney: Paul Couenhoven  
Date: May 11, 2021

The punishment for grand theft of a firearm and possessing stolen property must be stayed in light of the punishment for residential burglary.

People v. Antonio Gonzalez (H047792)  
Panel attorney: Kelley Flemming  
Date: May 7, 2021

The prison prior was dismissed in light of Senate Bill No. 136. (Staff attorney Paul Couenhoven)

People v. Lucas Juarez (H045680)  
Panel attorney: Rachel Varnell  
Date: May 7, 2021

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. Amado Luna et al. (H046672)  
Panel attorneys: Carrie Kojimoto and Jean Marinovich  
Date: May 3, 2021

The prison prior was dismissed in light of Senate Bill No. 136, and one of the defendants was entitled to additional presentence credits. (Staff attorney Lori Quick)

People v. Saul Aguilar (H046279)  
Panel attorney: Nancy Brandt  
Date: April 30, 2021

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

People v. Raymond Estrada (H047459)

Panel attorney: Katja Grosch  
Date: April 30, 2021

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

People v. Laron Campbell (H044517)  
Panel attorney: Allen Weinberg  
Date: April 29, 2021

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 the firearms enhancement under S.B. 620, and for the court to strike the prior prison commitment enhancement under Senate Bill No. 136. (Staff attorney Lori Quick)

People v. Delacruz (H046352)  
Staff attorney: Jonathan Grossman  
Date: April 29, 2021

The court lacked the authority to impose a flash incarceration condition of probation without the defendant's consent, and the prison prior should be stricken in light of Senate Bill No. 136.

People v. Charles Gutierrez (H047384)  
Panel attorney: Michael Sampson  
Date: April 28, 2021

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

People v. Michael Muaddi (H047548)  
Panel attorney: Kelley Fleming  
Date: April 27, 2021

Probation shall be limited to two years under Assembly Bill No. 1950. (Staff attorney Lori Quick)

People v. David Garris (H045657)  
Panel attorney: Jennifer Peabody

Date: April 21, 2021

The matter was remanded for the court to determine whether to place the defendant on mental health diversion or to exercise its discretion whether to strike the prior serious felony conviction under Senate Bill No. 1393. (Staff attorney Patrick McKenna)

People v. Rivas (H047066)  
Panel attorney: Brian McComas  
Date: April 19, 2021

There was insufficient evidence to order HIV testing. (Staff attorney Jonathan Grossman)

In re M.J. (H047988)  
Panel attorney: Josephine Banuelos  
Date: April 14, 2021

An order to attend counseling or education as ordered by the probation officer amounted to an improper delegation of judicial authority. Further, the court's written order not to associate with probationers conflicted with its oral pronouncement. (Staff attorney Anna Stuart)

People v. Jason Fallon (H045761, H045659)  
Panel attorney: Peter Goldscheider  
Date: March 30, 2021

The punishment for grand theft must be stayed pursuant to Penal Code section 654 in light of the punishment for burglary. (Staff attorney William Robinson)

People v. Johnny Chagolla (H047707)  
Panel attorney: Kevin Sheehy  
Date: March 26, 2021

The prior prison commitment must be dismissed pursuant to S.B. 136, but this did not mean a change in the sentence that was part of the plea bargain. Nonetheless, the period of probation should be reduced under A.B. 1950. (Staff attorney Jonathan Grossman)

In re J.O. (H047638, H047647)  
Panel attorney: Jennifer Bruno  
Date: March 22, 2021

The court could not impose probation conditions when it placed the minor at DJJ. (Staff attorney Anna Stuart)

People v. Carlos Burnias (H047623)  
Staff attorney: Lori Quick  
Date: February 23, 2021

The matter must be remanded to dismiss the prison prior in light of Senate Bill No. 136.

In re B.S. (H047995)  
Panel attorney: Caleb Lin  
Date: March 12, 2021

The matter was remanded for the juvenile court to determine if the offense was a felony or misdemeanor. (Staff attorney Jonathan Grossman)

People v. Treandous Cotton (H048308)  
Panel attorney: Charles Marson  
Date: March 11, 2021

Appellant was entitled to a hearing under *People v. Franklin* (2016) 63 Cal.4th 261. (Staff attorney Lori Quick)

People v. Luis Fregoso (H047273)  
Staff attorney: Lori Quick  
Date: March 10, 2021

After the Superior Court failed to properly change the judgment to reflect the correct amount of presentence credits, the Court of Appeal ordered that the judgment be corrected.

People v. Homero Gomez (H048066)  
Staff attorney: Paul Couenhoven  
Date: March 10, 2021

Appellant was entitled to a hearing under *People v. Franklin* (2016) 63 Cal.4th 261.

People v. Carlos Roman (H046210)

Panel attorney: Elisa Brandes  
Date: March 10, 2021

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. (Staff attorney Lori Quick)

In re A.T. (H047667)  
Panel attorney: Matthew Watts  
Date: March 3, 2021

The punishment for assault and robbery should have been stayed under Penal Code section 654 in light of the punishment for attempted carjacking. (Staff attorney William Robinson)

People v. Christopher Holland (H042634)  
Panel attorney: John Dwyer  
Date: February 11, 2021

Appellant was convicted of a crime committed in 1983. The fines must be reduced to reflect the amounts in effect at the time of the offense. (Staff attorney William Robinson)

People v. Amando Canchola (H047703)  
Panel attorney: Gordon Brownell  
Date: January 28, 2021

In the first appeal, the judgment was reversed so that the court could consider striking enhancements. It declined to do so, but it did modify the sentence. In this appeal, the court erred in not awarding presentence credits through the second sentencing hearing. Further, the abstract of judgment needed to be amended to accurately reflect the nature of the conviction and that it has been amended at resentencing per decision on appeal. (Staff attorney Anna Stuart)

