

Criminal Litigation in Action

Criminal Litigation in Action

SECOND EDITION

Laura Berend & Jean Ramirez

PROFESSORS OF LAW
UNIVERSITY OF SAN DIEGO SCHOOL OF LAW

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*We dedicate the second edition of this book to our partners,
Bill Ziegler and Kellie Cardona.*

Contents

Introduction	xii
Jurisdiction, Disclaimer, and Dates	xi
Second Edition	xi
Acknowledgments	xii
Copyright Acknowledgments	xiii
Chapter 1 · Arrest	3
Questions and Notes	7
COUNTY OF RIVERSIDE and Cois Byrd, Sheriff of Riverside County, Petitioners, v. Donald Lee McLAUGHLIN, et al.	9
Questions and Notes	18
Chapter 2 · Charging	25
Uniform Crime Charging Standards	26
Questions and Notes	37
Evaluating the Data	39
Charging Exercise	43
Victims’ Bill of Rights—Marsy Rights	56
Chapter 3 · Arraignment and Interviewing	59
Questions and Notes	61
Interviewing	62
Interviewing Exercise	67
Cal. Bus. & Prof. Code § 6068	68
San Diego County Superior Court Rules	70
ABA Standards for Criminal Justice	71
California Rules of Professional Conduct*	73
Cal. Evid. Code §§ 950–956.5	74
Adult In-Custody Defendants (“3rd Dayers”)	75
Chapter 4 · Pretrial Release	79
In re DAVID ANTHONY YORK et al. on Habeas Corpus	
In re JOHNNY CADENAZ et al. on Habeas Corpus	
In re PAUL BLAISE ATKINS et al. on Habeas Corpus	82

Questions and Notes	87
In re GEORGE CHRISTIE III on Habeas Corpus	88
Questions and Notes	90
Bail Review Exercise	91
Chapter 5 · Preliminary Hearings	113
Laura Berend, <i>Proposition 115 Preliminary Hearings: Sacrificing Reliability on the Altar of Expediency?</i>	114
Proposition 115 Changes	116
Thomas Paul WHITMAN, Petitioner, v. The SUPERIOR COURT of Santa Clara County, Respondent, The PEOPLE, Real Party in Interest	118
Questions and Notes	126
The PEOPLE, Plaintiff and Appellant, v. Steven WIMBERLY, Defendant and Respondent	127
Questions and Notes	130
Preliminary Hearing Exercise	131
Non-Hearsay Preliminary Hearings	133
Hearsay Preliminary Hearings	135
Chapter 6 · Grand Jury Proceedings	137
Questions and Notes	138
UNITED STATES, Petitioner v. John H. WILLIAMS, Jr.	140
George H. BERARDI, Petitioner, v. The SUPERIOR COURT of San Diego County, Respondent; The People, Real Party in Interest.	146
Questions and Notes	155
Grand Jury Exercise	156
ABA Standards for Criminal Justice 3-3.5 & 3-3.6	159
Chapter 7 · Discovery	161
Discovery	164
Questions and Notes	165
Arnulfo MAGALLAN, Petitioner, v. The SUPERIOR COURT of Monterey County, Respondent; The People, Real Party in Interest	166
Questions and Notes	171
Tyree Beysean MILLER, Appellant, v. UNITED STATES, Appellee	172
Questions and Notes	180
Discovery Exercise	181
Criminal Discovery Statutes	181
ABA Standards for Criminal Justice 3-3.11	182
Chapter 8 · Motions	185
Motions Exercise	188
San Diego County Superior Court Rules	197
Chapter 9 · Trial Preparation	203
In re ANTONIO CORDERO, JR., on Habeas Corpus	203
Questions and Notes	213
Case Evaluation Exercise	215
Excerpts from the Preliminary Hearing Transcript in People v. Battstone	216

Chapter 10 · Plea Bargaining	235
The PEOPLE, Plaintiff and Appellant, v. Jose Luis LABOR, Defendant and Respondent	236
Questions and Notes	240
Plea Bargaining	241
Jose PADILLA, Petitioner, v. KENTUCKY	244
Questions and Notes	248
Plea Bargaining Exercise	251
ABA Standards for Criminal Justice	252
Chapter 11 · Sentencing	269
People v. Superior Court (Du)	272
Questions and Notes	280
People v. Williams	280
Questions and Notes	287
Sentencing Exercise	289
ABA Standards for Criminal Justice 3-6.1, 3-6.2, & 4-8.1	307
Chapter 12 · Selected Statutes and Court Rules	309
Crimes	310
Jury Instructions	316
Sentencing-Related Statutes	321
Rules of Court: Sentencing	332

Introduction

The book is a primer on criminal litigation in the trial courts. The book is based on the fictitious but realistic criminal case of *People v. Roger Battistone* and tracks the case from arrest through sentencing. Students learn by doing. When the class addresses bail, students participate in a simulation exercise as a prosecutor, defense counsel, or judge at a bail review hearing. Similarly, students participate in simulation exercises on charging, interviewing and counseling, preliminary hearings, grand jury proceedings, discovery, motions, plea bargaining, and sentencing. Along the way, students become familiar with the various stages of a criminal case by applying the law found in judicial opinions, statutes, rules of court, professional responsibility rules, local rules, and jury instructions, to the facts of the *Battistone* case.

Jurisdiction, Disclaimer, and Dates

The case is set in the jurisdiction of Ocean Beach in San Diego County in the State of California. Ocean Beach and San Diego are very real and beautiful cities in a very real and beautiful San Diego County in Southern California where we have the good fortune to live and teach. Cases, statutes, and other legal and written sources are also real. However, any similarities to people, places, or fact situations are the product of our combined imaginations and are purely coincidental. References to years are in relation to the present; for example YR-0 refers to this year, and YR-22 refers to twenty-two years ago.

Second Edition

In addition to updating the materials, we have expanded references to professional responsibility obligations throughout the text. The materials are informed by our personal experiences in criminal trial practice for the prosecution (Professor Ramirez) and for the defense (Professors Berend and Ramirez), our teaching experience, our return to practice during sabbatical leaves, and the generous contributions and helpful critiques from the San Diego criminal practice community. As they have transitioned from students to alums to seasoned lawyers, our students have continued to enrich our teaching.

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For the second edition, Professors Berend and Ramirez thank the University of San Diego for approving their sabbaticals with the San Diego County Office of the Alternate Public Defender and the San Diego County Office of the District Attorney, respectively. Both sabbatical terms offered experiences that updated our criminal trial court skills and enriched our teaching and this book.

We thank former Dean Kevin Cole and the University of San Diego School of Law for supporting the completion of the second edition of this book with a research grant.

First and foremost, we express our gratitude to Deputy District Attorney Lisa Rodriguez for her extraordinary assistance with this edition, being available for questions, teaching classes with us, mentoring our students, critiquing this book, and for being generally a cheerful and indispensable resource. We are very proud of this University of San Diego School of Law alumnus and former student who became familiar with the case file and some of the materials in this book when she was a law student.

We thank Jacqueline Crowle, retired from the San Diego Office of the Alternate Public Defender, for her helpful comments and suggestions to both editions. We deeply appreciate Deputy District Attorney Chris Lindberg's assistance with the chapter on the grand jury and for bringing that chapter alive in the classroom. We are grateful to the many other capable and generous alums and other San Diego criminal practitioners who have contributed their expertise to our teaching and our classes over the years, and enabled us to forge a mutually beneficial relationship between our students and the criminal practice community.

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