

CaseBank: Cases Added during June 2022 (sorted by Court)

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CONSTITUTIONAL ISSUES / MISC CONSTITUTIONAL ISSUES

BEAR ARMS, RIGHT TO - CCW PERMITS, REQUIRING SPECIAL NEED

NEW YORK RIFLE & PISTOL ASSOC v. BRUEN: New York law that required Concealed Carry applicants to have a "special need" for self-defense while away from home violates the 2nd Amendment which gives all law-abiding adults the RIGHT to carry a gun for self-defense.

BRUEN U.S. Supreme 6/23/2022 U.S.

MISCELLANEOU / WRITS

FED HABEAS - REVIEW OF STATE COURT DECISIONS

BROWN v. DAVENPORT: Def improperly shackled during trial. State appellant ct found error HARMLESS. FED Habeas reversed. SUPREME CT reverses Habeas, yet again reminding FED courts that AEDPA means what it says. Feds must give state cts DEFERENCE.

DAVENPORT U.S. Supreme 4/21/2022 U.S.

EVIDENCE / HEARSAY

CRAWFORD - IMPEACHMENT USE - NOT

HEMPHILL v. NEW YORK: Trial Ct court admitted testimonial hearsay for the limited purpose of impeaching the def's testimony. HELD: there is no impeachment exception to CRAWFORD. The defense does not "open the door" by presenting evidence contrary to the hearsay.

HEMPHILL U.S. Supreme 1/20/2022 U.S.

TRIAL / VOIR DIRE

PROPER V.D. - COURT DISCRETION OVER ATTY QUESTIONS

UNITED STATES v. TSARNAEV: (Boston Marathon Bomber) Trial Ct reversed for disallowing some questions during V.D. The 1st Circuit was reversed by the Supreme Ct. Trial Ct decision was well within the bounds of discretion.

TSARNAEV U.S. Supreme 3/4/2022 U.S.

MISCELLANEOU / WRITS

FED HABEAS - SEEKING RELOCATION TO MENTAL HOSPITAL

SHOOP v. TWYFORD: FED Habeas Granted which ordered a STATE prisoner MOVED to a mental hospital so that def could be tested for possible MENTAL DEFENSES. REVERSED. Insufficient showing the move is necessary regarding a FED HABEAS issue.

TWYFORD U.S. Supreme 6/21/2022 U.S.

D. P. / SPEC. CIRC. / PEN -

OTHER VIOLENT ACTS - THREATS - LABELING INMATE A "RAT"

Screaming out at another inmate "YOU'RE A RAT!" within earshot of other inmates and guards, could be interpreted as an expression of intent to do a violent act, and therefore admissible in PENALTY PHASE.

PINEDA P. v. () 6/27/2022 CAL

MISCELLANEOU / MISC

INDIAN RESERVATIONS - JURISDICTION

OKLAHOMA v. CASTRO-HUERTA: Feds and the STATE have jurisdiction to criminally prosecute crimes committed by non-Indians against Indian victims on Indian lands. --- This case involves Oklahoma that has a particularly confused history of Indian matters. No idea of case's relevance to California.

CASTRO-HUERTA U.S. Supreme 6/29/2022 U.S.

MOTIONS / DOUBLE JEOPARDY

FED CONVICTION / TRIBAL LAW CONVICTION

DENEZPI v. U.S. : Fed Indian Affairs Ct convicts def of violating a TRIBAL law. Then def is indicted for violating a FEDERAL Law in regular Fed Ct. for the same act. HELD: No DOUBLE JEOPARDY violation. Different sovereigns can enact and enforce their own law. That TRIBAL law was enforced in FED ct is not

DENEZPI U.S. Supreme 6/13/2022 U.S.

D. P. / SPEC. CIRC. / MISC - D.P./SPEC. CIRC.

EXECUTION METHODS - FED HABEAS v. SECTION 1983 ACTION

NANCE v. GEORGIA: Death row inmate seeks to be executed by firing squad instead of lethal injection on grounds that it causes less pain. HELD: such a request can be made via a 42 U.S.C. 1983 lawsuit instead of a Habeas petition.

NANCE U.S. Supreme 6/23/2022 U.S.

D. P. / SPEC. CIRC. / PEN -

MITIGATION - CO-DEF IS MUCH WORSE THAN DEF

UNITED STATES v. TSARNAEV: (Boston Marathon Bomber) Trial Ct reversed for disallowing Negative evidence about absent co-def at def's penalty phase. The 1st Circuit was reversed by the Supreme Ct. Trial Ct decision was well within the bounds of discretion applying the FED version of Ev 352.

