

CALIFORNIA COURT OF APPEAL, SECOND APPELLATE DISTRICT,
DIVISION SIX

People v. Cain

Cain · No. B342911 · Decided December 8, 2025

SUMMARY

The California Court of Appeal reviews an order recalling and vacating Tracy Cain’s capital and noncapital sentences under Penal Code section 1172.75. The court holds that the People may appeal the order, that section 1509 makes habeas corpus the exclusive procedure for collateral attacks on a judgment of death, and that the death sentence could not be recalled through the section 1172.75 proceeding. It reverses the order insofar as it recalled the death sentence, affirms recall of the noncapital portions, and remands for resentencing on those portions.

CASE DETAILS

COURT	California Court of Appeal, Second Appellate District, Division Six
WRITING FOR THE COURT	Yegan, J.; Gilbert, P. J.; Cody, J.
JURISDICTION	California Court of Appeal, Second Appellate District, Division Six
DECIDED	December 8, 2025
DOCKET	B342911
DISPOSITION	reversed_and_remanded
PROCEDURAL POSTURE	The People appealed a superior court order recalling and vacating respondent's entire sentence under Penal Code section 1172.75, including a previously affirmed death sentence. The Court of Appeal considered whether the order was appealable and whether section 1172.75 authorized recall and resentencing of the death sentence.
STANDARD OF REVIEW	Issues of statutory construction are reviewed de novo. Appealability under Penal Code section 1238, subdivision (a)(5), was considered under whether the postjudgment order affected the substantial rights of the People.
PRECEDENTIAL VALUE	Published and certified for publication; precedential under California law.
PARTIES	The People v. Tracy Cain

TOPICS

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QUESTIONS PRESENTED

1. Whether the People's appeal from the superior court's order recalling and vacating Cain's sentence was authorized by Penal Code section 1238, subdivision (a)(5).
2. Whether Penal Code section 1172.75 authorizes recall and resentencing of a previously affirmed death sentence that is part of a judgment containing an invalid prior-prison-term enhancement.
3. Whether Penal Code section 1509, which makes habeas corpus the exclusive procedure for collateral attacks on a judgment of death, prevents recall and resentencing of the death sentence under section 1172.75.

HOLDINGS

1. An order vacating a judgment of death necessarily affects the substantial rights of the People and is appealable as an order made after judgment under Penal Code section 1238, subdivision (a)(5).
2. Section 1172.75 does not provide an appropriate vehicle for recalling and resentencing Cain's previously affirmed death sentence, although it permits resentencing of the noncapital portions of the judgment.
3. The superior court may recall the noncapital portions of Cain's judgment and resentence him as to those portions based on the invalid prior-prison-term enhancement.

KEY QUOTATIONS

“We hold that the “full resentencing rule” (allegedly triggered because of a now invalid one-year prior prison term enhancement) does not provide an appropriate vehicle to achieve respondent’s stated goal of nullifying the previously imposed sentence of death.” (1)

“We hold that an order vacating a judgment of death necessarily affects the substantial rights of the People.” (1)

“As we shall explain, the trial court is without power to enter an order nullifying the death penalty.” (1)

“Recall and resentencing as to the death sentence would violate section 1509, which was enacted by voter initiative.” (1)

“The ‘exclusive procedure for collateral attack on a judgment of death’ is a petition for writ of habeas corpus under section 1509.” (15)

FACTUAL BACKGROUND

Cain was convicted of participating in a 1986 home-invasion burglary in which William and Modena Galloway were murdered. The jury found special-circumstance allegations true and imposed the death penalty for each murder. The trial court also imposed a consecutive seven-year determinate term, including a one-year enhancement for a prior prison term under former Penal Code section 667.5, subdivision (b). The California Supreme Court affirmed the death judgment, which became final after federal review.

PROCEDURAL HISTORY

A jury convicted Tracy Cain of two special-circumstances first-degree murders, two burglaries, and robbery, imposing death for each murder. The trial court imposed the death sentences and a consecutive seven-year determinate term that included a one-year prior-prison-term enhancement. The California Supreme Court affirmed the judgment in 1995, and later state and federal habeas proceedings were unsuccessful. After Cain was identified as potentially eligible for relief under section 1172.75, the superior court recalled and vacated the entire sentence. The Court of Appeal reversed the recall of the death sentence, affirmed recall of the noncapital portions, and remanded for resentencing on those portions.

DISPOSITION

reversed_and_remanded

REMAND INSTRUCTIONS

The trial court must leave the death sentence undisturbed, resentence Cain only on the noncapital portions of the judgment, prepare an amended abstract of judgment after resentencing, and send a certified copy to the California Department of Corrections and Rehabilitation.

CASES CITED

- People v. Cain, 10 Cal. 4th 1, 18 (1995), cert. denied, Cain v. California, 516 U.S. 1077 (1996)
- Cain v. Chappell, 870 F.3d 1003 (9th Cir. 2017), cert. denied, Cain v. Davis, 586 U.S. 987 (2018)
- People v. Jennings, 42 Cal. App. 5th 664, 681 (2019)
- People v. Rhodius, 17 Cal. 5th 1050, 1055 (2025)
- People v. Chacon, 40 Cal. 4th 558, 564 (2007)
- In re Anthony, 236 Cal. App. 4th 204, 211-212 (2015)
- People v. Rogers, 108 Cal. App. 5th 340, 360, 364 (2025)
- People v. Griggs, 109 Cal. App. 5th 1231, 1233, 1237 (2025)
- People v. Montellano, 39 Cal. App. 5th 148, 151, 156 (2019)
- People v. Superior Court (Martinez), 225 Cal. App. 4th 979, 987 (2014)
- People v. Brown, 14 Cal. 5th 530, 536 (2023)
- Boston v. Penny Lane Centers, Inc., 170 Cal. App. 4th 936, 950 (2009)
- People v. Lara, 115 Cal. App. 5th 484, 488 (2025)
- People v. Hernandez, 47 Cal. 3d 315, 362 (1988)

- People v. Flores, 12 Cal. 3d 85, 93 & n.6 (1974)
- People v. Triggs, 8 Cal. 3d 884, 891 (1973), overruled on other grounds by People v. Lilienthal, 22 Cal. 3d 891, 896 (1978)
- People v. Dixon, 112 Cal. App. 5th 236, 240, 247-249 (2025), review granted
- Robert L. v. Superior Court, 30 Cal. 4th 894, 901 (2003)
- People v. Briceno, 34 Cal. 4th 451, 459 (2004)
- San Francisco Taxpayers Assn. v. Board of Supervisors, 2 Cal. 4th 571, 580 (1992)
- Tapia v. Superior Court, 53 Cal. 3d 282, 286-287 (1991)

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