

APPELLATE DIVISION OF THE SUPERIOR COURT OF CALIFORNIA,
COUNTY OF LOS ANGELES

People v. Shaginyan

Shaginyan · No. 24APCM00057 · Decided March 14, 2025

SUMMARY

The California Appellate Division of the Superior Court reviews the dismissal of a misdemeanor case after diversion under Penal Code section 1001.95. The court holds that probable cause or a strong suspicion that the defendant violated diversion conditions is sufficient to require an evidentiary termination hearing, and that a police report may support that preliminary showing. The dismissal is reversed and the matter is remanded for further proceedings.

CASE DETAILS

COURT	Appellate Division of the Superior Court of California, County of Los Angeles
WRITING FOR THE COURT	Ricciardulli, J.; P. McKay, P. J.; Guillemet, J.
JURISDICTION	California, Appellate Division of the Superior Court for Los Angeles County
DECIDED	March 14, 2025
DOCKET	24APCM00057
DISPOSITION	reversed_and_remanded
PROCEDURAL POSTURE	The People appealed the dismissal of a misdemeanor criminal case after the trial court denied the prosecutor's petition to terminate misdemeanor diversion and refused to hold an evidentiary hearing.
STANDARD OF REVIEW	De novo review applies to the interpretation of Penal Code section 1001.95 and to the trial court's refusal to set an evidentiary hearing when that decision rests on the sufficiency of documentary evidence and involves no credibility determinations.
PRECEDENTIAL VALUE	Published and certified for publication; precedential within the applicable California appellate system.
PARTIES	The People v. Arutun Harut Shaginyan

TOPICS

criminal procedure

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PRACTICE AREAS

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statutory interpretation

appellate procedure

diversion

municipal cannabis regulation

QUESTIONS PRESENTED

1. What standard governs the first step of the two-step misdemeanor-diversion termination process under Penal Code section 1001.95, subdivision (d)?
2. Whether the prosecutor's police report and related submissions established sufficient probable cause for the court to conduct an evidentiary hearing concerning an alleged diversion violation.
3. Whether the trial court erred by refusing to conduct a diversion termination hearing and dismissing the case.

HOLDINGS

1. Under Penal Code section 1001.95, subdivision (d), the diversion-termination process is two-step: the court must first determine whether there is probable cause to believe the defendant is not complying with the diversion conditions, and, after notice to the defendant, must then hold an evidentiary hearing. The statute's mandatory use of "shall" requires the hearing once the probable-cause threshold is satisfied.
2. A police report identifying a detained person by the defendant's same name and date of birth, and reporting that the person admitted working as a security guard at an unlicensed cannabis store, was sufficient to establish probable cause for a diversion termination hearing.
3. The trial court erred by finding the prosecutor's showing insufficient, refusing to conduct an evidentiary hearing, denying the termination petition, and dismissing the case.

KEY QUOTATIONS

"Use of the term "shall" demonstrates an intent that, if the first step is satisfied and the defendant is provided notice, the court must conduct a diversion termination hearing at the People's request." (at 6)

"As with the opinions examining the revocation of probation statute (Vickers, etc.), we view the requirements of due process to be satisfied by use of a two-step procedure in the diversion termination context, with probable cause of a violation being required to proceed to an evidentiary hearing." (at 12)

"We find an ample showing was made to the trial court by the prosecutor that there were reasons to believe defendant violated the conditions of his diversion, thereby requiring the court to afford the People an opportunity to prove the allegation in an evidentiary hearing." (at 13)

FACTUAL BACKGROUND

Defendant was placed on misdemeanor diversion after being charged with commercial cannabis-related offenses arising from his employment as a security guard at an unlicensed cannabis store. His diversion conditions included refraining from commercial cannabis activity and obeying all laws. Before the one-year diversion period ended, a police report stated that a person identified as Harut Shaginyan, with defendant's same name and

date of birth, had been detained at another unlicensed cannabis store, admitted working there as a security guard, and possessed a BB gun. The trial court concluded the report did not sufficiently establish defendant's identity or presence and dismissed the case without holding a termination hearing.

