

## **Criminal Procedure Handbook** **2025 Edition**

Criminal Procedure Handbook is a unique publication that is fully replaced each year with the most recent cases, organized for your convenient research by Constitutional and procedural topical area.

§ 1:64. The Second Circuit determined in *United States v. Johnson*, 93 F.4th 605 (2d Cir. 2024), cert. denied, 145 S. Ct. 276 (2024) that GPS location data as well as information regarding the dates a video containing child sexual abuse material was modified or accessed, which were obtained from a review of metadata embedded in the defendant’s seized digital files, fell within the scope of a search warrant for the defendant’s residence for evidence of possession or distribution of child pornography, even though the warrant did not use the terms GPS or metadata, where the warrant authorized the seizure of evidence of who used, owned, or controlled electronic storage devices found to contain information otherwise called for by the warrant, information as to the location at which the child pornography was produced was potentially relevant to identifying those who possessed or distributed it, and the metadata provided necessary contextual information to understand the digital files.

§ 2:27. The United States Supreme Court ruled in *McElrath v. Georgia*, 601 U.S. 87, 144 S. Ct. 651, 217 L. Ed. 2d 419 (2024) that a jury’s verdict in state court of “not guilty by reason of insanity” on a malice-murder charge was an “acquittal” for purposes of the Double Jeopardy Clause, and thus, the Double Jeopardy Clause barred the retrial of the defendant on that charge, even if the verdict on the malice-murder charge was inconsistent with the verdict on a felony murder charge that the defendant was “guilty but mentally ill” and the jury based its verdicts on the specific affirmative findings of different mental states that could not exist at the same time.

§ 3:27. The United States Supreme Court ruled in *Thornell v. Jones*, 602 U.S. 154, 144 S. Ct. 1302, 218 L. Ed. 2d

626 (2024) that defense counsel's failure to present at a capital sentencing additional mitigating evidence of mental health conditions, cognitive impairment caused by a history of head trauma, childhood abuse, and drug misuse did not prejudice the defendant, and thus, did not amount to ineffective assistance of counsel, where the sentencing court had already heard some mitigating evidence of mental health conditions, cognitive impairment, childhood abuse, and drug misuse, none of the additional mitigating evidence was causally connected to the murders, and the weakness of the additional mitigating evidence contrasted sharply with the strength of the aggravating circumstances, including multiple homicides, cruelty, pecuniary motivation, and the murder of a child.

**§ 7:31.** The United States Supreme Court ruled in *Smith v. Arizona*, 602 U.S. 779, 144 S. Ct. 1785, 219 L. Ed. 2d 420 (2024) that if a forensic-testing expert for the prosecution conveys an out-of-court statement in support of their opinion, and the statement supports that opinion only if true, then the statement has been offered for the truth of what it asserts, as required for admission of the statement to be barred by the Confrontation Clause.

**§ 8:9.** The United States Supreme Court ruled in *Erlinger v. United States*, 602 U.S. 821, 144 S. Ct. 1840, 219 L. Ed. 2d 451 (2024) that the defendant, who pled guilty to being a felon in possession of a firearm, was entitled under the Fifth Amendment Due Process Clause and the Sixth Amendment to have a jury unanimously determine beyond a reasonable doubt whether his past offenses were committed on separate occasions, for purposes of the Armed Career Criminal Act (ACCA), which increased the penalty for a felon-in-possession conviction from the maximum sentence of 10 years to a mandatory minimum sentence of 15 years when the defendant had three or more qualifying convictions for offenses committed on different occasions, where the sentencing court's factual finding that the offenses occurred on at least three separate occasions had the effect of increasing both the maximum and minimum sentences he faced.

**§§ 2:22 and 8:53.** The United States Supreme Court ruled in *City of Grants Pass, Oregon v. Johnson*, 603 U.S. 520, 144 S. Ct. 2202, 219 L. Ed. 2d 941 (2024) that city ordi-

nances which prohibited sleeping or camping on public property and which provided for progressive consequences in the form of civil fines, exclusion orders, and criminal prosecution for trespass did not constitute cruel and unusual punishment when applied to individuals experiencing homelessness, even if homelessness was involuntary, where the sanctions were not designed to superadd terror, pain, or disgrace, the sanctions were similar to the usual modes for punishing offenses throughout the country, the ordinances did not criminalize mere status, as the ordinances could apply, for example, to a backpacker passing through on vacation or a student who abandoned their dorm room to camp out in protest on the lawn of a municipal building, and the Eighth Amendment's protections did not apply to any claim of selective enforcement (abrogating *Martin v. Boise*, 920 F.3d 584 (9th Cir. 2019); *Coalition on Homelessness v. San Francisco*, 647 F. Supp. 3d 806 (N.D. Cal. 2022); *Fund for Empowerment v. Phoenix*, 646 F. Supp. 3d 1117 (D. Ariz. 2022); *Boyd v. San Rafael*, 2023 WL 7283885 (N.D. Cal. 2023); *Warren v. Chico*, 2021 WL 2894648 (E.D. Cal. 2021); *LA Alliance for Human Rights v. Los Angeles*, 2020 WL 2512811 (C.D. Cal. 2020)).

§ 9:13. The United States Supreme Court ruled in *Andrew v. White*, 145 S. Ct. 75 (2025) that the legal principle announced in the Supreme Court's decision in *Payne v. Tennessee*, that the Due Process Clause can, in certain cases, protect against the introduction of unduly prejudicial evidence at criminal trials, was a "holding" of the Supreme Court for purposes of the Antiterrorism and Effective Death Penalty Act (AEDPA), under which federal habeas relief may be granted to a state prisoner if a state court unreasonably applied the holdings of the Supreme Court's decisions, as clearly established precedent, where the legal principle was indispensable to the decision in *Payne*, in which the Court reasoned that a categorical bar on victim impact evidence at the penalty phase of capital murder trials was not needed to protect against the risk of prejudicial testimony because the Due Process Clause provided a mechanism for relief.