

CALIFORNIA COURT OF APPEAL, SECOND APPELLATE DISTRICT,
DIVISION SIX

People v. Cabada

18 Cal.4th 297 · No. B315418 · Decided April 3, 2025

SUMMARY

The California Court of Appeal, Second Appellate District, Division Six, affirmed Jose Manuel Cabada’s convictions and aggregate 12-year, eight-month sentence for robbery and related offenses. The court held that the evidence was sufficient to establish robbery by fear and that any Senate Bill 567 sentencing error was harmless beyond a reasonable doubt under People v. Lynch and Erlinger v. United States. An April 3, 2025 order modified the March 24, 2025 opinion by deleting one paragraph, without changing the judgment.

CASE DETAILS

COURT	California Court of Appeal, Second Appellate District, Division Six
WRITING FOR THE COURT	Justice Yegan; Justice Gilbert, Presiding Justice; Justice Baltodano
JURISDICTION	California Court of Appeal, Second Appellate District, Division Six
DECIDED	April 3, 2025
DOCKET	B315418
DISPOSITION	affirmed
PROCEDURAL POSTURE	Defendant appealed his jury convictions and sentence. After the California Supreme Court transferred the matter for reconsideration in light of People v. Lynch and Erlinger v. United States, the Court of Appeal vacated its prior opinion, considered supplemental briefing, and affirmed the judgment.
STANDARD OF REVIEW	For sufficiency of the evidence, the court reviews the entire record in the light most favorable to the judgment to determine whether substantial evidence that is reasonable, credible, and of solid value supports the conviction beyond a reasonable doubt. The court does not reweigh evidence or reevaluate witness credibility. For sentencing error under Penal Code section 1170, subdivision (b), the court applied harmless error beyond a reasonable doubt and determined whether the record clearly indicated that the trial court would have imposed the upper term under the amended sentencing scheme.

PRECEDENTIAL VALUE	Published and certified for publication
PARTIES	Jose Manuel Cabada v. The People

TOPICS

criminal procedure sentencing standard of review appellate procedure evidence

PRACTICE AREAS

criminal law criminal procedure sentencing appellate practice

QUESTIONS PRESENTED

1. Whether substantial evidence supported Cabada's second degree robbery conviction, particularly the finding that the clerk acted under fear.
2. Whether Senate Bill 567, as interpreted by *People v. Lynch* and *Erlinger v. United States*, required remand for a jury determination of the aggravating circumstances supporting the upper-term sentence.
3. Whether the record clearly indicated that the trial court would have imposed the upper term under the amended sentencing scheme.

HOLDINGS

1. Substantial evidence supported the robbery conviction because the clerk subjectively feared Cabada, and that fear enabled Cabada to obtain the money and other property. California robbery law does not require the victim's fear to be objectively reasonable.
2. Remand was not required because, beyond a reasonable doubt, a jury would have found true the aggravating facts relied on by the trial court, and the record clearly indicated that the trial court would have imposed the upper term even under the amended sentencing law.

KEY QUOTATIONS

“what matters is whether the victim in this case was subjectively in fear, not whether a hypothetical and objective ‘reasonable person’ standing in the victim’s shoes would have been afraid.” (5)

“a sentence imposed under former section 1170[, subdivision] (b), must be reversed and remanded unless the reviewing court concludes beyond a reasonable doubt that a jury, applying that same standard, would have found true all of the aggravating facts upon which the court relied to conclude the upper term was justified, or that those facts were otherwise proved true in compliance with the current statute.” (7)

FACTUAL BACKGROUND

During the early morning of May 30, 2020, Cabada confronted two men at a car dealership, chased one with a pole saw, and drove away in another man's car. He then entered a convenience store, took money and other items after intimidating the clerk, raised a gallon milk jug as if to strike or throw it, and took money from a children's

charity container. After police located him in the stolen car, he fled at high speed and crashed into a freeway median.

PROCEDURAL HISTORY

A Ventura County jury convicted Cabada of second degree robbery, evading an officer, and unlawful driving or taking of a vehicle. The trial court denied his request under *People v. Superior Court (Romero)* to dismiss a prior strike and imposed an aggregate 12-year-eight-month prison sentence, including an upper-term robbery sentence. The Court of Appeal initially affirmed, but the California Supreme Court granted review and transferred the matter on December 11, 2024, for reconsideration under *Lynch* and *Erlinger*. The Court of Appeal vacated its prior decision and again affirmed.

DISPOSITION

affirmed

CASES CITED

- *People v. Lynch*, 16 Cal.5th 730 (2024)
- *Erlinger v. United States*, 602 U.S. 821 (2024)
- *People v. Bolin*, 18 Cal.4th 297, 331 (1998)
- *Jackson v. Virginia*, 443 U.S. 307, 319-320 (1979)
- *People v. Jennings*, 50 Cal.4th 616, 638-639 (2010)
- *People v. Morehead*, 191 Cal.App.4th 765, 772, 774-775 (2011)
- *People v. Cuevas*, 89 Cal.App.4th 689, 698 (2001)
- *People v. Mullins*, 19 Cal.App.5th 594, 605 (2018)
- *People v. Collins*, 65 Cal.App.5th 333, 341 (2021)
- *People v. Iniguez*, 7 Cal.4th 847 (1994)
- *People v. Superior Court (Romero)*, 13 Cal.4th 497 (1996)
- *People v. Gutierrez*, 58 Cal.4th 1354, 1390-1391 (2014)
- *People v. Flores*, 9 Cal.5th 371, 432 (2020)
- *People v. Salazar*, 15 Cal.5th 416, 431 (2023)

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