

CALIFORNIA COURT OF APPEAL, FOURTH APPELLATE DISTRICT,
DIVISION THREE

People v. Ball

People v. Ball · No. G064274 · Decided September 9, 2025

SUMMARY

The California Court of Appeal held that Penal Code section 417.3 requires an objective showing that firearm brandishing was conducted in a manner that would cause a reasonable person apprehension or fear of bodily harm, rather than proof that the victim subjectively experienced fear. The court reversed the order granting the defendant’s Penal Code section 995 motion and directed reinstatement of the firearm-brandishing count. The opinion was certified for publication on September 9, 2025.

CASE DETAILS

COURT	California Court of Appeal, Fourth Appellate District, Division Three
WRITING FOR THE COURT	Scott, J.; Moore, Acting P. J.; Gooding, J.
JURISDICTION	California Court of Appeal, Fourth Appellate District, Division Three
DECIDED	September 9, 2025
DOCKET	G064274
DISPOSITION	reversed_and_remanded
PROCEDURAL POSTURE	The Orange County District Attorney appealed from an order granting Ball's Penal Code section 995 motion and dismissing a felony count charging him with brandishing a firearm at a motor vehicle occupant.
STANDARD OF REVIEW	Where the facts are undisputed, probable cause is reviewed independently as a legal conclusion. The appellate court reviews the magistrate's probable-cause determination and disregards the trial court's section 995 ruling.
PRECEDENTIAL VALUE	Published and certified for publication; precedential California Court of Appeal opinion.
PARTIES	The People v. Jacob Frederick Ball

TOPICS

- probable cause
- criminal procedure
- statutory interpretation
- appellate procedure
- standard of review

PRACTICE AREAS

criminal procedure

appellate procedure

statutory interpretation

QUESTIONS PRESENTED

1. Whether Penal Code section 417.3 requires the victim of firearm brandishing to subjectively experience fear or apprehension of bodily harm.
2. Whether the preliminary-hearing evidence established probable cause to hold Ball to answer on the section 417.3 count.
3. Whether the trial court properly set aside count 1 under Penal Code section 995.

HOLDINGS

1. Penal Code section 417.3 establishes an objective test: the firearm must be exhibited in a threatening manner such that it would cause a reasonable person apprehension or fear of bodily harm; the victim need not actually experience fear.
2. Probable cause existed because the preliminary-hearing evidence provided a rational ground to assume that a section 417.3 offense had been committed and that Ball was guilty of it.

KEY QUOTATIONS

“We hold the statute sets forth an objective test about causing fear and does not require a victim to subjectively experience it.” (p. 1)

“In sum, the statute’s plain meaning supports the magistrate’s ruling that there was probable cause to hold Ball to answer on count 1.” (p. 4)

“Section 417.3 did not require the district attorney to show that the victim actually experienced fear.” (p. 4)

FACTUAL BACKGROUND

One night in 2020, Ball pointed a handgun in the direction of another driver before speeding away toward a freeway onramp. The vehicles had been stopped next to each other at a traffic signal, and the driver had photographed Ball's license plate after observing him drive recklessly. After the driver called 9-1-1, police found Ball at home and discovered a handgun and black gloves in his vehicle.

PROCEDURAL HISTORY

At a preliminary hearing, the magistrate found probable cause to hold Ball to answer on all charged counts. The superior court later granted Ball's section 995 motion and set aside count 1 because there was no evidence that the driver subjectively feared the brandishing. The Court of Appeal reversed and directed reinstatement of count 1.

DISPOSITION

reversed_and_remanded

REMAND INSTRUCTIONS

The superior court is directed to reinstate count 1 of the February 8, 2023, information.

CASES CITED

- People v. Scully, 11 Cal.5th 542, 582 (2021)
- People v. Black, 8 Cal.App.5th 889, 898 (2017)
- People v. Gonzalez, 2 Cal.5th 1138, 1141 (2017)
- People v. McKinzie, 179 Cal.App.3d 789, 794 (1986)
- People v. Holmes, McClain and Newborn, 12 Cal.5th 719, 810 (2022)
- People v. Lara, 43 Cal.App.4th 1560, 1565-1566 (1996)
- People v. Carroll, 222 Cal.App.4th 1406, 1418 (2014)
- People v. Howard, 100 Cal.App.4th 94, 96-99 (2002)

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