FIRST DISTRICT APPELLATE PROJECT

RECENT LEGAL DEVELOPMENTS IN CRIMINAL, DELINQUENCY AND CIVIL COMMITMENT LAW: SELECTED CASES

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FDAP

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RECENT LEGAL DEVELOPMENTS

Please refer to the Recent Opinions & Review Grants page of FDAP's website for the full summaries of the below-listed cases.

CIVIL COMMITMENT & MENTAL HEALTH

People v. T.B. **(2026) 118 Cal.App.5th 745 [E085256]** – A warden is not required to seek the consent of a surrogate decisionmaker under WIC 5326.7 before seeking judicial authorization to proceed with electroconvulsive therapy (ECT). The Court of Appeal affirms the trial court's authorization of ECT for appellant serving a life sentence because her severe mental illness has proven resistant to treatment and she cannot make medical decisions.

Lanterman-Petris-Short Act (LPS)

Conservatorship of A.B. **(2026) 118 Cal.App.5th 362 [A173111]** – Substantial evidence supported renewing appellant's LPS conservatorship and issuing an involuntary psychotropic medication order because appellant was presently gravely disabled and, due to lack of insight, would not reliably take the medication necessary to maintain shelter absent a court mandate. The Court of Appeal also upholds the involuntary medication order (IMO) because the same lack of insight and noncompliance history constituted clear and convincing evidence that appellant was incompetent to give or withhold informed consent.

Conservatorship of C.O. **(2026) 122 Cal.App.5th 317 [A174646]** – The trial court erred by failing to advise appellant of the right to a jury trial, but this error was harmless. Disagreeing with *Conservatorship of Heather W.* (2016) 245 Cal.App.4th 378, the Court of Appeal holds that counsel may waive the client's right to a jury trial in LPS proceedings unless it appears counsel lacked authority, waived against the client's wishes, or the client was unaware of the jury trial right.

Conservatorship of K.L. **(2026) 122 Cal.App.5th 886 [B351841]** – The trial court reversibly erred by granting an LPS conservatorship without advising appellant of the right to a jury trial. Appellant objected to the filing of a petition for LPS conservatorship and requested a court trial. But neither the court nor counsel advised appellant of the jury trial right, and there was no explicit waiver of such right. A written citation simply stating that appellant had the right to a jury trial was inadequate. The totality of the

circumstances did not affirmatively demonstrate a knowing and intelligent waiver.

***Conservatorship of R.R.* (2026) 120 Cal.App.5th 730 [C104253]** – In a conservatorship proceeding, an expert testified to hearsay in medical records, but the claim was forfeited by counsel's failure to object. The trial court did not err by ordering the renewed conservatorship to start on the day of the hearing rather than on the day after the automatic expiration of the previous conservatorship (WIC 5361).

Notable Unpublished/Noncitable Case

***Conservatorship of B.K.* (2026) [B343506, 2nd Dist.]** – The trial court did not err in accepting appellant's waiver of a jury trial even though the court did not inquire regarding her understanding of that right. Unlike the statutory schemes for Offender with a Mental Health Disorder (OMHD) and Not Guilty by Reason of Insanity (NGI), the LPS scheme does not reference jury trial waivers and does not reflect a preference for jury trials over court trials. Even if the court erred in accepting the jury trial waiver, the error was harmless because appellant could not show that it was reasonably probable that she would have received a more favorable result without the error.

Not Guilty by Reason of Insanity (NGI)

***People v. C.F.* (2026) 119 Cal.App.5th 1268 [A174372]** – In the underlying case, defendant was found NGI, admitted to the Department of State Hospitals (DSH), and was administered antipsychotic medication pursuant to a court order. Later, DSH filed a petition to renew the IMO. At the hearing on this petition, defense counsel was ineffective by not requesting a no-cost court reporter because the lack of reporting effectively deprived defendant of his right to appeal the hearing. The Court of Appeal reverses the trial court's grant of the petition and remands for a new hearing.

Notable Unpublished/Noncitable Case

***People v. McCaleb* (2026 WL 455514) [A171788, Div. 1]** – The Court of Appeal reverses the order recommitting appellant to DSH because the record did not show that he knowingly and voluntarily waived his right to a jury trial. While appellant had sometimes indicated his desire to avoid a trial generally, the record did not affirmatively establish that he understood the court's explanation of the differences between a bench trial and jury trial.

Offender With a Mental Health Disorder (OMHD)

***People v. Cagle* (2025) 117 Cal.App.5th 1034 [A171799]** – The claim that an expert's clinical opinion was insufficient without a formal risk assessment for an OMHD was forfeited on both due process and equal protection grounds. The failure to challenge the expert opinion as inherently unreliable prevented the development of a sufficient record to: (1) determine the reliability of a clinical opinion compared to a formal risk assessment tool; and (2) decide whether the Legislature justifiably distinguishes between OMHD and sexually violent predators regarding the use of such tools. Trial counsel was not ineffective for failing to raise an issue on which the law is unsettled.

FOURTH AMENDMENT

***In re I.H.* (2026) 121 Cal.App.5th 401 [E084852]** – Affirms the denial of appellant's motion to suppress (PC 1538.5), holding that officers had probable cause to arrest the murder suspect and reasonably mistook appellant for the suspect. The Court holds that probable cause does not dissipate until officers know beyond a reasonable doubt that they have the wrong person. After arrest and before confirming appellant was not the suspect, an officer asked if he was armed, and appellant indicated he had a gun in his waistband.

