

CALIFORNIA COURT OF APPEAL, FIRST APPELLATE DISTRICT, DIVISION FIVE

People v. Hsiung

No. A169697 (Cal. Ct. App. Apr. 30, 2026) · No. A169697 · Decided April 30, 2026

SUMMARY

The California Court of Appeal considered challenges arising from Wayne Hansen Hsiung’s convictions for trespass and conspiracy to commit trespass based on animal-rights protests at Sonoma County poultry farms. The court rejected his necessity-defense, First Amendment, jury-instruction, and prosecutorial-misconduct claims, but held that the trial court improperly limited evidence and argument concerning his mistake-of-law defense. The court reversed the convictions on conspiracy to commit trespass and trespass with intent to interfere with a lawful business, remanded those counts for further proceedings, and affirmed the remaining trespass conviction.

CASE DETAILS

COURT	California Court of Appeal, First Appellate District, Division Five
WRITING FOR THE COURT	Jackson, P. J.; Simons, J.; Burns, J.
JURISDICTION	California Court of Appeal, First Appellate District, Division Five
DECIDED	April 30, 2026
DOCKET	A169697
DISPOSITION	reversed_and_remanded
PROCEDURAL POSTURE	Defendant appealed convictions for conspiracy to commit trespass, trespass by refusing or failing to leave private property, and trespass with intent to interfere with a lawful business after the trial court excluded a necessity-based mistake-of-law defense and rejected constitutional challenges to the trespass statutes.
STANDARD OF REVIEW	De novo review applies to refusal to instruct on a legally available defense and to constitutional challenges; historical factual findings in an as-applied constitutional challenge are reviewed for substantial evidence.
PRECEDENTIAL VALUE	Published in part; discussion part III is expressly not certified for publication under California Rules of Court, rules 8.1105(b) and 8.1110.

TOPICS

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PRACTICE AREAS

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QUESTIONS PRESENTED

1. Whether the trial court properly refused to instruct the jury on the necessity defense.
2. Whether the trial court violated defendant's right to present a complete defense by excluding evidence and argument concerning his good-faith mistake of law based on the necessity defense.
3. Whether Penal Code section 31 is facially or as-applied unconstitutional under the First Amendment to the extent aiding-and-abetting instructions use the terms promote or promoting.
4. Whether Penal Code section 602, subdivision (o), is an unconstitutional content-based restriction on speech.
5. Whether the trial court prejudicially erred in responding to the jury's questions concerning the meaning of promote.
6. Whether the prosecutor improperly disparaged defendant's ethical-vegan and animal-rights beliefs.

HOLDINGS

1. The trial court properly refused to instruct on necessity because defendant's evidence did not permit a reasonable jury to find that he acted in an emergency to prevent imminent significant harm while lacking a legal alternative. The court did not need to resolve categorically whether California's necessity defense may apply to harm threatened against animals.
2. A defendant charged with specific-intent trespass or conspiracy may present a good-faith mistake-of-law defense based on the belief that the necessity defense legally justified the conduct, even if the defendant knew the conduct technically constituted trespass.
3. The trial court violated defendant's constitutional right to present a complete defense by excluding evidence and argument concerning his good-faith belief that necessity justified the trespasses and by limiting the mistake-of-law instruction to Penal Code section 597e.
4. Penal Code section 31 is not facially or as applied unconstitutional under the First Amendment merely because aiding-and-abetting instructions describe conduct as promoting, encouraging, or facilitating a crime.
5. Penal Code section 602, subdivision (o), is not unconstitutional as a content-based restriction on speech because it expressly excludes persons engaging in activities protected by the California or United States Constitution.

KEY QUOTATIONS

“Accordingly, defendant should have been permitted to present to the jury a mistake of law defense based on his good faith, albeit incorrect, belief that committing a trespass was legally justified by necessity, notwithstanding his awareness that trespassing was a crime.” (26)

“Here, defendant was indeed deprived of the right to assert a defense.” (29-30)

“Based on this italicized language, which specifically excludes from the scope of the statute persons engaged in protected activities, we are at a loss as to how section 602, subdivision (o) could be applied in a manner that would infringe upon a person’s constitutional rights.” (36)

FACTUAL BACKGROUND

Wayne Hansen Hsiung cofounded Direct Action Everywhere, an animal-rights network that conducted open rescues at private poultry farms to document allegedly cruel conditions and remove animals viewed as needing care. Hsiung participated in or assisted planned protests at Sunrise Farms in 2018 and Reichardt Duck Farm in 2019, relying on legal and veterinary opinions that the conduct was justified by necessity. The protests involved trespass, animal removals, blockades, demonstrations, and arrests. At trial, the court allowed only a limited mistake-of-law defense based on Penal Code section 597e and excluded evidence concerning Hsiung's belief that necessity generally justified the trespasses.