TSARNAEV U.S. Supreme 3/4/2022 U.S.

EVIDENCE / 352 / RELEVANCE

PRISON CRIME - DEF'S PRIOR PRISON MISCONDUCT

Def commits a GANG MURDER inside Prison. ALL of def's prior Prison misconduct issues ARE RELEVANT on issue of Def's knowledge of how Prison security works.

PINEDA P. v. () 6/27/2022 CAL

D. P. / SPEC. CIRC. / PEN -

REBUTTAL TO EXPERT PREDICTION OF DEF FUTURE PRISON BEHAVIOR

At penalty phase, def expert opines def won't be able to continue GANG activity if given LWOP. HELD: this opens door to evidence of def smuggling out letters to others containing GANG related instructions.

PINEDA P. v. () 6/27/2022 CAL

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D. P. / SPEC. CIRC. / JURY SELECTION

CHALLENGE FOR CAUSE - ANSWERS CONTRADICTORY - BODY LANGUAGE

D.P. Case. Jurors X and Y supported death penalty in general, but gave ambiguous, conflicting, answers on whether they could personally VOTE for death as a juror. Both excused for cause. HELD: When transcript ambiguous, appellate court should defer to trial court who saw body language.

POORE P. v. () 6/27/2022 CAL

APPELLATE / WAIVER OF APPEAL

WAIVER - DEF ORDERED HIS ATTY TO "DO NOTHING"

Def instructs his attys to do NOTHING during Penalty phase. Trial court has the def repeat his instructions to his atty ON THE RECORD. HELD: Def thereby waived any appellate issue re: competency of atty during penalty phase and any other ERROR based on his instructions.

POORE P. v. () 6/27/2022 CAL

MOTIONS / DISCOVERY

GENERALLY - 1054 - WORK PRODUCT

Internal DA memo discussed medical examiner X and whether she was prone to find ambiguous deaths Homicides as opposed to Accidents. HELD: While parts are non-discoverable WORK PRODUCT, other parts are BRADY material to any def asserting an ACCIDENT defense.

DELEOZ P. v. () 6/30/2022 6:

D. P. / SPEC. CIRC. / SPECIAL CIRCUMSTANCES

GANG MURDER - 1009 PC BIFURCATION DOES NOT APPLY

AB 333, which adds PC 1109, which gives def right to ask for BIFURCATION of GANG enhancements, is RETROACTIVE under ESTRADA. -- BUT -- 1109 does NOT apply to Gang Spec Circ - PC 190.2(a)(22).

MONTANO P. v. () 6/23/2022 5:

D. P. / SPEC. CIRC. / SPECIAL CIRCUMSTANCES

GANG MURDER - NOT AFFECTED BY AB 333 CHANGES TO 186.22 PC

AB 333, which amended PC 186.22 definitions of GANG ACTIVITY, was NOT passed by a 2/3's majority. Therefore, AB 333 cannot AMEND Prop 21 which created a GANG Spec Circ - PC 190.2(a)(22) - which incorporates 186.22 by reference. HELD: AB 333 changes to NOT apply to Spec Circ.

ROJAS P. v. () 6/29/2022 5:

APPELLATE / HARMLESS ERROR

HARMLESS ERROR - DEF'S PRESENCE AT HRGS (ZOOM SUBSTITUTE)

Due to COVID, def's post-trial MARSDEN motion, New Trial Motion, and his sentencing was done by ZOOM over def's objection. HELD: Error under PC 977 and 1193 which require PERSONAL presence. --- But, error is HARMLESS.

WHITMORE P. v. () 6/22/2022 4:3

D. P. / SPEC. CIRC. / MISC - D.P./SPEC. CIRC.

DEF WISH TO NOT PRESENT MITIGATION

Def instructs his attys to do NOTHING during Penalty phase. Trial court has the def repeat his instructions to his atty ON THE RECORD. HELD: Def thereby waived any appellate issue re: competency of atty during penalty phase and any other ERROR based on his instructions.

POORE P. v. () 6/27/2022 CAL

MOTIONS / DISCOVERY

EXCULPATORY - BRADY - MEDICAL EXAMINER - PAST MISTAKES

Internal DA memo discussed medical examiner X and whether she was prone to find ambiguous deaths Homicides as opposed to Accidents. HELD: While parts are non-discoverable WORK PRODUCT, other parts are BRADY material to any def asserting an ACCIDENT defense.