***Meiner v. Superior Court* (2026) 119 Cal.App.5th 284 [G065769]** – A warrant to search an Apple Pay account obtained based on probation search terms that excluded searches of "financial accounts" was properly the subject of a motion to traverse rather than a motion to quash because it challenged the warrant on the basis of material omissions in the affidavit. It was reckless, at best, for the affiant officer to omit the evidence that the Apple Pay account might not be subject to a probation search. A reasonable person would understand an Apple Pay account to be a financial account, and it was therefore excluded from the probation search terms. The trial court should have applied the exclusionary rule and suppressed the resulting evidence.

***People v. Anderson* (2026) 119 Cal.App.5th 173 [H051905]** – Good faith exception to Fourth Amendment's exclusionary rule applies to violations of the California Electronic Communications Privacy Act (PC 1546 et seq.). Defendants challenged a police search of a decedent's phone conducted with consent of the decedent's mother. Even assuming the mother was not the phone's "authorized possessor" (PC 1546(b)), the officers' objectively

reasonable belief she could consent did not require suppression of the phone's contents.

People v. Castro **(2026) 121 Cal.App.5th 630 [D085983]** – No exigency justified the warrantless blood draw from the unconscious defendant suspected of DUI. Consistent with *People v. Alvarez* (2023) 98 Cal.App.5th 531, the Court finds the prosecution failed to establish that seeking a warrant "would have diverted the officer from other more pressing duties," particularly where the officer first encountered defendant in a hospital bed and not while "responding to the natural chaos" of a collision scene.

People v. Hayes **(2026) 121 Cal.App.5th 141 [A173642]** – The coercive tactics used to force appellant from his apartment (deploying a drone, a robot, and a chemical gas irritant into the apartment) to arrest him on an arrest warrant constituted an in-home arrest. But the Court affirms the trial court's denial of the suppression motion because the arrest warrant affidavit continued to establish probable cause even after the false statements were excised, so the warrant was valid and the in-home arrest was lawful.

People v. Konther **(2026) 121 Cal.App.5th 117 [G063674]** – A defendant has no reasonable expectation of privacy in semen samples left at the scene while committing a crime. Defendant moved to suppress warrantless investigative genetic genealogy analysis performed on semen samples collected from two rape victims. The Court of Appeal finds that the trial court correctly ruled defendant voluntarily abandoned the semen samples and therefore the genealogy analysis did not constitute a Fourth Amendment search.

People v. Perez **(2026) 119 Cal.App.5th 373 [G064219]** – Where officers ordered the defendant out of a home at gunpoint without a warrant or exigent circumstances, it was the defendant's location inside the home—not the officers' location outside of it—that determined this was an in-home arrest to which the most stringent Fourth Amendment protections applied. In such cases, probable cause alone is insufficient, and the *Terry* detention exception does not apply. As a result, the subsequent search of defendant's car and the eye-witness identification were suppressed.

***People v. Perez* (2026) 119 Cal.App.5th 345 [H053314]** – Impounding a car solely to prevent further illegal driving does not serve a valid community caretaking function. Here, an officer planned to cite the defendant for driving on a suspended license and impound the defendant's car under VC 22651(p). However, the Court of Appeal found that, absent evidence the vehicle could not remain in its lawfully parked location, the impound was constitutionally unreasonable, and the items recovered during the subsequent inventory search were suppressed.

***People v. Superior Court* (*Feghhi*) (2026) 120 Cal.App.5th 608 [H053051]** – Lack of consent to submit to a breathalyzer is not necessary to the issuance of a warrant for a blood draw. After a fatal car crash, the defendant initially refused a breathalyzer exam but later indicated he would submit to one. Officers obtained a warrant to obtain a blood draw. The superior court granted the defendant's motion to quash (PC 1538.5), finding the magistrate would not have issued the warrant had she been aware that the defendant was willing to submit to a breath test. The prosecution appealed and the reviewing court reversed. Applying *Franks v. Delaware* (1978) 438 U.S. 154, the Court found that the defendant did not meet his burden to show that, absent his consent to a breath test, there lacked probable cause to issue the warrant.

***People v. Valencia* (2026) 119 Cal.App.5th 1 [B338672]** – Appellant was convicted of murder, multiple attempted murders, and multiple assaults with a firearm of police officers following a 15-hour police stand-off. Based on appellant's unpredictable and hazardous behavior earlier in the day, the Court of Appeal ruled that jurors could find that the police's warrantless entry of appellant's apartment was proper. The Court also rejected appellant's claim that the number of bullets fired must match the number of convictions.

***People v. Vasquez* (2026) 121 Cal.App.5th 1340 [E085193]** – Detaining defendant by way of a car stop beyond the "immediate vicinity" of the search location was a reasonable detention incident to executing the search warrant because the warrant also listed the car defendant was driving as a place to be searched and he was immediately transported back to the main search location. Further, defendant's *Hobbs* motion to unseal the search warrant

affidavit relating to a confidential informant and his motions to traverse and quash the warrant were each handled in a procedurally proper manner and correctly denied.

