

CALIFORNIA COURT OF APPEAL, FIFTH APPELLATE DISTRICT

People v. Romero

People v. Romero · No. F080671 · Decided June 23, 2022

SUMMARY

The California Court of Appeal, Fifth Appellate District, affirmed the denial of Eved Vireles Romero’s petition for resentencing under Penal Code section 1170.95. The court held that Romero’s admission that he acted intentionally, deliberately, and with premeditation established his ineligibility for resentencing as a matter of law.

CASE DETAILS

COURT	California Court of Appeal, Fifth Appellate District
WRITING FOR THE COURT	The Court; Poochigian, Acting Presiding Justice; Franson, Justice; Meehan, Justice
JURISDICTION	California
DECIDED	June 23, 2022
DOCKET	F080671
DISPOSITION	affirmed
PROCEDURAL POSTURE	Appeal from an order denying a petition for resentencing under California Penal Code section 1170.95.
STANDARD OF REVIEW	The court reviewed the denial of the section 1170.95 petition and whether Romero was prejudiced by alleged procedural and factfinding errors. A reviewing court may uphold a ruling supported by any legally correct theory.
PRECEDENTIAL VALUE	Published and certified for publication; precedential under applicable California law.
PARTIES	Eved Vireles Romero v. The People

TOPICS

- sentence modification
- post-conviction relief
- statutory interpretation
- appellate procedure
- standard of review

PRACTICE AREAS

QUESTIONS PRESENTED

1. Whether Romero's admission that he acted intentionally, deliberately, and with premeditation established his ineligibility for resentencing under Penal Code section 1170.95 as a matter of law.
2. Whether the trial court improperly engaged in factfinding by relying on the preliminary hearing transcript when summarily denying the resentencing petition.
3. Whether Romero was prejudiced by the trial court's failure to appoint counsel and permit briefing before denying the petition.

HOLDINGS

1. A defendant who admitted, as part of a negotiated plea, that he acted intentionally, deliberately, and with premeditation in committing first degree murder is ineligible for section 1170.95 resentencing as a matter of law.
2. Romero's admission was binding because it was an admission to a charged enhancement allegation made as part of a negotiated plea, not an incidental statement made during the plea hearing.
3. The court did not need to decide whether the preliminary hearing testimony was properly considered because any error was harmless; Romero's plea admission independently established his ineligibility.

KEY QUOTATIONS

“By admitting this allegation, petitioner admitted facts necessary to sustain his murder conviction under the law as amended by Senate Bill No. 1437 (2017-2018 Reg. Sess.).” (at 7)

“His admission to intentional, deliberate, and premeditated murder establishes that he acted with actual malice sufficient to sustain the murder conviction under the law as amended by Senate Bill No. 1437 (2017-2018 Reg. Sess.).” (at 8)

FACTUAL BACKGROUND

Romero agreed to drive another person to Martin Leon's home so that the person could shoot Leon, in exchange for money. Leon was shot and killed on April 29, 2004. In 2007, Romero pleaded no contest to first degree murder and admitted that he acted intentionally, deliberately, and with premeditation.

PROCEDURAL HISTORY

Romero pleaded no contest in 2007 to first degree murder and admitted that he acted intentionally, deliberately, and with premeditation. The trial court denied his 2019 section 1170.95 resentencing petition, concluding that he was ineligible as a matter of law because his conviction was not based on felony murder or the natural and probable consequences doctrine. The Court of Appeal affirmed.

DISPOSITION

affirmed

CASES CITED

- People v. Gentile, 10 Cal. 5th 830, 842, 853 (2020)
- People v. Daniel, 57 Cal. App. 5th 666, 672 (2020)
- People v. Lewis, 11 Cal. 5th 952, 959-960, 961-963, 967, 970-972, 972-974 (2021)
- People v. Cooper, 54 Cal. App. 5th 106, 125 (2020)
- People v. Rivera, 62 Cal. App. 5th 217, 238 (2021)
- People v. Flores, 76 Cal. App. 5th 974, 987 (2022)
- People v. Concha, 47 Cal. 4th 653, 662 (2009)
- People v. McCoy, 25 Cal. 4th 1111, 1123 (2001)
- People v. Thomas, 25 Cal. 2d 880, 900 (1945)
- People v. Watson, 46 Cal. 2d 818, 836 (1956)
- People v. Brooks, 3 Cal. 5th 1, 39 (2017)