People v. Jose Estrada (H045921)  
Panel attorney: Caitlin Plummer  
Date: January 21, 2021

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 William Robinson)

People v. Curtis Hautman (H047735)

Panel attorney: Allen Weinberg  
Date: January 13, 2021

The matter was remanded to the trial court to determine whether appellant is entitled to presentence credits for the time on the ankle monitoring program and whether his probation is limited to two years under A.B. 1950. (Staff Attorney Lori Quick)

### **DEPENDENCY CASES**

In re N.T. (H048922)  
Panel attorney: Patricia Saucier  
Date: October 22, 2021

The matter was remanded to comply with the Indian Child Welfare Act. (Staff attorney Paul Couenhoven)

In re E.L. (H049021)  
Panel attorneys: Joseph Tavano and Terence Chucas  
Date: September 21, 2021

The order terminating parental rights was reversed to consider the parent-child exception in light of *In re Caden C.* (2021) 11 Cal.5th 614. (Staff attorneys Jonathan Grossman and Anna Stuart)

In re E.C. (H048575)  
Panel attorney: Carol Koenig  
Date: September 21, 2021

The order terminating parental rights was conditionally reversed so that the juvenile court can comply with the inquiry requirement of the Indian Child Welfare Act. (Staff attorney Anna Stuart)

In re J.R. (H048689)  
Panel attorney: Jamie Moran  
Date: September 14, 2021

The Court of Appeal agreed with the mother that the juvenile court erred in finding her former boyfriend to be a presumed father, as he failed to adequately step forward to care for the child before the dependency. (Staff attorney Paul Couenhoven)

In re J.L. (H048843)  
Staff attorney: Jonathan Grossman  
Date: August 23, 2021

The matter was remanded to comply with the Indian Child Welfare Act.

In re J.S. (H047781, H047793, H048549)  
Panel attorneys: Linda Harvie and Leslie Barry for the minors  
Date: August 4, 2021

The juvenile court properly quashed the father's subpoena to have one of the children testify at the contested jurisdictional hearing. (Staff attorneys Joseph Doyle and Jonathan Grossman)

In re J.G. (H048894)  
Panel attorney: Paul Swiller  
Date: July 29, 2021

The matter was remanded so that the court may comply with the Indian Child Welfare Act. (Staff attorney Anna Stuart)

In re Leo G. (H048569)  
Panel attorney: Mansi Thakkar  
Date: June 30, 2021

Following *In re Caden C.* (2021) 11 Cal.5th 314, the Court of Appeal reversed the termination of parental rights because it did not appear the juvenile court properly followed the law in the hearing that occurred before the Supreme Court decision. (Staff attorney Joseph Doyle)

In re S.W. (H048493)  
Panel attorney: Sarah Vaona  
Date: June 25, 2021

Because there was a reason to believe the child might have Indian ancestry, the department had a duty to make further inquiry. (Staff attorney Joseph Doyle)

## **HABEAS CORPUS**

People v. James Sloop (H047503)  
Panel attorney: Richard Fitzer

Date: March 10, 2021

The prior prison commitment should be dismissed pursuant to S.B. 136, and the court failed to exercise its discretion whether to impose a concurrent term for dissuading a witness, which was an option under the facts of the case. Further, the Court of Appeal issued an order to show cause on habeas corpus because of evidence that the expert on intimate partner violence lied about her credentials. The defendant accepted an offer of eight years, credit for time served. (Staff attorneys William Robinson and Joseph Doyle)

People v. Jennifer Vasquez (H047246)

Panel attorney: Kevin Sheehy

Date: March 9, 2021

The Court of Appeal issued an order to show cause on habeas corpus because of evidence that the expert on intimate partner violence lied about her credentials. The defendant accepted an offer reducing the life sentence to 9 years 8 months. (Staff attorneys Patrick McKenna and Joseph Doyle)

In re Juan Figueroa (H047325)

Staff attorney: William Robinson

Date: February 5, 2021

The defendant entered a plea bargain in 2013 which resulted in a 15 year sentence. CDCR later sent a letter to the court stating the sentence was unauthorized. The court, with the agreement of the prosecution and the defense, modified the judgment to be 10 years. Later, CDCR said the first letter wrong. The court on its own increased the sentence back to 15 years. The defendant filed a habeas corpus petition and counsel was appointed. In a supplemental petition, it was alleged the original 15 year sentence was unauthorized for reasons not identified by CDCR, the ten year sentence was authorized, and the defendant was not trifling with the courts because the prosecution had agreed to the ten year sentence. The Attorney General conceded, and the Court of Appeal ordered that the ten year sentence be reimposed.

#### **MISCELLANEOUS**

In re Gerardo Cisneros (H048649)

Panel attorney: Jeff Glick

Date: June 22, 2021

Appellant could not suffer a third strike sentence because it was agreed when he pled in the prior case that his two convictions would serve as one strike. (Staff attorney Jonathan Grossman)

R.L. v. Superior Court (H048650)  
Attorney: Sarah Marinho  
Date: April 6, 2021

The court granted a petition for extraordinary writ based on the failure to provide reasonable services. Visitation and team meetings were limited due to Covid, and this interfered with the parent's ability to reunify. (SDAP was not involved in this matter)

William Carroll v. Superior Court (H048491)  
Attorney: William Pernik  
Date: March 30, 2021

The court denied mental health diversion on the grounds that diversion would result in making the case nonexistent. The court abused its discretion because it misunderstood the law: law enforcement would still be able to access records of the case. (SDAP did not participate in the matter)