***Sellers v. Superior Court* (2026) 19 Cal.5th 75 [S287164]** – The mere presence of marijuana in a car outside of a sealed container does not constitute driving with "open container" of marijuana (HS 11362.3(a)(4)). Instead, a violation "at a minimum" requires marijuana in an "usable quantity, in imminently usable condition, and readily accessible to an occupant." Here, a small amount of "loose, crumbled" marijuana on the vehicle's floorboard did not qualify. Further, the totality of circumstances did not create probable cause to search car, with the Court specifically rejecting the probative value of the car occupants' "apparent nervousness."

Notable Unpublished/Noncitable Cases

***People v. Turner* (2026 WL 2279692) [A172384, Div. 1]** – The trial court erred by denying the defendant's motion to suppress because the warrantless car search violated the Fourth Amendment. The protective sweep failed because the officer's suspicion was based on unparticularized facts (a crossbody bag, a high-crime area, a slow yield, refusal to consent, nervousness) and the K-9 never alerted. In a footnote, the court also explained that "[t]he presence of burnt ends of tobacco leaves from a cigar — 'doobies' — in the absence of any suspicion [the defendant] was driving under the influence of marijuana or the officer finding an open container of cannabis also fails to support any reasonable suspicion the satchel contained a weapon."

IMMIGRATION

***People v. Hernandez* (2026) 20 Cal.5th 598 [S282186]** – When ruling on a motion to vacate a conviction under PC 1473.7(a)(1), a court should consider the totality of the circumstances and focus on the defendant's subjective understanding of the immigration consequences and their options for defending against those consequences. The Court finds that appellant did not subjectively understand the immigration consequences of her plea. The Court finds this to be prejudicial error because there is a "reasonable probability"

that appellant would not have entered the plea if she had understood the consequences and her options for defending against those consequences.

***People v. Avena* (2026) 119 Cal.App.5th 624 [E083900]** – Defendant was entitled to have his conviction vacated under PC 1473.7 because he demonstrated he did not meaningfully understand his removal was virtually certain if convicted on aggravated felonies. Additionally, there was prejudice where a change in law shortly before his trial opened the door to an immigration-safe plea, and there was a reasonable possibility defendant would have sought—and the People and the trial court would have accepted—such an alternative to trial.

Notable Unpublished/Noncitable Cases

***People v. Ponce* (2026 WL 3082578) [D086342, 4th Dist.]** – Defendant did not exhibit "reasonable diligence" in bringing his motion to vacate his conviction and withdraw his plea under PC 1473.7 where 16 years elapsed between the time he was placed on notice of the negative immigration consequences of his conviction and when he filed his motion. Additionally, the Court finds that defendant had not shown prejudice because: (1) the record shows defendant's plea was prompted by concern about the length of a prison sentence (not avoiding deportation); (2) defendant did not show any alternative offenses to which he could have pled without deportation consequences; and (3) defendant had minimal ties to the United States at the time he pleaded.

***People v. Vo* (2026 WL 3071314) [G066014, 4th Dist.]** – Defendant had not been advised as to the adverse immigration consequences of his plea and met his burden of establishing prejudice. The Court of Appeal relied on several factors in making its prejudice finding, including: (1) defendant's ties to the United States and lack of ties to Vietnam; (2) defendant's intellectual deficits and mental health struggles, making his need for family support all the much stronger; and (3) defense counsel declaring that immigration-safe alternatives could have been negotiated. The Court determined it was not bound by the trial court's credibility determination (finding the defendant not credible) because an appellate court has the same ability on a paper record to assess witness credibility.

***People v. Sanchez* (2026 WL 3000533) [B349145, 2nd Dist.]** – Defendant is entitled to relief under PC 1473.7 because he showed, by a preponderance of the evidence, that his misunderstanding of his plea's immigration consequences constituted prejudicial error. In finding prejudice, the court relied on several factors, including: (1) defendant's deep ties to the United States; (2) the plausible availability of alternative, immigration-neutral dispositions at the time of his plea (even in the absence of evidence that the prosecution would actually have offered a different bargain); and (3) the defendant could have reasonably expected/hoped for a different bargain based on his limited criminal history and the prosecution's willingness to deviate from the maximum sentence early in the trial proceedings.

***People v. Fonua* (2026 WL 2509396) [A172784, 1st Dist.]** – Defendant was not entitled to relief under PC 1473.7 because he had not shown, by a preponderance of the evidence, that his misunderstanding of his plea's immigration consequences constituted prejudicial error. In reaching this conclusion, the Court considered the seriousness of defendant's conduct (stabbing and brutally beating his wife in front of their children), the strength of the prosecution's case, and the lack of comparable offenses without immigration consequences. The Court reached this decision notwithstanding defense counsel's representation that defendant's prior criminal history was "insignificant."

***People v. Jimenez (*2026 WL 2271932) [B343188, 2nd Dist.]** – Defendant did not meet his burden under PC 1473.7 of showing that he lacked a meaningful understanding of the immigration consequences of his plea. In reaching this conclusion, the Court noted that: (1) at the plea hearing, the prosecution orally advised defendant that his plea "will" result in deportation, denial of reentry, etc.; (2) defendant specifically said he understood the immigration consequences of his plea; and (3) defendant provided no evidence that plea "counsel provide[d] inaccurate or incomplete advice regarding immigration consequences." The Court distinguished *People v. Hernandez* (2026) 20 Cal.5th 598 because, in *Hernandez,* "there was no mention of possible immigration consequences" during the plea colloquy and the defendant required a Spanish-language interpreter.

