

ISSUES PENDING BEFORE THE CALIFORNIA SUPREME COURT IN CRIMINAL CASES

[These case summaries are made available to inform the public of the general subject matter in cases that the Supreme Court has accepted for review. The statement of the issue or issues in each case set out below does not necessarily reflect the views of the court, or define the specific issues that will be addressed by the court. This compilation is current as of Friday, June 14, 2024.]

People v. Antonelli, S281599. (B321947; 93 Cal.App.5th 712; Ventura County Superior Court; CR27515-2.) Petition for review after the Court of Appeal affirmed an order denying a post-judgment motion in a criminal matter. This case presents the following issues: (1) Is defendant entitled to resentencing pursuant to Penal Code section 1172.6 on the ground that malice could be imputed to the defendant under the provocative act theory of murder for convictions occurring before 2009 (see Sen. Bill No. 775 (2021–2022 Reg. Sess.); *People v. Concha* (2009) 47 Cal.4th 653)? (2) Did the trial court err by not considering the jury instructions in determining defendant was ineligible for resentencing as a matter of law for a provocative act murder?

People v. Arellano, S277962. (H049413; 86 Cal.App.5th 418; Santa Clara County Superior Court; 159386.) Petition for review after the Court of Appeal reversed a post-judgment motion and remanded for resentencing in a criminal matter. This case presents the following issue: When a defendant obtains resentencing of a conviction under Penal Code section 1172.6, subdivision (e), is the trial court permitted to impose not only the target offense or underlying felony, but also corresponding enhancements?

People v. Cannon, S277995. (A163083; 85 Cal.App.5th 786; Mendocino County Superior Court; SCUKCR2010148692.) Petition for review after the Court of Appeal conditionally affirmed a civil commitment order and remanded with directions. This case presents the following issue: What level of scrutiny applies in determining whether the Sexually Violent Predator Act (Welf. & Inst. Code, § 6600 et seq.) violates equal protection because it does not require an advisement or personal waiver of a jury trial as afforded in other civil commitment statutes?

People v. Collins, S279737. (B322744; nonpublished opinion; Kern County Superior Court; MF013183.) Petition for review after the Court of Appeal affirmed a judgment of conviction of criminal offenses. The court limited review to the following issue: Does sufficient evidence support defendant's conviction for second degree murder based on a failure to protect?

People v. Dain, S283924. (A168286; 99 Cal.App.5th 399; Sonoma County Superior Court; SCR7090531.) Petition for review after the Court of Appeal reversed an order granting a motion in a criminal matter and remanded for further proceedings. The court limited review to the following issue: Did the Court of Appeal err in remanding the case with directions to reinstate the strike finding and to resentence defendant as a person who has suffered a prior strike conviction under the Three Strikes Law? (See *People v. Williams* (1998) 17 Cal.4th 148, 164, fn. 7; see also *People v. McGlothlin* (1998) 67 Cal.App.4th 468, 478; *People v. Humphrey* (1997) 58 Cal.App.4th 809, 814; but see *People v. Mayfield* (2020) 50 Cal.App.5th 1096, 1109; *People v. Strong* (2001) 87 Cal.App.4th 328, 347.)

People v. Emanuel, S280551. (H049147; nonpublished opinion; Santa Clara County Superior Court; C1246799.) Petition for review after the Court of Appeal affirmed an order denying a post-judgment motion in a criminal matter. This case presents the following issue: Does sufficient evidence support the trial court's finding that defendant acted with reckless indifference to human life and therefore was ineligible for resentencing pursuant to Penal Code section 1172.6?

People v. Faial, S273840. (A159026; 75 Cal.App.5th 738; San Mateo County Superior Court; SC083808.) Petition for review after the Court of Appeal remanded for resentencing and otherwise affirmed a judgment of conviction of criminal offenses. This case presents the following issue: Does Assembly Bill No. 1950 (Stats. 2020, ch. 328) apply retroactively to a defendant, serving a suspended-execution sentence, whose probation was revoked before the law went into effect?

People v. Fletcher, S281282. (E077553; 92 Cal.App.5th 1374; Riverside County Superior Court; BAF2001566.) Petition for review after the Court of Appeal affirmed in part and reversed in part a judgment of conviction of criminal offenses. The court limited review to the following issues: (1) Does Assembly Bill No. 333 amend the requirements for a true finding on a prior strike conviction (Pen. Code, §§ 667, subs. (b)–(i) & 1170.12, subs. (a)–(d)) and a prior serious felony conviction (Pen. Code, § 667, subd. (a)), or is that determination made on “the date of that prior conviction”? (See Pen. Code, §§ 667, subd. (d)(1) & 1170.12, subd. (b)(1).) (2) Does Assembly Bill No. 333 (Stats. 2021, ch. 699), which modified the criminal street gang statute (Pen. Code, § 186.22), unconstitutionally amend Proposition 21 and Proposition 36, if applied to strike convictions and serious felony convictions?