PROCEDURAL HISTORY

An amended information charged defendant with two conspiracy counts and two substantive trespass counts arising from animal-rights protests at two Sonoma County poultry farms. After trial, the jury convicted defendant on counts 1, 2, and 4, could not reach a verdict on count 3, and the prosecution dismissed count 3 rather than retry it. The Court of Appeal reversed counts 1 and 4 because the trial court improperly prevented defendant from presenting evidence and argument supporting a good-faith mistake-of-law defense based on necessity, affirmed count 2, and remanded for further proceedings, including possible retrial.

DISPOSITION

reversed_and_remanded

REMAND INSTRUCTIONS

Reverse the judgment of conviction on counts 1 and 4 and remand for further proceedings consistent with the opinion, which may include retrial on those counts. Affirm the judgment in all other respects.

CASES CITED

- People v. Salas (2006) 37 Cal.4th 967, 982
- People v. Morales (2021) 69 Cal.App.5th 978, 990
- People v. Heath (1989) 207 Cal.App.3d 892, 899-901
- In re Eichorn (1998) 69 Cal.App.4th 382, 387-391

- People v. Coffman and Marlow (2004) 34 Cal.4th 1, 100
- People v. Kearns (1997) 55 Cal.App.4th 1128, 1134-1135
- People v. Beach (1987) 194 Cal.App.3d 955, 971
- People v. Youngblood (2001) 91 Cal.App.4th 66, 73-74
- People v. Garziano (1991) 230 Cal.App.3d 241, 242
- United States v. Oakland Cannabis Buyers' Cooperative (2001) 532 U.S. 483, 491
- People v. Galambos (2002) 104 Cal.App.4th 1147, 1152, 1162-1163
- People v. Pepper (1996) 41 Cal.App.4th 1029, 1035
- People v. Trippet (1997) 56 Cal.App.4th 1532, 1539
- People v. Weber (1984) 162 Cal.App.3d Supp. 1, 5
- People v. Patrick (1981) 126 Cal.App.3d 952, 960
- People v. Lee (2005) 131 Cal.App.4th 1413, 1429-1430
- People v. Lovercamp (1974) 43 Cal.App.3d 823, 825, 827, 831-833
- Animal Legal Defense Fund v. Mendes (2008) 160 Cal.App.4th 136, 143-144
- In re Weller (1985) 164 Cal.App.3d 44, 48-50
- People v. Noori (2006) 136 Cal.App.4th 964, 977
- People v. Howard (1984) 36 Cal.3d 852, 862-863
- People v. Koenig (2020) 58 Cal.App.5th 771, 806-809
- People v. Stewart (1976) 16 Cal.3d 133, 140-141
- People v. Manriquez (2005) 37 Cal.4th 547, 581
- People v. Urziceanu (2005) 132 Cal.App.4th 747, 775-780
- People v. Marsh (1962) 58 Cal.2d 732, 742-744
- People v. Ahmed (2018) 25 Cal.App.5th 136, 143-144
- Ghirardo v. Antonoli (1994) 8 Cal.4th 791, 799-801
- People v. Fuiava (2012) 53 Cal.4th 622, 696
- Cahill Construction Co., Inc. v. Superior Court (2021) 66 Cal.App.5th 777, 789-790
- People v. Beeman (1984) 35 Cal.3d 547, 560-561
- In re Alberto R. (1991) 235 Cal.App.3d 1309, 1321-1322
- People v. Green (1991) 227 Cal.App.3d 692, 703-704
- People v. Castaneda (2000) 23 Cal.4th 743, 752
- People v. Rubalcava (2000) 23 Cal.4th 322, 333
- City Council v. Taxpayers for Vincent (1984) 466 U.S. 789, 800
- In re Kay (1970) 1 Cal.3d 930, 942
- In re M.H. (2016) 1 Cal.App.5th 699, 713
- Strong v. State (Alaska Ct. App. 2022) 508 P.3d 1127, 1131-1133 & fn. 18
- State v. Spokane County Dist. Court (2021) 198 Wash.2d 1, 12-16

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