

CALIFORNIA COURT OF APPEAL, FIRST APPELLATE DISTRICT, DIVISION TWO

People v. Hill

No. A168750 (Cal. Ct. App. Feb. 28, 2025) · No. A168750 · Decided February 28, 2025

SUMMARY

The California Court of Appeal, First Appellate District, Division Two, affirms the denial of Donald Ray Hill Jr.’s petition for resentencing under Penal Code section 1172.6. Hill argued that the trial court improperly relied on implied-malice principles and that the prosecution failed to prove beyond a reasonable doubt that he was guilty of attempted murder under a currently valid theory. The opinion addresses the effect of Senate Bills 1437 and 775, prior jury findings and a no contest plea, and the applicable standards for section 1172.6 proceedings.

CASE DETAILS

COURT	California Court of Appeal, First Appellate District, Division Two
WRITING FOR THE COURT	Richman, J.; Stewart, P.J.; Miller, J.
JURISDICTION	California Court of Appeal, First Appellate District, Division Two
DECIDED	February 28, 2025
DOCKET	A168750
DISPOSITION	affirmed
PROCEDURAL POSTURE	Hill appealed the Solano County Superior Court's denial of his petition for resentencing under Penal Code section 1172.6 following an evidentiary hearing.
STANDARD OF REVIEW	Factual findings after a section 1172.6 evidentiary hearing are reviewed for substantial evidence, application of those facts to the statute is reviewed de novo, legal questions concerning the elements of the offense are reviewed independently, and the determination whether a prima facie showing was made is reviewed independently.
PRECEDENTIAL VALUE	published
PARTIES	Donald Ray Hill, Jr. v. The People

TOPICS

state post-conviction relief

sentence modification

statutory interpretation

appellate procedure

criminal procedure

PRACTICE AREAS

California criminal law

post-conviction resentencing

criminal appellate practice

QUESTIONS PRESENTED

1. Whether the trial court erred by analyzing Hill's section 1172.6 petition under implied-malice principles.
2. Whether Hill was eligible for section 1172.6 relief on count 2 when the jury was instructed on direct aiding and abetting and intent to kill, but not on the natural and probable consequences doctrine.
3. Whether Hill was eligible for section 1172.6 relief on count 3 after pleading no contest to attempted murder following a jury trial and reversal of the related murder conviction.
4. Whether any error at the evidentiary hearing required reversal.

HOLDINGS

1. Hill was ineligible for section 1172.6 relief on count 2 because the jury was not instructed on the natural and probable consequences doctrine and instead was instructed on direct aiding and abetting and the requirement that Hill and the perpetrator intend to kill the victim.
2. Hill was ineligible for section 1172.6 relief on count 3 because the record conclusively established that he could still be convicted under current law and did not establish that he was convicted of attempted murder under the natural and probable consequences doctrine.
3. The trial court's reliance on implied-malice principles did not require reversal because the denial of the petition was legally correct, and appellate courts review the result rather than the trial court's reasoning.

KEY QUOTATIONS

"A defendant cannot use a section [1172.6] resentencing hearing to relitigate facts already determined, whether by plea, admission, or verdict." (at 15)

"The jury in this case was not instructed on the doctrine of natural and probable consequences." (at 18)

"The record in this case does exactly that, showing conclusively that the prosecution was always and only operating under the theory that Hill was guilty of the murder or attempted murder of Tereaun Berry under principles of direct aiding and abetting." (at 25)

FACTUAL BACKGROUND

In April 2014, Hill handed a gun to Timothy Mitchell, who, with Danny Jeffreys, walked behind a fence and opened fire on a group of men across the street. Tereaun Berry was killed and his brother Trent Berry was injured. Hill was convicted of first degree murder and attempted murder, but after the murder conviction was reversed on direct appeal, he pleaded no contest to an attempted-murder count concerning Tereaun Berry while retaining his attempted-murder conviction concerning Trent Berry.