DIVERSION

Armstrong v. Superior Court **(2026) 119 Cal.App.5th 768 [H053298]** – PC 1000.7 grants the probation department, not the trial court, the authority to determine if a defendant meets the criteria for deferred entry of judgment. PC 1000.7 does not violate the separation of powers doctrine by allowing probation to make such a determination. Also, probation did not abuse its discretion by finding that appellant was ineligible for deferred entry of judgment because he lived out of the county.

Bobo v. Appellate Division of Superior Court **(2026) 120 Cal.App.5th 25 [D087393]** – Finding defendant unsuitable for misdemeanor diversion (PC 1001.95) based "solely on facts inherent" to the charged offense constitutes abuse of discretion. Vehicle manslaughter is eligible for PC 1001.95 relief and denying diversion only because the defendant caused another person's death conflicts with legislative intent. The family of the victim's preference for prosecution also would not constitute a valid alternative basis for denial. The Court of Appeal grants writ relief because appeal after conviction is an inadequate remedy.

People v. Holliday **(2025) 116 Cal.App.5th 664 [C102760]** – For misdemeanor pretrial military diversion, defendants must show a "reasonable possibility" they "may be" suffering from a qualifying condition as a result of their military service. (PC 1001.80(b).) Consistent with the statute's language and history, the Legislature intended to impose a lower burden of proof than a preponderance of the evidence, thereby making it less burdensome to establish eligibility. PC 1001.80 does not permit the court to rely on counsel's statements to satisfy the burden of proof for eligibility in misdemeanor cases because counsel's statements are not evidence.

Mental Health Diversion

Flareau v. Superior Court **(2026) 118 Cal.App.5th 681 [E085722]** – The trial court abused its residual discretion because nothing in PC 1001.36 suggests that an otherwise qualified defendant can be denied mental health diversion because there was a more motivating, causal, or contributing factor. In this case where defendant was charged with offenses related to an altercation with his sister, the trial court erroneously denied defendant's motion for diversion because it found that defendant's conduct had more to do with his sister antagonizing him rather than his various mental diagnoses.

***People v. Landrine* (2026) 119 Cal.App.5th 1291 [H052071]** – PC 1001.36 does not authorize trial courts to find satisfactory performance unless the defendant substantially performs the mental health diversion requirements. PC 1001.36 allows a trial court to dismiss the charges if a defendant has: 1) substantially complied with diversion; 2) avoided significant new law violations; and 3) has a plan for long-term mental health care. Here, even though the trial court found defendant made "amazing progress" in the past year after she was remanded into custody, the court abused its discretion in dismissing the charges as defendant committed numerous new crimes while on diversion.

***People v. Riddle* (2025) 115 Cal.App.5th 445 [C101539]** – The trial court did not abuse its discretion in terminating a grant of mental health diversion after it became clear that appellant's insurance would not cover residential treatment. The court's determination that residential treatment was a "condition precedent" to diversion did not constitute a finding under PC 1001.36(c)(4), but rather an indication that outpatient treatment would not meet defendant's needs as required by PC 1001.36(f)(1)(A)(i). The court also did not err in refusing to order public funding of treatment when neither the text nor the legislative history of PC 1001.36(f)(1) authorizes such an order.

***People v. Russo* (2026) 121 Cal.App.5th 134 [C103388]** – The trial court did not abuse its discretion by denying appellant's request for mental health diversion under PC 1001.36. Although the court found appellant was "not suitable" for diversion, the court's reasoning did not reflect consideration of the suitability criteria (PC 1001.36(c)(1)-(4)). Rather the court's reasoning more aptly fell under PC 1001.36(f)(1)(A)(i) in that it was not satisfied with the proposed treatment program because appellant failed to establish the proposal was any different than the plan that originally failed to address his specialized mental health treatment needs.

***People v. Sacco* (2026) 121 Cal.App.5th 229 [B350634]** – The prosecution does not need to supply the evidence that a court relies on in finding the presumption that a defendant's mental disorder contributed to his offense has been rebutted. Instead, contrary to appellant's claim that *People v. Harlow* (2025) 113 Cal.App.5th 485 held otherwise, a court may find the presumption rebutted based on "any relevant and credible evidence" before it (PC 1001.36(b)(2)). Here, substantial evidence from the preliminary hearing transcript and defense expert report supported finding defendant ineligible.

***People v. Seigler* (2025) 116 Cal.App.5th 596 [A170503]** – The trial court abused its discretion in denying defense counsel's motion to continue the trial date to secure an expert exam in support of a mental health diversion request. Because the erroneously denied continuance deprived defendant of a merits hearing on the PC 1001.36 request and forced him to choose between a guilty plea or a trial with an admittedly unprepared attorney, his subsequent plea and sentence must be reversed.

***People v. Superior Court (Jackson)* 2026 WL 2754147 [F090616]** – Denies prosecution's petition for writ of mandate requesting the reversal of the trial court's denial of its PC 1054.3 request. The Court of Appeal holds that trial courts lack the authority to order a defendant, who is moving for mental health diversion under PC 1001.36, to submit to an examination by a prosecution-retained mental health expert under PC 1054.3.

