

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

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MISCELLANEOUS / RETROACTIVE

BENEFIT TO DEF - WHEN DOES CASE STAY FINAL?

For purposes of Prop 57 unfitness, a case once final becomes UNFINAL should it EVER become necessary to RESENTENCE, regardless of def's age at the time of the resentencing. --- 4-3 decision. Def is now age 40. Dissenters want once FINAL case to STAY Final.

PADILLA P. v. () 5/26/2022 CAL

MOTIONS / QUASH SUBPOENAS

SUB DT - FILM TAKEN BY DOCUMENTARY / REALITY TV MAKERS

Def learns a REALITY TV SHOW is filming DDA's talk to each other about the case. Def Sub DT's the production company. HELD: News Reporter Shield Law -- Ev 1070 -- applies.

PARKER P. v. () 5/19/2022 CAL

MISCELLANEOUS / RETROACTIVE

BENEFIT TO DEF - BIFURCATION OF GANG ENHANCEMENTS

AB 333 added PC 1109 which gives def right to Bifurcation of Gang enhancements. HELD: PC 1109 is NOT RETROACTIVE under Estrada. (The legislature, of course, did not address subject of retroactivity.)

RAMERIZ P. v. () 5/25/2022 6:

INSTRUCTIONS/ELEMENTS / DUI'S

DIVERSION - 1001.95 PC - DUI'S ARE ELIGIBLE - NO

Misd DUI is NOT subject to misd diversion under PC 1001.95 due to the mandate of VC 23640.

ISLAS def v. SUP CT 5/20/2022 6:

MOTIONS / VENUE/JURISDICTIONS

VENUE - CRIME - CREDIT CARD TAKEN IN X, USED IN Y

In the morning, victim's credit cards taken from his car in Orange County. (no witnesses). That afternoon, def uses credit card in L.A. County. Orange County files ID theft for the USE in L.A. HELD: Dismissed due to lack of VENUE jurisdiction unless Def is connected to original theft.

WATKINS P. v. () 5/16/2022 4:3

INSTRUCTIONS/ELEMENTS / MISC -

VEHICLE PURSUIT - 2800.2 VC - COP IN LAWFUL PERFORMANCE

Proving that the chasing Officers are in the lawful performance of their duties is NOT an element of VC 2800.2.

FUENTES P. v. () 5/12/2022 4:2

MENTAL HEARINGS / 1368

WHEN TO START - SUA SPONTE DUTY - IRRATIONAL DIFFICULT DEFS

Def's can be irrational, irritating, non-cooperating, obstreperous, and stupid without being mentally ill or PC 1368. This case: neither court nor defense atty thought this "crazy" def was 1368. HELD: no need for court to SUA SPONTE start 1368 process.

PARKER P. v. () 5/19/2022 CAL

MOTIONS / NEW TRIAL - ATTY INCOMPETENCE

APPOINTMENT OF NEW ATTY SOLELY FOR MOTION

During deliberations, def sends judge a letter accusing his atty of incompetence and asking for new trial. After verdict, court appts new atty for limited purpose of evaluating choice of making new trial motion. New atty decides to NOT file such a motion. UPHELD.

PARKER P. v. () 5/19/2022 CAL

SENTENCING / DIVERSION

DIVERSION - Misd - PC 1001.95 - DUI'S ARE ELIGIBLE - NO

Misd DUI is NOT subject to misd diversion under PC 1001.95 due to the mandate of VC 23640.

ISLAS def v. SUP CT 5/20/2022 6:

MENTAL HEARINGS / MDO

EXTENSIONS - START DATE FOR EACH ONE-YEAR EXTENSION

Def is an MDO. Def was released because of delays in holding his EXTENSION trial. After extension verdict, the one-year extension started on the day the old extension ended. No tolling for the time def was released. -- this is based on plain language of statute.

MYERS def v. SUP CT 5/23/2022 5:

INSTRUCTIONS/ELEMENTS / LESSER

VEHICLE PURSUIT (2800.2 VC) / RESISTING POLICE (148 PC)

PC 148(a)(1) - resisting police - is NOT a LESSER to VC 2800.2 -- vehicle flight from police.