People v. Superior Court (Guevara), S283305. (B329457; 97 Cal.App.5th 978; Santa Barbara County Superior Court; 1183843.) Petition for review after the Court of Appeal granted a petition for peremptory writ of mandate. This case presents the following issue: Do the revised penalty provisions of the Three Strikes Reform Act of 2012 (Pen. Code, § 1170.12) apply when a defendant is resented pursuant to Senate Bill No. 483 (Pen. Code, § 1172.75)?

In re Harris, S272632. (A162891; 71 Cal.App.5th 1085; San Mateo County Superior Court; 21NF002568A.) Petition for review after the Court of Appeal conditionally vacated an order denying bail and remanded the matter for further proceedings. The court limited review to the following issue: What evidence may a trial court consider at a bail hearing when evaluating whether the facts are evident or the presumption great with respect to a qualifying charged offense, and whether there is a substantial likelihood the person's release would result in great bodily harm to others? (Cal. Const., art. I, § 12, subd. (b).)

In re Hernandez, S282186. (F076752; nonpublished opinion; Kern County Superior Court; BF150639A.) Petition for review after the Court of Appeal affirmed an order denying a post-judgment motion in a criminal matter. This case presents the following issue: Does the totality of the circumstances establish that defendant meaningfully understood the immigration consequences of her plea?

People v. Kopp, S257844. (D072464; 38 Cal.App.5th 47; San Diego County Superior Court; SCN327213.) Petition for review after the Court of Appeal affirmed in part and reversed in part judgments of conviction of criminal offenses. The court limited review to the following issues: (1) Must a court consider a defendant's ability to pay before imposing or executing fines, fees, and assessments? (2) If so, which party bears the burden of proof regarding the defendant's inability to pay?

In re Kowalczyk, S277910. (A162977; 85 Cal.App.5th 667; San Mateo County Superior Court; 21SF003700A.) Petition for review after the Court of Appeal dismissed a petition for writ of habeas corpus as moot. The court limited review to the following issues: (1) Which constitutional provision governs the denial of bail in noncapital cases — article I, section 12, subdivisions (b) and (c), or article I, section 28, subdivision (f)(3), of the California Constitution — or, in the alternative, can these provisions be reconciled? (2) May a superior court ever set pretrial bail above an arrestee's ability to pay?

People v. Lopez, S281488. (E080032; 93 Cal.App.5th 1110; San Bernardino County Superior Court; FWV1404692.) Petition for review after the Court of Appeal affirmed a judgment of conviction of criminal offenses. The court limited review to the following issue: Is defendant entitled to retroactive application of Assembly Bill No. 333 (2021-2022 Reg. Sess.) where he appeals for a second time after his judgment was conditionally reversed and the Court of Appeal issued a limited remand to the trial court to address sentencing issues?

People v. Lynch, S274942. (C094174; nonpublished opinion; Sacramento County Superior Court; 20FE009532.) Petition for review after the Court of Appeal modified and affirmed a judgment of conviction of criminal offenses. This case presents the following issue: What prejudice standard applies on appeal when determining whether a case should be remanded for resentencing in light of newly-enacted Senate Bill No. 567 (Stats. 2021, ch. 731)?

People v. McCune, S276303. (A163579; 81 Cal.App.5th 648; Napa County Superior Court; CR183930.) Petition for review after the Court of Appeal affirmed an order for restitution in a criminal action. This case presents the following issue: Did the trial court exceed its jurisdiction by setting the amount of victim restitution after terminating defendant’s probation pursuant to Assembly Bill No. 1950 (Stats. 2020, ch. 328)?

People v. Mitchell, S277314. (A163476; 83 Cal.App.5th 1051; Mendocino County Superior Court; SCUKCR2021373081.) Petition for review after the Court of Appeal affirmed a judgment of conviction of criminal offenses. This case presents the following issue: Does Senate Bill No. 567 (Stats. 2021, ch. 731), which limits a trial court’s discretion to impose upper term sentences, apply retroactively to defendants sentenced pursuant to stipulated plea agreements?

People v. Superior Court (Mitchell), S281950. (B326653; 94 Cal.App.5th 595; Ventura County Superior Court; 2018009315.) Petition for review after the Court of Appeal granted a petition for peremptory writ of mandate. This case presents the following issues: (1) Does Penal Code section 1238 authorize an appeal by the People from a superior court’s post-preliminary hearing, prejudgment order reducing a felony “wobbler” offense to a misdemeanor? (2) If not, may the People obtain review of the order by petition for extraordinary writ? (3) In the absence of further order or other direction, when does a Court of Appeal’s temporary stay of superior court criminal proceedings against a defendant expire? (4) If the temporary stay issued by the Court of Appeal had not expired at the time of defendant’s guilty plea, what was the effect, if any, of the stay on the resolution of defendant’s criminal proceedings?