***People v. Superior Court (Taylor)* (2026) 118 Cal.App.5th 1153 [B346062]** – Grants the prosecution's writ of mandate after the trial court granted mental health diversion to defendant under PC 1001.36. The trial court implicitly found that defendant would not pose an unreasonable risk of danger to public safety if granted diversion. But the Court of Appeal concludes that there was insufficient evidence to support this finding because there was substantial evidence defendant would likely abandon treatment in a community facility and pose an unreasonable risk to public safety.

***People v. Tourville* (2026) 120 Cal.App.5th 439 [B338176]** – The trial court abused its discretion in denying mental health diversion based on appellant's violent history, the violent nature of the crime, and the court's reluctance to supervise rehabilitation in place of a probation officer. PC 1001.36 defines the level of dangerousness that must be found to deny diversion, "unreasonable risk of danger to public safety," which specifically means the risk of committing a super strike. A court cannot dilute this requirement by using its residual discretion to deny diversion based on a lower level of dangerousness.

***Reed v. Superior Court* (2025) 117 Cal.App.5th 697 [A173393]** – Defendant charged with possession of a hard drug with two prior drug-related convictions (HS 11395) is not precluded from participating in pretrial mental health diversion under PC 1001.36. HS 11395, which was created by Prop. 36 in 2024, provides for postconviction treatment and potential dismissal for those who plead guilty, but neither the statutory language nor Prop. 36 prohibits pretrial treatment under PC 1001.36.

***Sua v. Superior Court* (2026) 121 Cal.App.5th 1025 [D087742]** – PC 1054.3(b)(1) does not authorize a court-ordered prosecution mental examination when the defendant requests mental health diversion. In consolidated writ proceedings, the Court of Appeal holds that the trial court erred in ordering prosecution mental examinations when the defendant requested diversion under PC 1001.36. PC 1054.3(b)(1) authorizes a court-ordered prosecution mental examination only when a defendant places his or her mental state at issue for trial through expert testimony. The plain language of the statute, the surrounding discovery scheme, and the legislative history confine PC 1054.3(b) to trial.

***Thompson v. Superior Court* (2026) 122 Cal.App.5th 571 [A175757]** – The trial court has discretion to impose reasonable rehabilitative probationary conditions on a defendant who is granted mental health diversion under PC 1001.36, such as a search condition, during the diversionary period.

Notable Unpublished/Noncitable Cases

***People v. Nelson* (2026) [B342722, 2nd Dist.]** – The trial court's denial of appellant's request for mental health diversion was not an abuse of discretion. As the trier of fact, the court found that appellant's mental health disorders were not a factor in the charged offenses, amounting to an adverse factual finding. Appellant had pled guilty to commercial burglary and taking an automobile as well as admitted two prior strikes.

***People v. Pauls* (2026 WL 2017642) [A172040, Div. 1]** – The Court of Appeal remands for reconsideration of appellant's request for mental health diversion. The trial court had based its unsuitability finding on appellant's poor performance on other forms of supervision. But there was no evidence that appellant would not succeed if placed in more comprehensive residential treatment as proposed.

***People v. Pearson* (2026 WL 521280) [A173844, Div. 1]** – The trial court failed to exercise informed discretion as it focused on appellant's generalized risk of violence rather than the required inquiry: whether appellant posed an unreasonable risk of committing a super strike offense. The Court of Appeal conditionally reverses the denial of pretrial mental health diversion and remands to the trial court with directions to reconsider appellant's motion in accordance with PC 1001.36.

JUVENILE DELINQUENCY

In re A.H. **(2025) 115 Cal.App.5th 1217 [A171639]** – The juvenile court abused its discretion in ordering an out-of-home placement in a short-term residential therapeutic program (STRTP) without the statutorily required "case plan" from probation. Although the appeal was otherwise moot and defense counsel's failure to adequately object implicated forfeiture, the Court of Appeal exercised its discretion to decide the issue because it presented a "straightforward legal question of first impression that could recur." After the Court of Appeal decided the issue on the merits, the appeal was dismissed.

In re Christian V. **(2026) 118 Cal.App.5th 814 [D085820]** – Appellant's case became final for *Estrada* purposes before the amendment to WIC 730.6(b)(3), came into effect on January 1, 2025, so the amendment did not apply to his case. Appellant's case became final when the juvenile court issued the dispositional order and ordered restitution in October 2024, which he did not appeal. The finality of the case was not affected when the court later found appellant performed satisfactorily on probation, dismissed the petition, and denied his request to modify restitution, which was the basis for the appeal. Neither was the case nonfinal because the victim restitution order remained subject to change under WIC 775, nor was it nonfinal because the youth was on probation at the time the amendment came into effect.

In re C.M. **(2026) 122 Cal.App.5th 609 [A175119]** – A probation condition allowing the probation department to impose or remove electronic monitoring for any reason with notice to all counsel but without a judicial hearing was an impermissible delegation of the juvenile court's authority. This condition also lacked necessary due process protections and was impermissibly vague. Electronic monitoring of wards is a highly restrictive form of supervision and a significant aspect of the court's legal control of youth.

In re H.T. **(2025) 115 Cal.App.5th 835 [C102265]** – WIC 900(b) authorizes the juvenile court to order for a youth's housing costs to be paid by the county when a youth is discharged from a Secure Youth Treatment Facility (SYTF) commitment to probation supervision in the community under WIC 875(e)(3). Here, the juvenile court believed it lacked authority to order such payment, so remand is required for reconsideration.