DELEOZ P. v. () 6/30/2022 6:

MISCELLANEOU / RETROACTIVE

BENEFIT TO DEF - BIFURCATION OF GANG ENHANCEMENTS

AB 333, which adds PC 1109, which gives def right to ask for BIFURCATION of GANG enhancements, is RETROACTIVE under ESTRADA. -- BUT -- 1109 does NOT apply to Gang Spec Circ - PC 190.2(a)(22).

MONTANO P. v. () 6/23/2022 5:

MOTIONS / BIFURCATE

186.22(b) PC - GANG ENHANCEMENTS - 1109 PC

AB 333, which adds PC 1109, which gives def right to ask for BIFURCATION of GANG enhancements, is RETROACTIVE under ESTRADA. -- BUT -- 1109 does NOT apply to Gang Spec Circ - PC 190.2(a)(22).

MONTANO P. v. () 6/23/2022 5:

SENTENCING / RE-SENTENCE - 36, 47, 64 & SB 1437

1170.95 PC - ELIGIBILITY - USE OF DEF'S ADMITTED FACTUAL BASIS

In 2007, when def pled NOLO to PC 187, def admitted to a factual basis that def drove the shooter to the victim, knowing and intending that shooter would kill victim. HELD: this admission makes def INELIGIBLE for PC 1170.95 relief. Petition was properly SUMMARILY denied.

ROMERO P. v. () 6/6/2022 5:

MOTIONS / PROCEDURE

ALL MOTIONS - DEF'S PRESENCE AT HRGS -- ZOOM IS NOT ENOUGH

Due to COVID, def's post-trial MARSDEN motion, New Trial Motion, and his sentencing was done by ZOOM over def's objection. HELD: Error under PC 977 and 1193 which require PERSONAL presence. --- But, error is HARMLESS.

WHITMORE P. v. () 6/22/2022 4:3

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MISCELLANEOUS / RETROACTIVE

BENEFIT TO DEF - SENTENCING FACTORS

SB 567 amends PC 1170(b) to mandate a jury finding before an aggravating factor (other than priors) can be used to impose UPPER term. HELD: SB 567 is RETROACTIVE to all non-final cases.

WHITMORE P. v. () 6/22/2022 4:3

SENTENCING / RE-SENTENCE - 36, 47, 64 & SB 1437

1170.95 PC - HEARING - MAJOR PARTIC, RECK INDIFF - AGE, SUFF EVID

Def is getaway driver to 211/187. As co-defs approach car to leave, a witness appears. Def yells "shoot him". Co-def shoots and misses as they leave. Unknown to def, Co-def killed clerk inside store. -- at PC 1170.95 hrg, def found to be MAJOR/INDIFF. UPHELD

RICHARDSON P. v. () 6/16/2022 4:2

SENTENCING / RE-SENTENCE - 36, 47, 64 & SB 1437

1170.95 PC - HEARING - DEF'S RIGHT TO BE PRESENT

An evidentiary hearing under PC 1170.95 is a "critical proceeding". Def has RIGHT to appear. Waiver by Counsel alone is NOT enough. Personal waiver is required. --- REMANDED FOR NEW HEARING

BASLER P. v. () 5/25/2022 4:1

SENTENCING / DIVERSION

DIVERSION - MENTALLY ILL - 1001.36 PC - SCOPE OF HEARING

Due Process does NOT require that the court permit live testimony at a hearing to determine if def should be DIVERTED under Mental Health Diversion - PC 1001.36 --- Statute calls for an "informal" hearing.

BUNAS P. v. () 6/14/2022 4:1

SENTENCING / RESTITUTION

GENERALLY - SETTING THE FINAL AMOUNT AFTER PROBATION EXPIRED

Def placed on three years probation and ordered to pay restitution, the amount to be determined later. Two years later, probation abruptly ended per AB 1950. HELD: Court STILL had jurisdiction to set the restitution amount. This was NOT a modification.

ZUNIGA P. v. () 6/14/2022 4:1

SENTENCING / DIVERSION

DIVERSION - MENTALLY ILL - 1001.36 PC - DDA NEED NOT CONSENT

DDA does NOT have VETO power over Mental Health Diversion under PC 1001.36. Court may divert over DDA's objection.

WATTS P. v. () 6/14/2022 2:8

SENTENCING / MISC - SENTENCING

AGGRAVATING FACTORS - SB 567 - NEED FOR JURY FINDING

SB 567 amends PC 1170(b) to mandate a jury finding before an aggravating factor (other than priors) can be used to impose UPPER term. HELD: SB 567 is RETROACTIVE to all non-final cases.