PROCEDURAL HISTORY

Defendant was charged in 2018 with Los Angeles municipal cannabis-related offenses and was placed on misdemeanor diversion under Penal Code section 1001.95 in April 2023. Before the diversion period ended, the prosecutor submitted a police report alleging that defendant had again worked as a security guard at an unlicensed cannabis store and sought a hearing to terminate diversion. The trial court found the showing insufficient to establish that defendant was the person detained, denied the petition, and dismissed the case under the diversion statute. The appellate division reversed and remanded.

DISPOSITION

reversed_and_remanded

REMAND INSTRUCTIONS

The order dismissing defendant's case is reversed. The matter is remanded to the trial court for further proceedings consistent with the opinion, including proceedings under the diversion-termination framework.

CASES CITED

- People v. Braden (2023) 14 Cal.5th 791, 804
- People v. Lofchie (2014) 229 Cal.App.4th 240, 250
- People v. Superior Court (Decker) (2007) 41 Cal.4th 1, 7
- People v. Watson (1981) 30 Cal.3d 290, 300
- People v. Jackson (2005) 128 Cal.App.4th 1009, 1021
- City of Brentwood v. Central Valley Regional Water Quality Control Board (2004) 123 Cal.App.4th 714, 722
- Schelb v. Stein (2010) 190 Cal.App.4th 1440, 1448
- Islas v. Appellate Division of Superior Court (2022) 78 Cal.App.5th 1104, 1107
- Conservatorship of Pamela J. (2005) 133 Cal.App.4th 807, 823
- Christians v. Chester (1990) 218 Cal.App.3d 273, 276
- City and County of San Francisco v. Strahlendorf (1992) 7 Cal.App.4th 1911, 1915
- People v. Onesra Enterprises, Inc. (2018) 24 Cal.App.5th Supp. 9, 20
- Gutierrez v. Carmax Auto Superstores California (2018) 19 Cal.App.5th 1234, 1253
- People v. Olguin (2008) 45 Cal.4th 375, 380
- Griffin v. Wisconsin (1987) 483 U.S. 868, 875
- People v. Chandler (1988) 203 Cal.App.3d 782, 788
- Gresher v. Anderson (2005) 127 Cal.App.4th 88, 111
- People v. Superior Court (On Tai Ho) (1974) 11 Cal.3d 59, 66

- People v. Mazurette (2001) 24 Cal.4th 789, 796
- People v. Cisneros (2000) 84 Cal.App.4th 352, 358
- Lucido v. Superior Court (1990) 51 Cal.3d 335, 348
- People v. Borja (1980) 110 Cal.App.3d 378, 382
- People v. Leiva (2013) 56 Cal.4th 498, 504-505
- People v. Arreola (1994) 7 Cal.4th 1144, 1152
- People v. Rodriguez (1990) 51 Cal.3d 437, 447
- People v. O'Connell (2003) 107 Cal.App.4th 1062, 1066
- Depper v. Superior Court (1999) 74 Cal.App.4th 15, 21
- People v. Gifford (1974) 38 Cal.App.3d 89, 91
- People v. Hurtado (2002) 28 Cal.4th 1179, 1188-1189
- People v. Mower (2002) 28 Cal.4th 457, 473
- People v. Anderson (1975) 49 Cal.App.3d 869, 874
- In re Frias (1973) 34 Cal.App.3d 88, 92
- In re Thomas (1972) 27 Cal.App.3d 31, 35
- People v. Santellanes (1989) 216 Cal.App.3d 998, 1003 fn. 4
- People v. Hawkins (1975) 44 Cal.App.3d 958, 966
- Kramer v. Municipal Court (1975) 49 Cal.App.3d 418, 424