FUENTES P. v. () 5/12/2022 4:2

MOTIONS / 1385

ABUSE OF DISCRETION IN not DISMISSING UNDER 1385 PC

Def appeals the failure of the sentencing court to strike the gun enhancement. Court knew it could, it just decided not to. HELD: appellate standard is abuse of discretion which in this context would be extremely rare. Sentence AFFIRMED.

PARRAMARTINEZ P. v. () 5/5/2022 4:2

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MISCELLANEOUS / RETROACTIVE

BENEFIT TO DEF - SENTENCING PRESUMPTIONS

SB 567 amends PC 1170(b) to make MID-TERM the presumptive choice, and factors supporting UPPER-TERM must be proved Beyond reasonable doubt. HELD: this is RETROACTIVE. REMANDED for new sentencing. DDA will have option of jury trial to prove AGG FACTORS.

LOPEZ P. v. () 5/10/2022 4:1

SENTENCING / PROBATION

LENGTH - 1203.1 PC - EXCEPTIONS TO AMENDMENT

Because Def Stalked a victim of Domestic Violence, PC 1203.097(a)(1) mandates a minimum probation length of 3 years. Therefore, the amendment to PC 1203.1(a) lowering Felony probation to 2 years does not apply.

FORESTER P. v. () 5/10/2022 4:1

SENTENCING / MISC - SENTENCING

AGGRAVATING FACTORS - DDA MAY ASK FOR SPECIAL FINDINGS

SB 567 amends PC 1170(b) to make MID-TERM the presumptive choice, and factors supporting UPPER-TERM must be proved Beyond reasonable doubt. HELD: this is RETROACTIVE. REMANDED for new sentencing. DDA will have option of jury trial to prove AGG FACTORS.

LOPEZ P. v. () 5/10/2022 4:1

APPELLATE / HARMLESS ERROR

HARMLESS ERROR - JUROR WRONGLY EXCUSED MID-TRIAL

Juror X is excused mid-trial and alternate seated. HELD: even though the excusal was ERROR, in this case, it was HARMLESS ERROR, under Watson reasonable doubt standard.

HENDERSON P. v. () 5/11/2022 3:

MENTAL HEARINGS / 1026

OUT-PATIENT STATUS - DEF'S BURDEN / DIRECTED VERDICT

Def, as Pro Per, applies for outpatient treatment per PC 1026.2. At the hearing (Judge, no jury) def's sole witness is himself. DDA then moves for a Directed Verdict before presenting any evid. Motion Granted. UPHELD. Judge, as trier of fact, must determine if def met his burden. If not, hearing is over.

NANCE P. v. () 5/12/2022 3:

INSTRUCTIONS/ELEMENTS / HOMICIDE

MALICE (IMPLIED) - VEHICULAR 187 - MJ

Def convicted of WATSON 187. Def was high on MJ when he sped through stop sign. There is no quantitative test to measure "how high" someone is on MJ. Def did NOT have any prior DUI convictions, but was once taught dangers of drugs and driving. Def was chronic MJ user. UPHELD.

MURPHY P. v. () 5/25/2022 2:7

SENTENCING / MISC - SENTENCING

PRESUMPTIONS - 1170(B)(6) - MID-TERM

SB 567 amends PC 1170(b) to make MID-TERM the presumptive choice, and factors supporting UPPER-TERM must be proved Beyond reasonable doubt. HELD: this is RETROACTIVE. REMANDED for new sentencing. DDA will have option of jury trial to prove AGG FACTORS.

LOPEZ P. v. () 5/10/2022 4:1

MOTIONS / SPEEDY

TRIAL DELAY - CAUSE - COVID-19 PANDEMIC - BACKLOG

Def's Superior Ct arraignment was May 13, 2020. Def filed WRIT on Speedy trial grounds in September 2021. WRIT denied. COVID pandemic was good cause for the delay, and now, the COVID backlog is further good cause for further delays.

