

CALIFORNIA COURT OF APPEAL, FIFTH APPELLATE DISTRICT

In re Thomas Floyd Brissette

In re Thomas Floyd Brissette · No. F089603 · Decided June 23, 2025

SUMMARY

The California Court of Appeal, Fifth Appellate District, considers whether Penal Code section 1172.2, governing compassionate release, can be harmonized with Penal Code section 1170.1, subdivision (c), concerning consecutive sentences for offenses committed in prison. The court concludes that the statutes are reconcilable and that section 1172.2 contemplates a single court determining a compassionate-release petition. The court denies Thomas Floyd Brissette’s petition for writ of habeas corpus.

CASE DETAILS

COURT	California Court of Appeal, Fifth Appellate District
WRITING FOR THE COURT	Franson, Acting Presiding Justice; Meehan, Justice; De Santos, Justice
JURISDICTION	California Court of Appeal, Fifth Appellate District
DECIDED	June 23, 2025
DOCKET	F089603
DISPOSITION	writ_denied
PROCEDURAL POSTURE	Original habeas corpus proceeding transferred by the California Supreme Court after issuance of an order to show cause concerning whether Penal Code section 1172.2 is irreconcilable with Penal Code section 1170.1, subdivision (c).
STANDARD OF REVIEW	De novo review of statutory interpretation and the alleged conflict between Penal Code sections 1172.2 and 1170.1, subdivision (c).
PRECEDENTIAL VALUE	Published and certified for publication; precedential California Court of Appeal opinion.
PARTIES	Thomas Floyd Brissette v. Secretary of the California Department of Corrections and Rehabilitation

TOPICS

- post-conviction relief
- habeas corpus
- sentence modification
- statutory interpretation
- appellate procedure

PRACTICE AREAS

California criminal law

habeas corpus

post-conviction relief

statutory interpretation

compassionate release

QUESTIONS PRESENTED

1. Whether Penal Code section 1172.2, governing compassionate release, is irreconcilable with Penal Code section 1170.1, subdivision (c), governing consecutive sentences for felonies committed in state prison.
2. Whether section 1172.2 requires one court or multiple courts to determine a compassionate-release petition when an inmate has an outside-prison sentence and a consecutive in-prison sentence.
3. Whether a section 1170.1, subdivision (c) Thompson term is a separate sentence or a separate component of one aggregate sentence for purposes of identifying the sentencing court under section 1172.2.

HOLDINGS

1. Penal Code section 1172.2 requires a single court to resolve an inmate's compassionate-release petition.
2. Penal Code sections 1172.2 and 1170.1, subdivision (c), are reconcilable and operate concurrently.
3. A section 1170.1, subdivision (c) Thompson term is a separate and distinct component of a single total sentence, and the court that most recently imposed that term is the sentencing court for purposes of section 1172.2, subdivision (i).

KEY QUOTATIONS

“For these reasons, we hold section 1172.2 requires that a single court resolve an inmate’s petition for compassionate release.” (15)

“In sum, when a court imposes a Thompson term/section 1170.1(c) term on an inmate, the inmate still has only one sentence.” (22)

“Accordingly, we do not find that section 1170.1(c) and section 1172.2 are irreconcilable. Because section 1170.1(c) and section 1172.2 are reconcilable, we deny petitioner’s writ.” (24)

FACTUAL BACKGROUND

Brissette was sentenced in 1985 to 15 years to life plus seven years for second degree murder, firearm use, and a prior serious felony conviction. While imprisoned, he pleaded guilty in Kern County to possessing methamphetamine and received an eight-year sentence consecutive to the murder sentence under Penal Code section 1170.1, subdivision (c). In 2024, CDCR notified both sentencing courts that Brissette met the clinical criteria for compassionate release; Los Angeles County granted release, but Kern County denied it based on danger to public safety. CDCR continued to hold Brissette because the Kern County sentence had not been recalled.

