

Filed 1/14/26 P. v. Chavez CA2/8

NOT TO BE PUBLISHED IN THE OFFICIAL REPORTS

California Rules of Court, rule 8.1115(a), prohibits courts and parties from citing or relying on opinions not certified for publication or ordered published, except as specified by rule 8.1115(b). This opinion has not been certified for publication or ordered published for purposes of rule 8.1115.

IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA

SECOND APPELLATE DISTRICT

DIVISION EIGHT

THE PEOPLE,

B347973

Plaintiff and Respondent,

(Los Angeles County
Super. Ct. No. XSEVA141687-01)

v.

SERGIO MANUEL CHAVEZ,

Defendant and Appellant.

APPEAL from an order of the Superior Court of Los Angeles County, Laura Walton, Judge. Affirmed.

Larry Pizarro, under appointment by the Court of Appeal, for Defendant and Appellant.

No appearance for Plaintiff and Respondent.

Pursuant to *People v. Delgadillo* (2022) 14 Cal.5th 216, we review an order denying Sergio Chavez's motion for resentencing brought under Penal Code¹ section 1172.6. Because Chavez was convicted of manslaughter in 2021, after the effective date of Senate Bill No. 1437, we affirm.

BACKGROUND

In 2016, an Information charged Chavez with murder along with gang and gun use enhancements. (§§ 187, subd. (a), 186.22, 12022.53, subd. (d).) A jury found Chavez not guilty of first degree murder and hung on the charge of second degree murder. On April 27, 2021, the People amended the Information to charge Chavez with manslaughter, a violation of section 192, subdivision (a). That day, Chavez pled guilty to manslaughter and a gang enhancement. (§§ 192, subd. (a), 186.22(b)(1)(C).) The trial court imposed an aggregate sentence of 21 years in prison, consisting of the upper term of 11 years for the manslaughter conviction and 10 years for the gang enhancement.

On May 4, 2022, Chavez filed a form petition for resentencing pursuant to former section 1170.95 (renumbered on June 30, 2022 as section 1172.6). The trial court appointed counsel and later denied the petition. Chavez timely appealed.

We appointed counsel to represent Chavez on appeal. On November 18, 2025, counsel filed a no issue brief pursuant to *People v. Delgadillo*. Counsel advised us they told Chavez he could file his own supplemental brief and counsel would send him transcripts of the record on appeal and a copy of the brief.

¹ Undesignated statutory references are to the Penal Code.

On November 18, 2025, we sent Chavez notice that his counsel had filed a no issue brief on his behalf. We advised him he may, within 30 days, submit a supplemental brief or letter stating any grounds for an appeal, contentions or arguments that he wishes this court to consider. We also advised Chavez that if no supplemental brief or letter were timely filed, the court may dismiss the appeal as abandoned.

On December 4, 2025, Chavez filed a supplemental letter brief. He contends the trial court erroneously denied his resentencing petition because he was not the “actual killer.” He also contends that the gang enhancement should be dismissed in the interest of justice pursuant to section 1385 because nothing “points me to being a danger to public safety.” He finally contends imposition of the gang enhancement “results in a discriminatory racial impact” as described in the California Racial Justice Act of 2020, section 745, subdivision (a).

DISCUSSION

Effective January 1, 2019, Senate Bill No. 1437 (2017–2018 Reg. Sess.) amended “the felony murder rule and the natural and probable consequences doctrine, as it relates to murder, to ensure that murder liability is not imposed on a person who is not the actual killer, did not act with the intent to kill, or was not a major participant in the underlying felony who acted with reckless indifference to human life.” (Stats. 2018, ch. 1015, §1, subd. (f).) It accomplished this by amending sections 188 and 189 (Stats. 2018, ch. 1015, §§ 2, 3; *People v. Lewis* (2021) 11 Cal.5th 952, 957.)

Effective January 1, 2022, Senate Bill No. 775 (2021–2022 Reg. Sess.) amended the statute to expand the categories of offenders eligible to petition for resentencing to persons convicted

of attempted murder under the natural and probable consequences doctrine, or manslaughter. (§ 1172.6, subd. (a); see former § 1170.95, subd. (a).)

The Legislature provided a procedure, now codified in section 1172.6, whereby defendants may petition the court to vacate their convictions and seek resentencing on any remaining counts if they show they could not now be convicted of murder, attempted murder or manslaughter because of the changes to sections 188 and 189. (§ 1172.6, subd. (a)(3).) Alternatively, persons are eligible who accepted a plea offer in lieu of a trial at which the petitioner could have been convicted of murder or attempted murder under the law as it was before Senate Bill No. 1437 became effective. (§ 1172.6, subd. (a)(2).)

Chavez entered his plea to voluntary manslaughter after the effective date of Senate Bill No. 1437 and before the effective date of Senate Bill No. 775. By the time he entered his plea, the invalid theories of murder liability had been eliminated by Senate Bill No. 1437 so the prosecution could no longer have convicted him of murder by way of an invalid theory of imputed malice. Thus, Chavez cannot show that he could not presently be convicted of murder because of changes to section 188 and 189 made effective January 1, 2019. (*People v. Gallegos* (2024) 105 Cal.App.5th 434, 443; *People v. Lezama* (2024) 101 Cal.App.5th 583, 590.) Put another way, Chavez did not enter his plea because he could have been convicted under an invalid theory. By the time he entered his plea, the People were prosecuting murder under the changes made by Senate Bill No. 1437. (*People v. Hickman* (2025) 110 Cal.App.5th 1262, 1269.) The trial court properly denied his petition for resentencing.

As to Chavez's challenges to the gang enhancement, a section 1172.6 petition is not a vehicle to raise claims of trial court error that do not implicate sections 188 and 189. (*People v. Farfan* (2021) 71 Cal.App.5th 942, 947.)

DISPOSITION

The order is affirmed.

NOT TO BE PUBLISHED IN THE OFFICIAL REPORTS

STRATTON, P. J.

We concur:

VIRAMONTES, J.

SCHERB, J.