WHITMORE P. v. () 6/22/2022 4:3

INSTRUCTIONS/ELEMENTS / HOMICIDE

MISC FACT PATTERN - KILL ZONE INSTRUCTIONS - WHEN TO GIVE

KILL ZONE theory requires a PRIMARY TARGET. If there is no Primary Target, -- if def just wants to kill everyone - then the KILL ZONE instruction does not apply.

SAMBRANO In Re () 6/9/2022 4:2

SENTENCING / DIVERSION

DIVERSION - MENTALLY ILL - 1001.36 PC - CRC 4.410 NOT RELEVANT

Trial court denies request for Mental Health Diversion - PC 1001.36 - by relying, in part, on General Rules re: sentencing - CRC 4.410. HELD: this was ERROR. Rule 4.410 does NOT apply. Court must use the criteria set forth in 1001.35 and 1001.36. -- HARMLESS in this case.

BUNAS P. v. () 6/14/2022 4:1

SENTENCING / DIVERSION

DIVERSION - MENTALLY ILL - 1001.36 PC - CRC 4.410 NOT RELEVANT

Trial court denies request for Mental Health Diversion - PC 1001.36 - by relying, in part, on General Rules re: sentencing - CRC 4.410. HELD: this was ERROR. Rule 4.410 does NOT apply. Court must use the criteria set forth in 1001.35 and 1001.36. -- REMANDED for new hearing,

QUALKINBUSH P. v. () 6/13/2022 4:1

MOTIONS / WITHDRAW PLEA / STRIKE PRIOR

1473.7 PC - DELAYED IMMIGRATION MOTIONS - APPELLATE REVIEW

Trial ct denied def's PC 1473.7 motion to w/draw guilty plea. --- DCA, based on its independent review of the evidence determines the Def met his burden. DCA GRANTS motion.

SOTO P. v. () 5/9/2022 3:

SENTENCING / DIVERSION

DIVERSION - MENTALLY ILL - 1001.36 PC - SCOPE OF HEARING

Due Process does NOT require that the court permit live testimony at a hearing to determine if def should be DIVERTED under Mental Health Diversion - PC 1001.36 --- Statute calls for an "informal" hearing.

WATTS P. v. () 6/14/2022 2:8

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CONSTITUTIONAL ISSUES / DUE PROCESS / EQUAL PROTECTION

DUE PROCESS - LIVE TESTIMONY AT DIVERSION HRG

Due Process does NOT require that the court permit live testimony at a hearing to determine if def should be DIVERTED under Mental Health Diversion - PC 1001.36 -- Statute calls for an "informal" hearing.

WATTS P. v. () 6/14/2022 2:8

SENTENCING / ONE-STRIKE SEX

MISC - DDA DUTY TO PLEAD AND PROVE ALL KNOWN STRIKES

ASSOCIATION OF DDA'S OF LOS ANGELES v. GASCON: HELD: 1) 3-strike law places an affirmative DUTY on DDA's to PLEAD all known STRIKES of a defendant. 2) Once plead, DDA may move to dismiss. 3) Once moved, Court may grant or deny the motion. 4) If denied, DDA must attempt in good faith to

L.A. ASSOC OF DDA's OTHER 6/2/2022 2:7

MOTIONS / 1385

DDA REQUESTS TO DISMISS - CT MUST INDEPENDENTLY APPROVE

Before election, old DA files PC 12022.53 gun enhancements. After election, new DA moves to dismiss them under PC 1385. HELD: Just because DDA asks, is NOT adequate reason under 1385. Ct must independently decide if dismissal is in the Interest of Justice.

NAZIR def v. SUP CT 6/2/2022 2:7

MISCELLANEOUS / JUDICIAL DUTIES & ETHICS

JUDICIAL DUTY - DDA REQUESTS 1385 DISMISSAL

The decision to file a charge/enhancement is SOLELY the DA's decision. But, once filed, the DA can only ASK that it be dismissed. The court must independently decide if the dismissal is in the Interest of Justice under PC 1385.

NAZIR def v. SUP CT 6/2/2022 2:7

MOTIONS / WITHDRAW PLEA / STRIKE PRIOR

1473.7 PC - DELAYED IMMIGRATION MOTIONS - NEW EVID OF DEF'S KNOWLEDGE

Def seeks to w/draw 2012 guilty plea under PC 1473.7. Court denied, based, in part, on statements def made to friends/family in 2012 indicating he knew deportation was likely. UPHELD.