In re J.C. **(2026) 118 Cal.App.5th 496 [A171619]** – Vacates the juvenile court's imposition of a firearm ban until age 30 as a probation condition after appellant pleaded no contest to a misdemeanor count of brandishing an

imitation firearm in a threatening manner (PC 417.4). Brandishing an imitation firearm is not an enumerated offense in PC 29820(b) that triggers the firearm ban, and the plain language and legislative history established that the Legislature did not contemplate any such inclusion.

***In re J.G.* 2026 WL 2921323 [A172867]** – Under WIC 730.6(b)(3), the juvenile court must consider the culpability of all potentially responsible parties when determining the "percentage of responsibility or fault" to be allocated to the minor for the victim's economic losses. Nothing in the language of WIC 730.6 limits apportionment "of responsibility or fault" to those who have been charged with a crime. The Court of Appeal reverses the portion of the judgment holding appellant responsible for the entire restitution award and remands for further proceedings so the juvenile court may consider whether that award should be apportioned.

***In re J.H.* (2026) 119 Cal.App.5th 791 [A172657]** – The Victims' Bill of Rights, as enshrined in the California Constitution and WIC 656.2, affirmatively guarantees victims the right to provide victim impact statements in delinquency proceedings, including six-month review hearings pursuant to WIC 875. However, under WIC 875, the juvenile court must limit its consideration of a victim impact statement to those components relevant to the youth's rehabilitation.

***In re J.L.* (2026) 121 Cal.App.5th 355 [A171588]** – The amendment to WIC 730.6 eliminating joint and several liability for victim restitution applies prospectively only and does not affect restitution orders imposed before its effective date. The Court of Appeal also affirms the restitution award for the childcare expenses incurred by the victim's mother, holding that the mother was not required to identify each date of childcare costs. The Court of Appeal finds the juvenile court acted within its discretion in accepting the mother's estimate as "a prima facie showing of loss."

***In re Jose S.* (2026) 122 Cal.App.5th 680 [A173967]** – WIC 875(k) authorizes the juvenile court to commit appellant to county jail as a ward until age 25 after his SYTF commitment was set aside. The statute's plain language permitted the juvenile court to order appellant into an adult facility upon his return to local custody on his juvenile commitment because: prior to July 1, 2023, appellant was sentenced to state prison, had been found a ward, and was committed to DJJ; and no one contended that remaining in a juvenile facility served his best interest.

***In re N.S.* (2026) 120 Cal.App.5th 841 [B342991]** – Commitment of a youth to a SYTF was an error under the "most recent offense" rule where his sole qualifying offense was not the most recent misdeed. The youth admitted to offenses in three wardship petitions where the conduct occurred in March, June, and December 2024. But the juvenile court committed the youth to a SYTF based on the sole WIC 707(b) offense from June 2024. Accordingly, reversal was required because "most recent" in the rule refers to when the youth's offense occurred and not when the petition was adjudicated, so the SYTF-qualifying offense was not the most recent.

***In re N.S.* 2026 WL 3026285 [G065591]** – Appellant walking away from a school liaison officer who ordered him to be searched was sufficient evidence of a violation of PC 148(a)(1). After appellant told the school liaison officer, "I have a Glock too," which prompted a demand to search, appellant's refusal and walking away was not merely a "failure to respond with alacrity," but rather substantial evidence of interfering with and delaying the search. Also, a school liaison officer is a "school official" for Fourth Amendment purposes, so only reasonable suspicion is required to conduct a search of a student. Appellant's statement that he had a Glock was sufficient for the officer to have reasonable suspicion he was in possession of a firearm.

***In re O.F.* (2026) 119 Cal.App.5th [A166528]** – Reverses the juvenile court's order transferring appellant to criminal court due to subsequent retroactive changes in the law renewing WIC 707's focus on a youth's amenability to rehabilitation. Specifically, AB 2361 raises the prosecution's burden of proof from preponderance of the evidence to clear and convincing evidence as well as requires a specific finding regarding the minor's amenability to rehabilitation. Further, SB 545 requires the court to give weight to various statutory factors that were previously discretionary.

***In re Parker B.* (2026) 120 CalApp.5th 382 [D084848]** – An "unqualified" dismissal of an adjudicated petition under WIC 782 encompasses the offenses alleged in the petition and all findings the court made on those offenses. Because the court's dismissal of the petition in this case included the finding on the assault that the youth committed when he was 14, he was entitled to sealing of the records on that offense under WIC 786. However, a WIC 782 dismissal does not erase the assault charge for purposes of relieving the youth from the firearm restriction under PC 29820.

***In re P.C.* (2026) 122 Cal.App.5th 628 [E087969]** – The juvenile court should not accept pro se filings from represented parties unless the pro se

filing falls within one of two exceptions and concerns representation or is a notice of appeal. The juvenile court may instead return the document un-filed to the party's attorney or strike the filed document, but the court should not rule on the document or even read it.

In re Sebastian C. **(2026) 119 Cal.App.5th 1187 [A172531]** – Placement in a family home with supervision and programming can meet the requirements of a less restrictive program under WIC 875(f)**.** At progress review hearings, the juvenile court declined to place the youth with his adult sister as a less restrictive foster placement, noting that the sister's home was not a "program." But placement in a relative's home, with supervision and programming provided by community-based agencies, is consistent with the statute's language and purpose and meets the requirements of WIC 875(f).