PROCEDURAL HISTORY

Hill was convicted by a jury in 2015 of first degree murder and attempted murder. In 2018, the Court of Appeal affirmed the attempted-murder conviction but reversed the murder conviction and remanded for retrial or modification of the judgment. In 2019, Hill pleaded no contest to a newly added count of attempted premeditated murder in exchange for dismissal of the murder count and concurrent life-with-parole sentences. After Hill filed a section 1172.6 petition in 2022, the prosecution conceded that he had made a prima facie showing, the trial court denied two prosecution motions for reconsideration, and the court denied the petition after an evidentiary hearing.

DISPOSITION

affirmed

CASES CITED

- People v. Hill, No. A149469 (Cal. Ct. App. Aug. 22, 2018) (nonpublished opinion)
- People v. Lewis, 11 Cal. 5th 952, 957, 959, 971-72, 974 (2021)
- People v. Curiel, 15 Cal. 5th 433, 440, 453-54, 465, 470 (2023)
- People v. Strong, 13 Cal. 5th 698, 707, 708-10, 712, 715 (2022)
- People v. Favor, 54 Cal. 4th 868, 876-77, 880 (2012)
- People v. Smith, 37 Cal. 4th 733, 740 (2005)
- People v. Coley, 77 Cal. App. 5th 539, 548 (2022)
- People v. Clements, 75 Cal. App. 5th 276, 298 (2022)
- People v. Farfan, 71 Cal. App. 5th 942, 947 (2021)
- People v. Hill, 100 Cal. App. 5th 1055, 1067 (2024)
- Estrada v. Superior Court, 93 Cal. App. 5th 915, 925 (2023)
- People v. Rodriguez, 103 Cal. App. 5th 451, 459 (2024)
- People v. Vance, 94 Cal. App. 5th 706, 716-17 (2023)
- People v. Garrison, 73 Cal. App. 5th 735, 746-47 (2021)
- People v. Zapien, 4 Cal. 4th 929, 976 (1993)
- Green v. Superior Court, 40 Cal. 3d 126, 138 (1985)
- People v. Braeseke, 25 Cal. 3d 691, 700 (1979)
- People v. Daniel, 57 Cal. App. 5th 666, 677 (2020)
- People v. Soto, 51 Cal. App. 5th 1043, 1055, 1059 (2020)
- People v. Offley, 48 Cal. App. 5th 588, 599 (2020)
- People v. Sanchez, 75 Cal. App. 5th 191, 197 (2022)
- People v. Ramos, 103 Cal. App. 5th 460, 465 (2024)
- People v. Arnold, 93 Cal. App. 5th 376, 386-87 (2023)
- People v. Morales, 102 Cal. App. 5th 1120, 1131 (2024)

- People v. Reyes, 14 Cal. 5th 981, 988 (2023)
- People v. Cooper, 77 Cal. App. 5th 393, 412 (2022)
- People v. Williams, 57 Cal. App. 5th 652, 663 (2020)
- People v. Jenkins, 70 Cal. App. 5th 924, 931 (2021)
- People v. Burns, 95 Cal. App. 5th 862, 867 (2023)
- People v. Berry-Vierwinden, 97 Cal. App. 5th 921, 936-37 (2023)
- People v. Flores, 96 Cal. App. 5th 1164, 1173 (2023)
- People v. Muhammad, 107 Cal. App. 5th 268, 277 (2025)
- People v. Flores, 76 Cal. App. 5th 974, 987, 989-90 (2022)
- People v. Wilson, 43 Cal. App. 4th 839, 849 (1996)
- People v. Williams, 103 Cal. App. 5th 375, 388, 405-06 (2024), review granted Sept. 11, 2024, S286314
- People v. Das, 96 Cal. App. 5th 954, 962 (2023)
- People v. Alaybue, 51 Cal. App. 5th 207, 222 (2020)
- People v. Rivera, 62 Cal. App. 5th 217, 225, 236-37 (2021)
- People v. Enyon, 68 Cal. App. 5th 967, 971 (2021)
- People v. Castello, 65 Cal. App. 4th 1242, 1246-50 (1998)