GARCIA P. v. () 6/15/2022 2:6

APPELLATE / MISC APPELLATE

REMAND PROCEDURE - NO REMAND IF DCA KNOWS WHAT TRIAL CT WOULD DO

SB 567 amended PC 1170(b) to PRESUME that LOW TERM is appropriate if def suffered CHILDHOOD TRAUMA. HELD: (1) SB 567 is RETROACTIVE. (2) Remand for new sentencing is NOT needed since record shows trial court already found that any such presumption was overcome.

SALAZAR P. v. () 6/28/2022 2:6

MISCELLANEOUS / ATTY ETHICS

DDA DUTY - DUTY TO PLEAD AND PROVE STRIKES

ASSOCIATION OF DDA'S OF LOS ANGELES v. GASCON: HELD: 1) 3-strike law places an affirmative DUTY on DDA's to PLEAD all known STRIKES of a defendant. 2) Once plead, DDA may move to dismiss. 3) Once moved, Court may grant or deny the motion. 4) If denied, DDA must attempt in good faith to

L.A. ASSOC OF DDA's OTHER 6/2/2022 2:7

INSTRUCTIONS/ELEMENTS / HOMICIDE

MALICE (IMPLIED) - DUI 187 - MARIJUANA

Def convicted of WATSON murder for going 90 mph through a Stop Sign while under the influence of MJ. UPHELD

MURPHY P. v. () 6/30/2022 2:7

MOTIONS / 1385

DDA REQUESTS TO DISMISS - CT MUST INDEPENDENTLY APPROVE

DDA moves to dismiss gun enhancement pursuant to new DA Policy. HELD: While DA policy, alone, is insufficient reason under PC 1385, the court must consider and weigh the reasons for the policy as expressed in the policy memo itself, or as articulated by the DDA.

NAZIR def v. SUP CT 6/2/2022 2:7

MISCELLANEOUS / ATTY ETHICS

DDA DISCRETION - ONCE CHARGE FILED, DDA NEEDS PERMISSION TO DISMISS

The decision to file a charge/enhancement is SOLELY the DA's decision. But, once filed, the DA can only ASK that it be dismissed. The court must independently decide if the dismissal is in the Interest of Justice under PC 1385.

NAZIR def v. SUP CT 6/2/2022 2:7

MISCELLANEOUS / RETROACTIVE

BENEFIT TO DEF - SENTENCING PRESUMPTIONS

SB 567 amended PC 1170(b) to PRESUME that LOW TERM in appropriate if def suffered CHILDHOOD TRAUMA. HELD: (1) SB 567 is RETROACTIVE. (2) Remand for new sentencing is NOT needed since record shows trial court already found that any such presumption was overcome.

SALAZAR P. v. () 6/28/2022 2:6

SENTENCING / MISC - SENTENCING

MITIGATION FACTORS - PRESUMPTIONS BASED ON

SB 567 amended PC 1170(b) to PRESUME that LOW TERM in appropriate if def suffered CHILDHOOD TRAUMA. HELD: (1) SB 567 is RETROACTIVE. (2) Remand for new sentencing is NOT needed since record shows trial court already found that any such presumption was overcome.

SALAZAR P. v. () 6/28/2022 2:6

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TRIAL / ARGUMENT

NO-NO FOR ALL - JUROR COMMENTS IN V.D., USE IN ARGUMENT

What jurors say during V.D. is not evidence. Therefore, any use of such comments during Closing Argument is IMPROPER.

LIMA P. v. () 6/28/2022 2:5

SENTENCING / PROBATION

TERMS - MUST - TELL P.O. OF ALL INCOME AND SOURCE OF INCOME

Def given probation on a drug sales charge. Term of Probation required def to disclose to P.O. all her FINANCIAL INFORMATION while probation including source of all income. UPHELD.

SMITH P. v. () 6/13/2022 1:5

CONSTITUTIONAL ISSUES / DUE PROCESS / EQUAL PROTECTION

EQUAL PROTECTION - SVP's / MDO's / NGI's - PERSONALITY DISORDERS

MDO statute does not permit MDO EXTENSIONS to be based on Personality Disorders. PC 1026.5 NGI extensions have no such restriction. HELD: this is NOT an Equal Protection violation.