In re X.G. **(2026) – Cal.Rptr.3d – (2026 WL 2933109) [A172959]** – For restitution apportionment purposes, "co-offender" as used in WIC 730.6 includes only individuals who have been adjudicated as offenders. Nonetheless, the juvenile court has discretion to deviate from an award of full restitution where compelling and extraordinary reasons exist. The court should consider factors including the involvement of other participants, if those individuals are being tried in separate actions, the minor's role in the crime, and the minor's impact in causing the losses.

M.W. v. Superior Court **(2026) 122 Cal.App.5th 638 [A174792]** – Appellant was charged in a juvenile wardship petition with felony battery causing serious bodily injury for a fight, then he suffered a traumatic brain injury that left him unable to remember the fight and caused ongoing psychiatric issues. The juvenile court-appointed expert opined that appellant was competent under WIC 709 unless his testimony was required at the jurisdictional hearing. And the court found appellant competent based on its conclusion that the evidence did not support a claim of self-defense as well as that the facts could be established by video and witness testimony. The Court of Appeal concludes that the juvenile court erred to the extent it determined the video evidence precluded a self-defense claim, but it found no prejudicial error because appellant had not established that his testimony would in fact be required given the availability of other witnesses and video evidence.

Notable Unpublished/Noncitable Cases

People v. Alfonso Q. **(2026 WL 1758657) [A174437]** – Reverses the juvenile court's disposition order regarding victim restitution, which made appellant jointly and severally liable with his co-offenders in violation of WIC 730.6(b)(3).

In re D.R. **(2025 WL 3563979) [A171253]** – Reverses the restitution award to the third victim because the juvenile court failed to consider appellant's brief below challenging liability for restitution to that victim. The Court of Appeal also remands for the juvenile court to correct calculation errors as to the restitution awarded to two of the three victims. On remand, the juvenile court must consider appellant's arguments regarding the interest awards to the three victims.

RACIAL JUSTICE ACT (RJA)

Hernandez v. Superior Court **(2025) 115 Cal.App.5th 1120 [H052774]** – Prima facie RJA violation (PC 745(h)(2)) established where Latino defendant alleged officer: employed racial profiling during traffic stop and subsequent pat frisk, assumed defendant had criminal history based on race, directed racially stereotypical language toward defendant and bystanders, and used "Sureño whistle" while searching defendant. Defendant's statistical evidence and expert declaration, combined with bodycam video, demonstrated "more than a mere possibility" RJA violation occurred.

In re Haney **(2026) 123 Cal.App.5th 296 [A170412]** – Appellant petitioned for a writ of habeas corpus under PC 1473(e) alleging violations of the RJA (PC 745) based on the prosecutor's use of peremptory challenges to strike all prospective Black jurors and a white juror's pretrial comment that "[t]his guy is going away." The Court of Appeal issued an order to show cause limited to four legal questions, and by the time briefing concluded, both the California Supreme Court and the Legislature had resolved each of them. In the published portion of the opinion, the Court of Appeal holds: (1) following *People v. Hazlett* (2026) 20 Cal.5th 904, that the racially discriminatory use of peremptory challenges alone is not cognizable under the RJA, requiring denial with prejudice of that claim; and (2) following the 2025 amendments to the RJA, that PC 1473(e) habeas petitioners are entitled to discovery under PC 745(d) even before filing a petition or stating a prima facie case, and that

the lower prima facie standard in PC 745(h)(2) applies to RJA habeas petitions under PC 1473(e). Justice Streeter wrote a separate concurrence expressing agreement with Justice Evans's dissent in *Hazlett*.

***In re Pride* (2026) 122 Cal.App.5th 997 [E085951]** – The trial court erred in finding defendant had not met the RJA's minimal pleading requirement for appointment of counsel. Defendant satisfied the minimal requirements of PC 745 when he alleged that his trial counsel had a discussion with the prosecutor regarding the importance of his conviction to avoid future incidents of racial unrest. Also, defendant demonstrated a plausible justification for RJA discovery, as the alleged discussion was sufficient to demonstrate a plausible justification that a RJA violation has occurred. The Court of Appeal issued a writ of mandate directing the trial court to conduct a new hearing on the discovery motion and to weigh the *Alhambra* factors.

***People v. Bankston* (2026) 19 Cal.5th 786 [S044739]** – During the guilt phase, expert testimony about tendencies among racially or ethnically organized gangs was not, without more, a violation of the RJA. The District Attorney's commentary on defendant's dress and demeanor and description of him as "articulate" was a response to the defendant inviting the jury to judge him on the basis of his self-presentation and not an appeal to racial bias. However, the death judgment was reversed because, as the Attorney General conceded, the District Attorney's manner of comparing the defendant to a Bengal tiger constituted racially discriminatory language. Along with the prosecutor's repeated references to defendant using "thug" as an epithet, this was an implicit appeal to racial bias under the RJA. A harmless error analysis is required for judgments entered before the RJA's effective date, whether coming as a petition or direct appeal, but the Attorney General conceded prejudice, and the Court agreed. The Court rejected a categorical rule prohibiting death penalty retrials after a finding of prejudice under the RJA as constitutionally problematic, holding subdivision (l)'s preclusion of death penalty eligibility is most naturally understood to refer to death penalty eligibility in the same proceeding in which the violation is found.

