

CALIFORNIA COURT OF APPEAL, FIRST APPELLATE DISTRICT, DIVISION TWO

People v. Lopez-Barraza

People v. Lopez-Barraza (Cal. Ct. App. May 2, 2025) (published) · No. A168604 · Decided May 2, 2025

SUMMARY

The California Court of Appeal holds that a trial court deciding a Penal Code section 1172.6 resentencing petition may not rely on factual findings that conflict with the jury’s acquittal on a conspiracy charge when no new evidence was presented. Because the trial court relied on findings that Lopez-Barraza participated in planning the robbery, contrary to the preclusive effect of the acquittal, the court remands for a new evidentiary hearing.

CASE DETAILS

COURT	California Court of Appeal, First Appellate District, Division Two
WRITING FOR THE COURT	Stewart, P. J.; Richman, J.; Miller, J.
JURISDICTION	California Court of Appeal, First Appellate District, Division Two
DECIDED	May 2, 2025
DOCKET	A168604
DISPOSITION	reversed_and_remanded
PROCEDURAL POSTURE	Appeal from the denial of a petition for resentencing under California Penal Code section 1172.6.
STANDARD OF REVIEW	The preclusive effect of the acquittal was reviewed independently as a legal issue. The court assumed, without deciding, that prejudice from the error was governed by the People v. Watson reasonable-probability standard.
PRECEDENTIAL VALUE	published and precedential
PARTIES	Alberto Lopez-Barraza v. The People

TOPICS

- post-conviction relief
- sentence modification
- sentencing
- criminal procedure
- appellate procedure

PRACTICE AREAS

QUESTIONS PRESENTED

1. Whether a section 1172.6 resentencing court may rely on trial-record findings that contradict factual findings necessarily encompassed by the jury's acquittal of the defendant on conspiracy to commit robbery.
2. Whether the trial court's reliance on a finding that Lopez-Barraza participated in planning and preparing for the armed robbery was prejudicial.
3. What limits should govern the new section 1172.6 evidentiary hearing on remand.

HOLDINGS

1. When a section 1172.6 resentencing court relies solely on the trial evidence, it may not deny relief based on findings that contradict factual findings necessarily encompassed by the jury's prior acquittal. Here, the conspiracy acquittal necessarily established that the trial evidence did not prove beyond a reasonable doubt that Lopez-Barraza knew of, agreed to, and intended to participate in the plan to commit the robbery before it occurred.
2. The error was prejudicial because the trial court's finding that Lopez-Barraza participated in virtually every stage of planning and preparation was a crucial factor in its major-participant and reckless-indifference determinations. The court therefore had to conduct a new evidentiary hearing.

KEY QUOTATIONS

“The purpose of section 1170.95 is to give defendants the benefit of amended sections 188 and 189 with respect to issues not previously determined, not to provide a do-over on factual disputes that have already been resolved.” (at 20)

“The trial court’s finding that Lopez-Barraza participated in planning and preparing for the offense necessarily entailed a determination that he did so together with Ramon and Fernando and therefore that he reached some form of agreement with them as to commission of the robbery.” (at 30-31)

“The trial court shall not rely on any evidence admitted at trial that contradicts the jury findings necessarily encompassed by its verdict acquitting Lopez-Barraza of conspiracy.” (at 37-38)

FACTUAL BACKGROUND

Lopez-Barraza was involved with codefendants in events surrounding the October 6, 2011 killing of Jose Manuel de Jesus during a marijuana robbery. De Jesus was shot once in the head at a Santa Rosa butcher shop, and evidence showed that Lopez-Barraza was present at the scene, helped move marijuana, and left with the others after the shooting. The jury convicted him of murder and robbery but acquitted him of conspiracy to commit robbery. At the section 1172.6 hearing, the trial court relied on the same trial evidence to find that Lopez-Barraza knowingly participated in planning and preparing for the armed robbery, was a major participant, and acted with reckless indifference to human life.

PROCEDURAL HISTORY

Lopez-Barraza was convicted of murder and robbery but acquitted of conspiracy to commit robbery. The Court of Appeal previously affirmed the murder and robbery convictions but reversed a robbery-murder special-circumstance finding for instructional error; the People did not retry that allegation, and Lopez-Barraza was resentenced to 25 years to life plus one year. After the trial court issued an order to show cause on his section 1172.6 petition, it denied relief following an evidentiary hearing based solely on the trial record. The Court of Appeal reversed and remanded for a new evidentiary hearing.

DISPOSITION

reversed_and_remanded

REMAND INSTRUCTIONS

The trial court must conduct a new evidentiary hearing to determine whether the prosecution has proved beyond a reasonable doubt that Lopez-Barraza was a major participant in the robbery and acted with reckless indifference to human life. The court may not rely on trial evidence that contradicts the jury findings necessarily encompassed by the conspiracy acquittal, including that the evidence did not prove beyond a reasonable doubt that Lopez-Barraza intended to agree and did agree to commit the robbery and intended that the robbery be committed.

CASES CITED

- People v. Lopez-Barraza (Feb. 16, 2017, A138550) [nonpub. opn.]
- People v. Lopez, 88 Cal.App.5th 566, 570 fn. 2
- People v. Strong, 13 Cal.5th 698, 703, 715, 718 fn. 3
- People v. Banks, 61 Cal.4th 788, 802-805
- People v. Clark, 63 Cal.4th 522, 614-615
- In re Scroggins, 9 Cal.5th 667, 677
- People v. Arnold, 93 Cal.App.5th 376, 383, 385-388, 391 fn. 8
- People v. Cooper, 77 Cal.App.5th 393, 397-398, 412-418
- People v. Arevalo, 244 Cal.App.4th 836, 841-842, 853
- People v. Piper, 25 Cal.App.5th 1007, 1010, 1015
- People v. Johnson, 61 Cal.4th 674, 686-687
- People v. Henley, 85 Cal.App.5th 1003, 1007, 1012, 1020-1021
- People v. Curiel, 15 Cal.5th 433, 441, 451, 460, 470
- People v. Prock, 225 Cal.App.4th 812, 819
- United States v. Watts, 519 U.S. 148, 155
- People v. Santamaria, 8 Cal.4th 903, 909-927
- Ashe v. Swenson, 397 U.S. 436, 443-444
- Yeager v. United States, 557 U.S. 110, 119-120
- People v. Farfan, 71 Cal.App.5th 942, 947

- People v. Allison, 55 Cal.App.5th 449, 461
- People v. Rodriguez, 103 Cal.App.5th 451, 458
- People v. Flint, 75 Cal.App.5th 607, 614
- People v. Vargas, 84 Cal.App.5th 943, 951-952
- People v. Schell, 84 Cal.App.5th 437, 444-445
- People v. Frierson, 4 Cal.5th 225, 238
- People v. Madrigal, 93 Cal.App.5th 219, 238
- In re Loza, 10 Cal.App.5th 38, 41-42
- People v. Douglas, 56 Cal.App.5th 1, 6, 8-11
- People v. Medina, 245 Cal.App.4th 778, 791-792
- People v. Watson, 46 Cal.2d 818, 836

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