DIGGS P. v. () 6/30/2022 1:4

SENTENCING / PROBATION

LENGTH - 1203.1 PC - EXCEPTIONS TO AMENDMENT

AB 1950 amendments to PC 1203a and 1203.1 does NOT reduce Length of Probation in Domestic Violence cases because PC 1203.097 specifically sets forth a longer length for such cases. ---- "within its provisions" is NOT limited to the code section that defines the crime.

RODRIGUEZ P. v. () 6/7/2022 1:4

MISCELLANEOUS / RETROACTIVE

BENEFIT TO DEF - PROBATION LENGTH - 1203.1 PC

On the effective date of AB 1950, 1/1/21, def's probation ENDED. Therefore that court did not have jurisdiction to summarily revoke probation after 1/1/21. (in this case the act that violated probation also occurred after 1/1/21.)

ARREGUIN P. v. () 6/14/2022 1:3

SENTENCING / MISC - SENTENCING

FEES/ASSESSMENTS - AB 1869 REPEAL - RETROACTIVE EFFECT

AB 1869, effective July 1, 2021, repealed a slew of fees and assessments. -- Including Booking Fees. HELD: it is retroactive to the extent that all past imposed fees that were UNPAID as of effective date are VOID. -- If def asks, he is entitled to an ORDER vacating unpaid fees etc.

JOHNSON P. v. () 6/17/2022 1:3

SENTENCING / PROBATION

MISC - IMPROPER DELEGATION OF JUDICIAL AUTHORITY TO P.O.

Probation term gave the P.O. the authority to chose which treatment program the def had to complete. REVERSED as improper delegation of judicial authority.

SMITH P. v. () 6/13/2022 1:5

CONSTITUTIONAL ISSUES / DUE PROCESS / EQUAL PROTECTION

EQUAL PROTECTION - CTS GOODTIME RULES - PRISON v. JAIL INMATES

Def received a LONG county jail sentence. Def brings a HABEAS petition saying it is an EQUAL PROTECTION violation for JAIL to have fewer REHABILITATION credits available than PRISON. -- Petition DENIED. -- There is rational basis for the discrepancy.

CUENCA In Re () 6/23/2022 1:4

MENTAL HEARINGS / 1026

NGI EXTENSIONS - PERSONALITY DISORDERS

MDO statute does not permit MDO EXTENSIONS to be based on Personality Disorders. PC 1026.5 NGI extensions have no such restriction. HELD: this is NOT an Equal Protection violation.

DIGGS P. v. () 6/30/2022 1:4

SENTENCING / V/P'S

JURISDICTION - EFFECT OF AB 1950 RETROACTIVITY

On the effective date of AB 1950, 1/1/21, def's probation ENDED. Therefore that court did not have jurisdiction to summarily revoke probation after 1/1/21. (in this case the act that violated probation also occurred after 1/1/21.)

ARREGUIN P. v. () 6/14/2022 1:3

INSTRUCTIONS/ELEMENTS / MISC -

WITNESS INTIMIDATION - 136.1 PC

In Domestic Violence situation, def tells family, "if you call police, I will kill myself." HELD: a threat to harm oneself is NOT a threat to harm a "third person" under PC 136.1. Conviction reversed.

JOHNSON P. v. () 6/17/2022 1:3

EVIDENCE / EXPERT

CONFESSION RELIABILITY EXPERT

Trial court Abused Discretion in excluding proffered testimony from defense Expert that the defendant was particularly vulnerable to yielding to police pressure and giving a FALSE CONFESSION.

CAPARAZ P. v. () 6/30/2022 1:2

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SENTENCING / 654

GENERALLY - COURT MAY NOT IMPOSE THE SHORTER - ONE-STRIKE CASES

AB 518 amended PC 654 to give sentencing court the discretion to NOT always pick the Higher Sentence Crime to impose in a PC 654 situation. (1) AB 518 is Retroactive, but (2) AB 518 does NOT affect the mandate in PC 667.61 that ONE-STRIKE sentences can never be stayed or suspended.

CAPARAZ *P. v. ()* 6/30/2022 1:2

SENTENCING / ONE-STRIKE SEX

ONE STRIKE - 667.61 PC - NO AUTHORITY TO SUSPEND OR STAY

AB 518 amended PC 654 to give sentencing court the discretion to NOT always pick the Higher Sentence Crime to impose in a PC 654 situation. (1) AB 518 is Retroactive, but (2) AB 518 does NOT affect the mandate in PC 667.61 that ONE-STRIKE sentences can never be stayed or suspended.

CAPARAZ *P. v. ()* 6/30/2022 1:2