***People v. Barrera* (2026) 19 Cal.5th 919 [S103358]** – Rejects several RJA claims and holds that no reversible RJA error occurred. Specifically, the Court holds that biased remarks by prospective jurors excused for cause fall

outside PC 745(a)(2), which does not reach prospective jurors; that counsel's additional questioning of Latino prospective jurors was not a violation; and that defense counsel's use of the phrase "illegal alien" in voir dire did not appeal to racial bias, since an objective observer would have understood it as probing for juror bias against the defendant. The Court further finds no violation in the prosecutor's street-vending comments and, as to the guilt- and penalty-phase closing remarks (including likening defendant to an animal), the Court assumed without deciding that a violation had occurred, but that the error was harmless beyond a reasonable doubt.

People v. Chhuon **(2026) 19 Cal.5th 1018 [S105403]** – Rejects defendant's multiple RJA challenges and holds that no prejudicial RJA violation occurred. For instance, the Court holdsthat the use of defendant's gang nickname "Chaka" — which he himself supplied and many witnesses used — was neither biased nor racially discriminatory; that nicknames used for other Southeast Asian American witnesses fell outside the RJA, which reaches only bias toward or about the defendant; that the prosecutor's immigration-status cross-examination and Buddhism references, read in context, responded to the defense mitigation case rather than appealing to racial bias (and any immigration-related violation was harmless beyond a reasonable doubt); and that defense counsel's "from the jungle" remark, unlike the Bengal-tiger imagery in *People v. Bankston* (2026) 19 Cal.5th 786, sought sympathy and did not compare defendant to an animal. Considered individually and cumulatively, the claims established no prejudicial violation and no basis for reversal.

People v. Demolle **(2026) 19 Cal.5th 1117 [S159120]** – Rejects defendant's RJA challenge to the prosecutor's penalty-phase closing argument. The Court holds defendant had not established a violation based on the "predator" references (which described human conduct) or the "wolf in sheep's clothing" phrase (a facially neutral saying tied to a race-neutral theme). The Court then declines to resolve whether additional references to a "wolf" in the prosecutor's closing violated the RJA, because — applying the harmless-beyond-a-reasonable-doubt standard and rejecting the view that a RJA violation alone (with no need for proof of prejudice on direct appeal) bars a death sentence — any assumed error was harmless given the defendant's confession and the overwhelming aggravating evidence.

***People v. Gomez* (2026) 118 Cal.App.5th 384 [D086608]** – Defendant forfeited his claim under the RJA, but the claim would have also been denied on the merits because the prosecutor used a dog analogy solely to explain circumstantial evidence. When the prosecutor later more directly compared appellant to a dog in a single comment, it was in the context of the state of the evidence, not anyone's character or inherent traits.

***People v. Haddock* (2026) 120 Cal.App.5th 950 [D084537]** – The Court of Appeal upholds the admission of rap lyrics at trial rejecting claims under EC 352 and *People v. Aguirre* (2025) 18 Cal.5th 629. The Court further holds the trial court applied the wrong legal standards in denying appellants' RJA motion and requests for discovery. The Court finds that appellants made a prima facie showing that the jury may have heard a racially charged rap-song introduction containing violent imagery and racially discriminatory language, violating the RJA. It also confirms that statistical evidence alone may justify RJA discovery without additional case-specific proof of discrimination.

***People v. Hazlett* (2026) 20 Cal.5th 904 [S126387]** – Excusing the sole remaining Black prospective juror with a peremptory challenge did not establish a prima facie case of discrimination under *Batson*/*Wheeler*, given a race-neutral reason in the juror's equivocal views on the death penalty. The Court concludes that the RJA does not apply to the basis for peremptory challenges. It further holds there was no other prejudicial RJA violation and affirms the judgment. Justice Evans (joined by Liu) would find a prima facie *Batson*/*Wheeler* violation and believes the RJA applies to peremptory challenges; Justice Liu (joined by Evans) would find the O.J. Simpson references are an RJA violation.

***People v. Superior Court* (*Austin*) (2026) 119 Cal.App.5th 1219 [E086779]** – Reverses the superior court's denial of the prosecution's request to disqualify a judge who had previously worked for the District Attorney's Office from hearing an RJA claim involving allegations of a pattern of racial bias in the death penalty and special circumstances charging during the time she was employed there. An objective person aware of the facts might reasonably entertain a doubt as to whether a judge who had previously been involved in making recommendations on filing charges in her own and other

homicide cases could be impartial. However, not all judges who are former prosecutors must recuse themselves in RJA cases; each case should be determined based on the facts and circumstances involved.

People v. Williams **(2026) – Cal.Rptr.3d – (2026 WL 2752529) [E087071]** – Defendant failed to meet his prima facie burden establishing "a substantial likelihood" that a violation of the RJA occurred (PC 745(c) & (h)(2)). Defendant presented evidence that: (1) a juror stated during voir dire that he "grew up with racism"; (2) a prosecutor made public statements described as hateful toward African Americans; and (3) Black defendants in San Bernadino County received sentencing enhancements more frequently than White defendants. The Court found the juror's testimony that he had overcome the racial bias demonstrated this was not evidence of bias toward the defendant; the prosecutor had only appeared twice to continue the matter, therefore defendant did not demonstrate "more than a mere possibility" of bias in his case; and the statistic regarding sentencing enhancements was overbroad.