

CALIFORNIA COURT OF APPEAL, SECOND APPELLATE DISTRICT,
DIVISION EIGHT

People v. Rodriguez

Rodriguez · No. B333692 · Decided January 15, 2026

SUMMARY

The California Court of Appeal affirmed the denial of Raul Rodriguez’s petition for resentencing under Penal Code section 1172.6, holding that hearsay admitted at the preliminary hearing under Penal Code section 872, subdivision (b), could be considered at the prima facie stage to frame the theory of conviction. The court remanded with directions to permit Rodriguez 30 days to file an amended resentencing petition.

CASE DETAILS

COURT	California Court of Appeal, Second Appellate District, Division Eight
WRITING FOR THE COURT	Stratton, P. J.; Wiley, J.; Viramontes, J.
JURISDICTION	California Court of Appeal, Second Appellate District, Division Eight
DECIDED	January 15, 2026
DOCKET	B333692
DISPOSITION	affirmed_and_remanded
PROCEDURAL POSTURE	Appeal from an order denying a petition for resentencing under California Penal Code section 1172.6 at the prima facie stage without issuing an order to show cause.
STANDARD OF REVIEW	De novo review applies to an order denying a section 1172.6 petition at the prima facie stage on the ground that the petitioner is ineligible for relief as a matter of law.
PRECEDENTIAL VALUE	Published and certified for publication; precedential under California law.
PARTIES	Raul Rodriguez v. The People

TOPICS

- state post-conviction relief
- sentence modification
- statutory interpretation
- evidence
- appellate procedure

PRACTICE AREAS

QUESTIONS PRESENTED

1. Whether the trial court could consider hearsay testimony admitted under Penal Code section 872, subdivision (b), as part of the preliminary hearing transcript and record of conviction when determining at the prima facie stage whether Rodriguez was eligible for resentencing under Penal Code section 1172.6.
2. Whether the trial court properly denied the section 1172.6 petition based on the preliminary hearing transcript's indication that Rodriguez was the sole and actual perpetrator, where Rodriguez offered only conclusory checkbox allegations and no specific factual allegations.
3. Whether Rodriguez should be allowed to file an amended resentencing petition after the decision in *People v. Patton*.

HOLDINGS

1. At the prima facie stage of a Penal Code section 1172.6 proceeding, the court may consult hearsay testimony contained in a preliminary hearing transcript even when the hearsay was admitted under Penal Code section 872, subdivision (b).
2. The trial court properly denied Rodriguez's section 1172.6 petition at the prima facie stage because the record of conviction indicated that his murder conviction was based on his being the sole and actual perpetrator, and Rodriguez offered no nonconclusory factual allegations framing a material disputed issue.
3. Because Rodriguez filed his petition before the Supreme Court's decision in *Patton*, the matter should be remanded to allow him 30 days to file an amended petition containing nonconclusory allegations showing eligibility for relief.

KEY QUOTATIONS

“Patton’s reasoning leads us to the conclusion that it similarly does not matter whether evidence was admitted at the preliminary hearing under section 872, subdivision (b) or under another provision of the Evidence Code.” (14)

“Rather, Patton suggests there is neither a need nor a logical reason to import evidentiary rules from a different part of the section 1172.6 resentencing process to the non-evidentiary, non-factfinding prima facie stage.” (15-16)

“The trial court did not err in concluding Rodriguez failed to meet his prima facie burden.” (18)

“The order denying Rodriguez’s petition for resentencing is affirmed. We remand the matter with directions to the superior court to consider an amended petition should Rodriguez, within 30 days of remand, file one.” (19)

FACTUAL BACKGROUND

In 1994, police officers testified at Rodriguez's preliminary hearing that his mother said Rodriguez admitted killing Jose Alvaro Salavia and that his uncle reported Rodriguez said shortly after the shooting, "Damn, I shot him." No other evidence at the preliminary hearing tended to show Rodriguez's involvement in the killing. Rodriguez later pleaded guilty to second degree murder without admitting the truth of any factual recitation or stipulating to the contents of documents, although defense counsel stipulated to a factual basis for the plea.

PROCEDURAL HISTORY

Rodriguez pleaded guilty to second degree murder in 1994 and received a sentence of 15 years to life. In 2022, he filed a section 1172.6 resentencing petition; the trial court appointed counsel, received briefing, considered the preliminary hearing transcript, and denied the petition without issuing an order to show cause. The Court of Appeal affirmed the denial but remanded to allow Rodriguez 30 days to file an amended petition containing nonconclusory allegations.

DISPOSITION

affirmed_and_remanded

REMAND INSTRUCTIONS

The superior court must consider an amended resentencing petition if Rodriguez files one within 30 days of remand. The Court of Appeal expressed no opinion on whether any additional allegations will establish eligibility for relief.

CASES CITED

- People v. Patton (2025) 17 Cal.5th 549
- People v. Lewis (2021) 11 Cal.5th 952
- People v. Lovejoy (2024) 101 Cal.App.5th 860, 864-865
- People v. Das (2023) 96 Cal.App.5th 954, 960
- People v. Fisher (2023) 95 Cal.App.5th 1022, 1028
- People v. Hickman (2025) 110 Cal.App.5th 1262, 1268
- People v. Reed (1996) 13 Cal.4th 217
- People v. Gallardo (2017) 4 Cal.5th 120
- People v. Flores (2022) 76 Cal.App.5th 974, 988
- People v. Lee (2023) 95 Cal.App.5th 1164, 1183
- People v. Beaudreaux (2024) 100 Cal.App.5th 1227, 1238