PROCEDURAL HISTORY

Brissette received an outside-prison murder sentence from the Los Angeles County Superior Court and a consecutive eight-year sentence from the Kern County Superior Court for an in-prison controlled-substance offense. CDCR sent separate compassionate-release notices to both courts; Kern County denied relief, while Los Angeles County granted relief and ordered release. CDCR declined to release Brissette because the Kern County sentence had not been recalled. After the California Supreme Court issued an order to show cause and transferred the matter to the Court of Appeal, the Court of Appeal held that the statutes could be harmonized and denied habeas relief.

DISPOSITION

writ_denied

CASES CITED

- People v. Brissette, F088468 (Cal. Ct. App. Mar. 7, 2025) (nonpublished)
- People v. Reynoza, 15 Cal. 5th 982 (2024)
- People v. Walker, 16 Cal. 5th 1024 (2024)
- People v. Ruiz, 4 Cal. 5th 1100 (2018)
- In re White, 1 Cal. 3d 207 (1969)
- People v. Sowers, 49 Cal. App. 4th 230 (1995)
- People v. Hazelton, 14 Cal. 4th 101 (1996)
- People v. Superior Court (Zamudio), 23 Cal. 4th 183 (2000)
- Evan Zohar Construction & Remodeling, Inc. v. Bellaire Townhouses, LLC, 61 Cal. 4th 830 (2015)
- People v. Terwilligar, 109 Cal. App. 5th 585 (2025)
- Lopez v. Sony Electronics, Inc., 5 Cal. 5th 627 (2018)
- In re Jenson, 24 Cal. App. 5th 266 (2018)
- People v. Acosta, 29 Cal. 4th 105 (2002)
- State Department of Public Health v. Superior Court, 60 Cal. 4th 940 (2015)
- People v. Adelman, 4 Cal. 5th 1071 (2018)
- People v. Lewis, 101 Cal. App. 5th 401 (2024)
- People v. Multani, 106 Cal. App. 5th 1334 (2024)
- Rapanos v. United States, 547 U.S. 715 (2006)
- North American Title Co. v. Superior Court, 17 Cal. 5th 155 (2024)
- Pineda v. Bank of America, N.A., 50 Cal. 4th 1389 (2010)
- Robinson v. Superior Court, 88 Cal. App. 5th 1144 (2023)
- Lincoln Unified School District v. Superior Court, 45 Cal. App. 5th 1079 (2020)
- In re Coleman, 236 Cal. App. 4th 1013 (2015)
- Nijimeddin v. Superior Court, 90 Cal. App. 5th 77 (2023)
- In re Brown, 104 Cal. App. 5th 969 (2024)

- People v. Palacios, 41 Cal. 4th 720 (2007)
- People v. Felix, 22 Cal. 4th 651 (2000)
- People v. Brantley, 43 Cal. App. 5th 917 (2019)
- In re Sims, 117 Cal. App. 3d 309 (1981)
- People v. Holdsworth, 199 Cal. App. 3d 253 (1988)
- People v. Landry, 2 Cal. 5th 52 (2016)
- In re Tate, 135 Cal. App. 4th 756 (2006)
- People v. Walkkein, 14 Cal. App. 4th 1401 (1993)
- In re Thompson, 172 Cal. App. 3d 256 (1985)
- People v. White, 202 Cal. App. 3d 862 (1988)
- People v. Langston, 33 Cal. 4th 1237 (2004)
- People v. Reed, 17 Cal. App. 4th 302 (1993)
- People v. Escobedo, 95 Cal. App. 5th 440 (2023)
- In re Cowen, 27 Cal. 2d 637 (1946)
- In re Bolton, 40 Cal. App. 5th 611 (2019)
- People v. Phoenix, 231 Cal. App. 4th 1119 (2014)
- People v. Falcon, 92 Cal. App. 5th 911 (2023)
- People v. Lynch, 16 Cal. 5th 730 (2024)

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