ELIAS def v. SUP CT 5/17/2022 4:1

TRIAL / JUROR/VERDICT ISSUES

MISCONDUCT - MISC - LYING DURING HEARING ON MISCONDUCT

ATTY & Juror have brief innocent encounter at restaurant during trial. Atty reports it. Ct questions juror. Atty and juror have conflicting memories. Court found atty was accurate, and juror was NOT. JUROR excused. HELD: ERROR. a misrecollection of something unimportant is NOT manifest need.

HENDERSON P. v. () 5/11/2022 3:

TRIAL / VOIR DIRE

CAUSE - NEGATIVE VIEWS ABOUT POLICE

Three minority jurors say during V.D. that police mistreat minorities. DCA concludes trial ct was right to excuse one for cause, right to decline to excuse one for cause, and one was a tough call, so DCA will defer to trial court's judgment.

HENDERSON P. v. () 5/11/2022 3:

SEARCH & SEIZURE / S/W - AFF

PC - BASED ON LEGAL ACTIVITY - USE OF EXPERT COP OPINION

Given all the surrounding circumstances, Police properly interpreted def's very brief stop at a known drug hub was PC to stop def's car as he left to search for drugs. And THEN, once drugs found in car, THAT WAS PC to get warrant to search the house.

DELGADO P. v. () 5/6/2022 2:8

MISCELLANEOUS / RETROACTIVE

BENEFIT TO DEF - PROP 57 - JUVI UNFITNESS - RIGHT TO APPEAL

AB 624 amended W&I 801 and created a right to APPEAL a JUVI ct finding that def was UNFIT. (before, only appellate remedy was a WRIT) HELD: AB 624 is NOT RETROACTIVE under Estrada. -- This is procedural change giving def no substantive benefit.

PINEDA P. v. () 4/11/2022 2:5

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SENTENCING / RE-SENTENCE - 36, 47, 64 & SB 1437
 1170.95 PC - ELIGIBILITY - CONSPIRACY - EFFECT ON OTHER COUNTS
 Jury instructions DID NOT explicitly tell jury that def must INTENT to commit 187, instructions merely said def must INTENT to enter into a CONSPIRACY to commit 187. Therefore, the Conspiracy conviction does NOT make def PER SE ineligible to challenge 187 conviction under PC 1170.95.
WHITSON P. v. () 5/24/2022 2:5

APPELLATE / MISC APPELLATE
 SUFFICIENCY OF EVIDENCE ON APPEAL - LAW CHANGES POST TRIAL
 Attempt 187 reversed because Natural/Probable Conseq's was the only theory jury was instructed on. Therefore there is RETROACTIVE ERROR. But, Jeopardy has NOT attached. Case remanded. DDA has opportunity to retry case on a different theory.
BELTRAN PEREZ P. v. () 5/2/2022 2:3

MISCELLANEOUS / RETROACTIVE
 BENEFIT TO DEF - BIFURCATION OF GANG ENHANCEMENTS
 New PC 1109 requires Bifurcation of Gang enhancements if the def requests. HELD: this is NOT RETROACTIVE. DCA's are split.
BELTRAN PEREZ P. v. () 5/2/2022 2:3

SENTENCING / RE-SENTENCE - 36, 47, 64 & SB 1437
 1170.95 PC - HEARING - MAJOR PARTIC, RECK INDIFF - AGE, SUFF EVID
 4 defs, all armed, enter store to commit 211. One def shoots and kills someone. HELD: the other three are ALL major participants acting with reckless disregard and should NOT get PC 1170.95 relief. DCA calls this a "perfect illustration" of major/reckless.
QWENS P. v. () 5/18/2022 2:6

SENTENCING / MISC - SENTENCING
 AGGRAVATING FACTORS - MUST BE FOUND TRUE BY JURY - SB 567
 SB 567 amended PC 1170(b) to require some AGGRAVATING factors to be proved B.R.D. by jury is RETROACTIVE to all non-final cases. --- REMANDED for new sentencing hrg.
JONES P. v. () 5/24/2022 1:4

MISCELLANEOUS / RETROACTIVE
 BENEFIT TO DEF - SENTENCING PRESUMPTIONS
 SB 567 amended PC 1170(b)(6) to PRESUME that the court impose the LOW TERM when def shows he suffered childhood abuse/trauma. HELD: this is RETROACTIVE to all non-final cases.
JONES P. v. () 5/24/2022 1:4

