

CALIFORNIA COURT OF APPEAL, FOURTH APPELLATE DISTRICT,
DIVISION ONE

People v. Harlow

Harlow · No. D084252 · Decided August 5, 2025

SUMMARY

The California Court of Appeal conditionally reversed Jimmie Harlow’s judgment after concluding that the trial court improperly found him ineligible for mental health diversion under Penal Code section 1001.36. The court held that a qualifying mental-health diagnosis made within the preceding five years creates a statutory presumption that the disorder contributed to the charged offense, rebuttable only by clear and convincing evidence. The matter was remanded for the trial court to determine Harlow’s suitability for diversion.

CASE DETAILS

COURT	California Court of Appeal, Fourth Appellate District, Division One
WRITING FOR THE COURT	DATO, Acting P. J.; DO, J.; CASTILLO, J.
JURISDICTION	California Court of Appeal, Fourth Appellate District, Division One
DECIDED	August 5, 2025
DOCKET	D084252
DISPOSITION	reversed_and_remanded
PROCEDURAL POSTURE	Harlow appealed from a judgment of conviction after the trial court denied his pretrial motion for mental health diversion, accepted his guilty plea to assault with a deadly weapon, and imposed sentence.
STANDARD OF REVIEW	The opinion does not expressly identify a standard-of-review label. It reviews the trial court's eligibility determination under Penal Code section 1001.36 and whether the record contains clear and convincing evidence rebutting the statutory presumption.
PRECEDENTIAL VALUE	Published and certified for publication
PARTIES	Jimmie H. Harlow v. The People

TOPICS

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

PRACTICE AREAS

criminal law

criminal procedure

mental health diversion

statutory interpretation

appellate procedure

QUESTIONS PRESENTED

1. Whether a defendant with a qualifying mental health diagnosis made within the five years preceding a diversion request is eligible for mental health diversion even when the diagnosis postdates the charged offense.
2. Whether the statutory presumption that the diagnosed mental disorder was a motivating, causal, or contributing factor can be rebutted by the trial court's temporal reasoning and the limited evidence of hostility between the defendant and victim.
3. Whether the matter should be remanded for the trial court to determine Harlow's separate suitability for diversion.

HOLDINGS

1. Under Penal Code section 1001.36, a qualifying mental health diagnosis made within the five years preceding the filing of the diversion request satisfies the timing requirement even if the diagnosis was made after the charged offense. The trial court may not impose a different rule requiring the diagnosis to precede the offense or treating a post-offense diagnosis as inherently insufficient.
2. A qualifying diagnosis creates a presumption that the diagnosed mental disorder was a motivating, causal, or contributing factor in the defendant's involvement in the charged offense. The prosecution bears the burden of rebutting that presumption with clear and convincing evidence.
3. After finding Harlow eligible for mental health diversion, the trial court must separately determine whether he is suitable for diversion under Penal Code section 1001.36, subdivision (c).

KEY QUOTATIONS

“But the Legislature specifically addressed the timing of the qualifying mental health diagnosis, and it did not say that a diagnosis more than three years after the crime was inadequate or entitled to less weight.” (2)

“The statute nowhere says that the diagnosis must precede the crime of which the defendant is accused. Indeed, it strongly implies the contrary.” (5)

“The statutory presumption means it was the People who were required to show that one or more of Harlow’s diagnosed disorders did not contribute to causing the incident.” (6)

“The judgment is conditionally reversed, and the matter is remanded to the trial court with directions to find Harlow eligible and consider whether he is suitable for mental health diversion under section 1001.36.” (8)

FACTUAL BACKGROUND

Harlow and the victim, Daniel G., lived in the same neighborhood and had previously had a falling out. In April 2020, Harlow confronted Daniel on a sidewalk, raised a skateboard over his head, charged at him, and struck him in the head and body after Daniel fell while attempting to retreat. Harlow was later diagnosed with major

depressive disorder, posttraumatic stress disorder, and generalized anxiety disorder by a qualified mental health professional in June 2023, approximately two months before he sought mental health diversion.

PROCEDURAL HISTORY

Harlow was charged in Riverside County Superior Court with assault with a deadly weapon and related enhancements. In September 2023, he sought mental health diversion under Penal Code section 1001.36, supported by a recent diagnosis of qualifying mental disorders. The trial court denied diversion, concluding that the diagnosis made approximately three years after the charged assault did not show that the disorders significantly contributed to the offense. Harlow then pleaded guilty pursuant to an indicated three-year midterm sentence; after the court denied renewed diversion and plea-withdrawal motions, it sentenced him. The Court of Appeal conditionally reversed and remanded.

DISPOSITION

reversed_and_remanded

REMAND INSTRUCTIONS

The judgment is conditionally reversed. The trial court must find Harlow eligible for mental health diversion and consider whether he is suitable under Penal Code section 1001.36. If Harlow is suitable, the court may grant diversion. If he is unsuitable, or if he fails to complete diversion after it is granted, the court must reinstate the judgment of conviction.

CASES CITED

- People v. Whitmill (2022) 86 Cal.App.5th 1138, 1149
- Sarmiento v. Superior Court (2024) 98 Cal.App.5th 882, 891
- Ayers v. FCA US, LLC (2024) 99 Cal.App.5th 1280, 1300
- Estate of Pittman (1980) 104 Cal.App.3d 288, 295