

CALIFORNIA COURT OF APPEAL, FIFTH APPELLATE DISTRICT

People v. Millan

Millan · No. F087198 · Decided May 20, 2025

SUMMARY

The California Court of Appeal, Fifth Appellate District, reviewed the convictions of Jorge Alberto Millan and Elizabeth Jara arising from the severe abuse of their infant son. The court held that the evidence did not support the finding that Jara personally inflicted great bodily injury for purposes of the enhancement, vacated that finding and the resulting sentence as to her, and otherwise affirmed. The court rejected Millan’s challenges to the sufficiency of the evidence supporting his attempted murder and torture convictions.

CASE DETAILS

COURT	California Court of Appeal, Fifth Appellate District
WRITING FOR THE COURT	Detjen, Acting P. J.; Franson, J.; De Santos, J.
JURISDICTION	California Court of Appeal, Fifth Appellate District
DECIDED	May 20, 2025
DOCKET	F087198
DISPOSITION	reversed_and_remanded
PROCEDURAL POSTURE	Defendants appealed criminal judgments after a jury convicted Millan of attempted murder, torture, felony child abuse, and misdemeanor child abuse, and convicted Jara of assault with force likely to produce great bodily injury and child abuse. Jara challenged the sufficiency of the evidence supporting a great bodily injury enhancement and asserted ineffective assistance concerning jury instructions. Millan challenged the sufficiency of the evidence supporting his attempted-murder and torture convictions.
STANDARD OF REVIEW	The court reviewed sufficiency-of-the-evidence claims under the deferential substantial-evidence standard, viewing the whole record in the light most favorable to the judgment and determining whether reasonable, credible, and solid evidence supported a rational trier of fact's findings beyond a reasonable doubt.
PRECEDENTIAL VALUE	Published in part; parts II and III of the Discussion are unpublished and not certified for publication.

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QUESTIONS PRESENTED

1. Whether substantial evidence supported the finding that Jara personally inflicted great bodily injury on X. for purposes of Penal Code section 12022.7, subdivision (d).
2. Whether substantial evidence supported Millan's conviction for attempted murder, including the finding that he intended to kill X.
3. Whether substantial evidence supported Millan's conviction for torture, including the findings that he intended to cause cruel or extreme pain and acted for a statutorily specified purpose.
4. Whether Jara was entitled to relief based on counsel's failure to request special instructions concerning the great bodily injury enhancement.

HOLDINGS

1. The evidence did not support a finding that Jara personally inflicted great bodily injury on X. Injuries directly caused by Millan's abuse could not be attributed to Jara as personally inflicted merely because she failed to protect X., concealed the injuries, restricted access to X., or delayed medical care.
2. Jara's failure to protect X. could support her underlying child-abuse and assault-related liability but could not support the separate finding that she personally inflicted great bodily injury caused by Millan.
3. Substantial evidence supported the jury's finding that Millan intended to kill X. and committed direct but ineffectual acts toward accomplishing the killing.
4. Substantial evidence supported Millan's conviction for torture because the nature, repetition, duration, and gratuitous brutality of the abuse permitted the jury to infer that he intended to cause cruel or extreme pain for a sadistic purpose.

KEY QUOTATIONS

“The evidence does not support finding that Jara personally inflicted great bodily injury on X., as required to support the great bodily injury enhancement.” (17)

“Injury inflicted through an intermediary is not “personally” inflicted within the meaning of section 12022.7.” (22)

“A reasonable jury could infer from Millan’s conduct – repeatedly squeezing, slamming, and pulling on the vulnerable body of a newborn infant with force significant enough to cause life-threatening injuries – that he acted with intent to kill.” (24)

“Millan’s repetitive and relentless infliction of gratuitous pain on X. over a prolonged period and through acts of extreme brutality constitutes substantial evidence that Millan acted for his own pleasure or satisfaction.”
(29)

FACTUAL BACKGROUND

Six-week-old X. was taken to urgent care with extensive injuries, including numerous fractures in different stages of healing, bruising, burns, and other trauma. Medical experts testified that the injuries were diagnostic of child abuse, that several were consistent with squeezing, pulling, or slamming, and that X. would have died without prompt medical treatment. Evidence showed that Millan and Jara were the primary overnight caregivers, that X. frequently cried in pain, and that Millan repeatedly handled or abused X.; the prosecution also relied on evidence that Jara failed to protect X. and delayed reporting the abuse.

PROCEDURAL HISTORY

A Kern County jury found Millan guilty as charged and found true a great bodily injury enhancement. It found Jara not guilty of attempted murder, guilty of assault with force likely to produce great bodily injury as a lesser included offense of torture, guilty of felony and misdemeanor child abuse, and found true a great bodily injury enhancement on the felony child-abuse count. Millan received life with the possibility of parole, and Jara received an aggregate nine-year sentence. The Court of Appeal vacated the enhancement finding and sentence as to Jara and remanded for resentencing, while otherwise affirming both judgments.

DISPOSITION

reversed_and_remanded

REMAND INSTRUCTIONS

As to Jara, vacate the true finding on the great bodily injury enhancement to count 3, vacate her sentence, and remand for a full resentencing so the superior court may reconsider its sentencing choices. The judgments are otherwise affirmed, including Millan's judgment in its entirety.

CASES CITED

- People v. Collins, 17 Cal.5th 293, 307-310 (2025)
- People v. Flores, 9 Cal.5th 371, 411 (2020)
- People v. Warwick, 182 Cal.App.4th 788, 793-795 (2010)
- People v. Cole, 31 Cal.3d 568, 571-572 (1982)
- People v. Ollo, People v. Ollo, 11 Cal.5th 682, 692 (2021)
- People v. Cross, 45 Cal.4th 58, 63, 66, 68 (2008)
- People v. Rodriguez, 69 Cal.App.4th 341, 346, 349, 352 (1999)
- People v. Frazier, 173 Cal.App.4th 613, 615-620 (2009)
- People v. Buycks, 5 Cal.5th 857, 893 (2018)
- People v. Smith, 37 Cal.4th 733, 739, 741 (2005)

- People v. Canizales, 7 Cal.5th 591, 602 (2019)
- People v. Avila, 46 Cal.4th 680, 701-702 (2009)
- People v. San Nicolas, 34 Cal.4th 614, 658 (2004)
- People v. Moore, 96 Cal.App.4th 1105, 1114 (2002)
- People v. Ratliff, 41 Cal.3d 675, 695-696 (1986)
- People v. Johnson, 30 Cal.3d 444, 447-449 (1981)
- People v. Lee, 43 Cal.3d 666, 679 (1987)
- People v. Massie, 142 Cal.App.4th 365, 370-372 (2006)
- People v. Burton, 143 Cal.App.4th 447, 452-453 (2006)
- People v. Mungia, 44 Cal.4th 1101, 1137 (2008)
- People v. Pre, 117 Cal.App.4th 413, 421 (2004)
- People v. Hamlin, 170 Cal.App.4th 1412, 1430 (2009)
- People v. Gonzales, 54 Cal.4th 1234, 1274 (2012)
- People v. Whisenhunt, 44 Cal.4th 174, 201 (2008)

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