People v. Montgomery, S284662. (A167813; 100 Cal.App.5th 768; Solano County Superior Court; FCR330516.) Petition for review after the Court of Appeal reversed an order denying a post-judgment motion in a criminal matter and remanded for further proceedings. This case presents the following issue: Is the prosecution entitled to rescind a plea agreement when a defendant receives a full resentencing pursuant to Senate Bill No. 483 (Stats. 2021, ch. 728) and the trial court intends to reduce the sentence beyond eliminating the prior prison term enhancements (Pen. Code, § 667.5, subd. (b))?

Needham v. Superior Court, S276395. (G060670; 82 Cal.App.5th 114; Orange County Superior Court; M-16870.) Petition for review after the Court of Appeal granted a petition for writ of mandate. This case presents the following issue: Does the Sexually Violent Predator Act (Welf. & Inst. Code, § 6600 et seq.) allow the People to retain a private expert to testify at trial as to whether a defendant is a sexually violent predator, or are the expert witnesses limited to those designated by the State Department of State Hospitals (Welf. & Inst. Code, §§ 6601 & 6603)?

People v. Patton, S279670. (B320352; 89 Cal.App.5th 649; Los Angeles County Superior Court; TA144611.) Petition for review after the Court of Appeal affirmed an order denying a post-judgment motion in a criminal matter. This case presents the following issue: Did the trial court engage in impermissible judicial factfinding by relying on the preliminary hearing transcript to deny defendant's Penal Code section 1172.6 petition at the prima facie stage? (See *People v. Lewis* (2021) 11 Cal.5th 952.)

People v. Rhodius, S283169. (E080064; 97 Cal.App.5th 38; Riverside County Superior Court; RIF1502535.) Petition for review after the Court of Appeal affirmed an order denying a post-judgment motion in a criminal matter. This case presents the following issue: Does Senate Bill No. 483 (Stats. 2021, ch. 728) entitle a defendant to a full resentencing hearing under Penal Code section 1172.75 if the defendant's prior prison term enhancements (Pen. Code, § 667.5, subd. (b)) were imposed and stayed, rather than imposed and executed?

In re Tellez, S277072. (D079716; 84 Cal.App.5th 292; San Diego County Superior Court; SCE369196.) Petition for review after the Court of Appeal denied a petition for writ of habeas corpus. This case presents the following issues: (1) Does trial counsel render ineffective assistance by failing to advise a defendant that pleading guilty to a qualifying offense could potentially render the defendant subject to involuntary commitment under the Sexually Violent Predator Act (SVPA)? (2) If so, did defendant demonstrate prejudice?

The Association of Deputy District Attorneys v. Gascón, S275478. (B310845; 79 Cal.App.5th 503; Los Angeles County Superior Court; 20STCP04250.) Petition for review after the Court of Appeal affirmed in part and reversed in part a petition for writ of mandate or prohibition. This case presents the following issues: (1) Does the Three Strikes law (Pen. Code, §§ 667, subds. (b)–(i), 1170.12) violate the separation of powers doctrine by requiring prosecutors to plead and prove prior qualifying felony convictions? (2) If there is a duty to plead prior qualifying convictions, is mandamus the proper remedy to compel a prosecutor to act?

People v. Walker, S278309. (B319961; 86 Cal.App.5th 386; Los Angeles County Superior Court; BA398731.) Petition for review after the Court of Appeal affirmed in part and reversed in part a post-conviction motion to modify sentence, and remanded with directions. The court limited review to the following issue: Does the amendment to Penal Code section 1385, subdivision (c) that requires trial courts to “afford great weight” to enumerated mitigating circumstances (Stats. 2021, ch. 721) create a rebuttable presumption in favor of dismissing an enhancement unless the trial court finds dismissal would endanger public safety?

People v. Wiley, S283326. (A165613; 97 Cal.App.5th 676; Humboldt County Superior Court; CR1902147B.) Petition for review after the Court of Appeal affirmed a judgment of conviction of criminal offenses. This case presents the following issue: Did the sentencing court's consideration of circumstances in aggravation based on certified records of prior convictions, beyond the bare fact of the convictions, violate Penal Code section 1170, subdivision (b)(3) or defendant's Sixth Amendment right to a jury trial?

People v. Williams, S262229. (D074098; 47 Cal.App.5th 475; San Diego County Superior Court; SCD268493.) Petition for review after the Court of Appeal affirmed a judgment of conviction of criminal offenses. The court limited review to the following issue: Does Penal Code section 3051, subdivision (h), violate the equal protection clause of the Fourteenth Amendment by excluding young adults convicted and sentenced for serious sex crimes under the One Strike law (Pen. Code, § 667.61) from youth offender parole consideration, while young adults convicted of first degree murder are entitled to such consideration?