SENTENCING / RE-SENTENCE - 36, 47, 64 & SB 1437
 1170.95 PC - ELIGIBILITY - CONSPIRACY TO COMMIT 1ST DEGREE 187
 Def's conviction for CONSPIRACY to commit 187 is NOT subject to PC 1170.95 review.
WHITSON P. v. () 5/24/2022 2:5

MOTIONS / DOUBLE JEOPARDY
 APPELLATE REVERSAL DUE TO RETROACTIVE LAW CHANGE
 Attempt 187 reversed because Natural/Probable Conseq's was the only theory jury was instructed on. Therefore there is RETROACTIVE ERROR. But, Jeopardy has NOT attached. Case remanded. DDA has opportunity to retry case on a different theory.
BELTRAN PEREZ P. v. () 5/2/2022 2:3

JUVENILE / SENTENCING
 RESTITUTION - DELAY IN SETTING FINAL AMOUNT
 At minor's original sentencing hrg, the AMOUNT of restitution was reserved for a later hearing after additional probation investigation. Due, in part, to minor committing new crimes, restitution AMOUNTS not set for five years. UPHELD per W&I 730.6(h)(1). Plus, minor not prejudiced by delay.
A. R. In Re () 5/2/2022 2:8

MISCELLANEOUS / RETROACTIVE
 BENEFIT TO DEF - SENTENCING PRESUMPTIONS
 SB 567 amended PC 1170(b) to require some AGGRAVATING factors to be proved B.R.D. by jury is RETROACTIVE to all non-final cases. --- REMANDED for new sentencing hrg.
JONES P. v. () 5/24/2022 1:4

SENTENCING / MISC - SENTENCING
 PRESUMPTIONS - 1170(B)(6) - LOW TERM IF CHILDHOOD TRAUMA
 SB 567 amended PC 1170(b)(6) to PRESUME that the court impose the LOW TERM when def shows he suffered childhood abuse/trauma. HELD: this is RETROACTIVE to all non-final cases.
JONES P. v. () 5/24/2022 1:4

MOTIONS / DISCOVERY
 RACIAL JUSTICE ACT DISCOVERY - 745 PC
 Def seeks discovery to support a PC 745 - Racial Justice Act (RJA) claim re: a case pending trial. Def alleges a traffic stop that produced drugs was Race-Based. Def seeks data on every auto-stop-drug case over the last 5 years. --- LONG opinion addressing many issues.
YOUNG def v. SUP CT 5/26/2022 1:4

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MOTIONS / DISCRIMINATORY PROSECUTION

RACIAL JUSTICE ACT - 745 PC - DISCOVERY

Def seeks discovery to support a PC 745 - Racial Justice Act (RJA) claim re: a case pending trial. Def alleges a traffic stop that produced drugs was Race-Based. Def seeks data on every auto-stop-drug case over the last 5 years. --- LONG opinion creating new rules on many issues.

YOUNG *def v. SUP CT* 5/26/2022 1:4

MISCELLANEOU / MISC

COLLATERAL CONSEQUENCES OF CRIMINAL CASE ON CIVIL CASES

P v. MILLER / LION SHARE INVESTMENTS LLC Real Party in Interest : A conviction as a result of a NO CONTEST plea produces the same Collateral Consequences in related civil matters as conviction from a Guilty Plea, or a trial.

MILLER *OTHER* 5/18/2022 1:3

INSTRUCTIONS/ELEMENTS / THEFT / FRAUD CRIMES

FALSE DOCUMENTS, FILING OF - 115 PC - DECLARING A DEED VOID

P v. MILLER / LION SHARE INVESTMENTS LLC Real Party in Interest : Crook defrauds Victim into deeding her home to Crook. Crook then sells property to LION SHARE. Crook convicted of PC 115(a). Criminal Ct declares Crook's deed VOID per 115(e) over LION SHARE objection. UPHELD - Ct need not refer

MILLER *OTHER* 5/18/2022 1:3