

CALIFORNIA COURT OF APPEAL, FOURTH APPELLATE DISTRICT,
DIVISION TWO

People v. McKean

People v. McKean · No. E083029 · Decided October 9, 2025

SUMMARY

The California Court of Appeal affirmed an order finding Perryn Michael McKean ineligible for recall and resentencing under Penal Code section 1172.75. The court held that the statute requires the defendant to be currently serving a sentence under a judgment that includes a prior prison term enhancement, and that McKean's completed original sentence was separate from the consecutive terms imposed for later in-prison offenses. The court also rejected McKean's arguments concerning legislative intent and equal protection.

CASE DETAILS

COURT	California Court of Appeal, Fourth Appellate District, Division Two
WRITING FOR THE COURT	Miller, J.; Ramirez, P. J.; Codrington, J.
JURISDICTION	California Court of Appeal, Fourth Appellate District, Division Two
DECIDED	October 9, 2025
DOCKET	E083029
DISPOSITION	affirmed
PROCEDURAL POSTURE	Defendant appealed from a superior court order finding him ineligible for recall of sentence and resentencing under Penal Code section 1172.75.
STANDARD OF REVIEW	De novo review of eligibility for recall and resentencing under Penal Code section 1172.75.
PRECEDENTIAL VALUE	Published and certified for publication
PARTIES	Perryn Michael McKean v. The People

TOPICS

- post-conviction relief sentence modification statutory interpretation equal protection appellate procedure

PRACTICE AREAS

QUESTIONS PRESENTED

1. Whether a defendant who completed the sentence containing section 667.5, subdivision (b), enhancements but is currently serving consecutive terms for later in-prison offenses is eligible for recall and resentencing under Penal Code section 1172.75.
2. Whether section 1172.75 violates equal protection by denying relief to defendants serving sentences for in-prison offenses while allowing relief for defendants currently serving judgments containing invalid prior-prison-term enhancements.

HOLDINGS

1. A defendant is eligible for section 1172.75 recall and resentencing only if the defendant is currently serving a term for a current judgment that includes a qualifying section 667.5, subdivision (b), prior-prison-term enhancement. A defendant who has completed that judgment and is serving a separate, consecutive term for an in-prison offense is not eligible.
2. Section 1172.75's limitation of relief to defendants currently serving judgments containing qualifying prior-prison-term enhancements does not violate equal protection because the distinction between defendants serving outside-prison judgments and those serving terms for in-prison offenses bears a rational relationship to legitimate legislative purposes.

KEY QUOTATIONS

“In other words, resentencing relief under the statute may be afforded on a “current . . . judgment” (ibid.; id., subd. (c)) when the defendant is “currently serving a term of incarceration . . . for the[] repealed [prior prison] sentence enhancements.”” (12)

“At bottom, “we consider whether the challenged classification ultimately bears a rational relationship to a legitimate state purpose. [Citation.] A classification in a statute is presumed rational until the challenger shows that no rational basis for the unequal treatment is reasonably conceivable.”” (13)

FACTUAL BACKGROUND

In 2005, McKean received a 10-year prison sentence for assault with a deadly weapon, including three one-year enhancements for prior prison commitments under Penal Code section 667.5, subdivision (b). By the time the superior court considered section 1172.75 relief in 2023, McKean had completed the sentence containing those enhancements. He was instead incarcerated under consecutive terms imposed for offenses committed while in prison, so his current judgment did not include the prior-prison-term enhancements.

PROCEDURAL HISTORY

McKean was sentenced in 2005 to 10 years in prison, including three one-year enhancements under Penal Code section 667.5, subdivision (b), for prior prison commitments. In 2023, the Riverside County Superior Court determined that he was no longer serving the judgment containing those enhancements because he had

completed that sentence and was serving consecutive terms for later offenses committed while incarcerated. The superior court found him ineligible for section 1172.75 relief, and the Court of Appeal affirmed.

DISPOSITION

affirmed

CASES CITED

- People v. Escobedo, 95 Cal. App. 5th 440, 447-452 (2023)
- People v. Tang, 109 Cal. App. 5th 1003, 105 (2025)
- People v. Jennings, 42 Cal. App. 5th 664, 681 (2019)
- People v. Gonzalez, 43 Cal. 4th 1118, 1126 (2008)
- In re Tate, 135 Cal. App. 4th 756, 764-765 (2006)
- People v. Langston, 33 Cal. 4th 1237, 1242 (2004)
- Freedom Newspapers, Inc. v. Orange County Employees Retirement System, 6 Cal. 4th 821, 826 (1993)
- People v. Barner, 100 Cal. App. 5th 642, 648 (2024)
- In re Hoze, 61 Cal. App. 5th 309, 315, 319 (2021)
- In re Trejo, 10 Cal. App. 5th 972, 988 (2017)
- In re Thompson, 172 Cal. App. 3d 256, 260-261, 263 (1985)
- In re Brisette, 112 Cal. App. 5th 147, 171-173 (2025)
- People v. Rhodius, 17 Cal. 5th 1050, 1066 (2025)
- People v. Hardin, 15 Cal. 5th 834, 850-852 (2024)
- People v. Wilkinson, 33 Cal. 4th 821, 838 (2004)
- People v. Chatman, 4 Cal. 5th 277, 289 (2018)
- People v. McCart, 32 Cal. 3d 338, 340 (1982)
- People v. White, 202 Cal. App. 3d 862, 869 (1988)