The impact of federal constitutional law on co-defendant cases in California

Overview

This article unpacks the relationship California courts have with federal constitutional law via the *Aranda/Bruton* doctrine, which protects criminal defendants in joint trials against inculpative hearsay statements admitted against their codefendant under the Sixth Amendment's confrontation clause.[1] The 2023 Supreme Court case *Samia v. United States* appears to constrict the federal *Bruton* doctrine significantly. In effect, though, it won't. *Bruton* and its progeny do very little to protect criminal defendants, and lockstepping prevents California from doing any more. Rather than insulating California from rights-abrogating federal law, Proposition 8 (also called the Victim's Bill of Rights) forces California to sway with it. So *Samia* serves as an example of how Proposition 8 undermined California courts' ability to root protections for criminal defendants in the state constitution.

Analysis

A bit of background: the high court has chipped away at the *Aranda/Bruton* doctrine over the years.[2] In 2023, the high court decided *Samia v. United States*, which held that even where a redaction allows the jury to *infer* the statement's inculpatory effect, the Confrontation Clause is not violated; that redactions were fine if they did not directly name the co-defendant.[3] *Samia* allows a declarant-defendant's statements to be admitted against them, redacted for any *direct* (i.e., by name) reference to the non-declarant defendant, and the jury is instructed to consider it only against the defendant.[4]

Samia will have little impact on federal litigation because defendants were rarely granted the relief they sought under the pre-*Samia Bruton* doctrine.[5] In short,

Samia will not have the *opportunity* to impact *Bruton* doctrine litigation, and it is a relatively ineffectual decision.[6] California courts have chosen to "lockstep" with federal constitutional developments on criminal procedure, so despite the independent development of the *Aranda* doctrine, California defendants, too, should be impacted. But how much? The answer lies in what purpose the *Aranda/Bruton* doctrine served California defendants before *Samia* and how well it worked. By that metric, we can see the limiting impact of lockstepping.

More broadly, Proposition 8 sent California's lockstepping into overdrive by uprooting individual rights from the state constitution. Functionally, *Samia* will have very limited impact on litigation in California. But the *reasons* behind *Samia*'s limitations highlight why California courts cannot serve as a venue to advance the procedural rights of criminal defendants: many rights now depend on federal doctrine alone. This example builds on a growing body of literature illustrating the long-term, practical consequences of a fix-it initiative.[7]

The *Aranda/Bruton* doctrine and lockstepping

As advocates consider their role as champions of individual rights, they must also consider the appropriate venue for protecting and advancing those rights. The federal high court is not that venue, as often proved by a litany of rights-abrogating decisions, particularly in criminal procedure.[8] Some extol state courts as offering the "best chance to advance rights" because they might not rely as heavily on federal constitutional jurisprudence.[9] But to do so, state courts must untether themselves from federal decisions.

A notion that underpins American law is that federal constitutional law "set a floor for personal liberties."[10] It is the "supreme Law of the Land; and the judges in every State shall be bound thereby, any Thing in the Constitution or Laws of any State to the Contrary notwithstanding."[11] Rights distributed by state constitutions must be above that floor — they can only afford people more rights. Yet this may not be true in state criminal procedure: some states allow for even fewer protections.[12]

California's relationship with the development of federal constitutional jurisprudence is complicated and submissive. It leaves no room for floor-raising criminal procedural protection because the state chained itself to federal doctrinal shifts. "Most state high courts make their liberty doctrines match federal law, a phenomenon known as 'lockstepping.'"[13] Scholars suggest state constitutional independence in this area has yet to "materialize" — indeed, California constitutional law does not provide protections above the federal floor without good reason.[14] The California Supreme Court has not found a reason to depart from *Bruton* and its progeny, so once a *Bruton* case reaches a California court again, it is bound by *Samia*.

Aranda initially developed independently from the Sixth Amendment. The California Supreme Court decided *People v. Aranda* based in part on the California constitutional principle requirement of a miscarriage of justice for reversal.[15] The court explained that it should "be regarded, not as constitutionally compelled, but as judicially declared rules of practice to implement" that miscarriage of justice provision.[16] In fact, the decision mentions confrontation and the Sixth Amendment only in a footnote.[17]

In *Aranda* the court reviewed a trial court's admission of an inculpatory co-defendant confession.[18] Both defendants denied their guilt.[19] In his closing argument, the prosecutor linked the cases and "in effect urged" the use of the other defendant's confession as evidence against Aranda.[20] The court resolved *Aranda* like *Bruton*: if a prosecutor wishes to admit a statement that implicates a co-defendant, the prosecution must delete the inculpative portion of the statement, or the court can grant severance.[21] The court emphasized the "risk of prejudice" that could not be cured by jury instruction.[22]

But in 1982 California voters approved Proposition 8, which included a paradigm-shifting provision: the "right to truth-in-evidence."[23] In effect, it "gives the prosecution and the defense a constitutional right to introduce relevant evidence" that is not barred by California rules of privilege, hearsay, or other California

Evidence Code provisions.[24] But because the *Aranda* doctrine was not a rule of evidence *per se*, evidence it excluded did not fall under the exceptions Proposition 8 carved out.[25] And so *Aranda* fell at the feet of *Bruton*; now it "rests exclusively on the Sixth Amendment."[26]

Due to lockstepping, *Bruton*'s narrowing progeny have been adopted by California courts. In *People v. Mitcham*, the California Supreme Court explained that "redaction is ineffective" when the nondeclarant defendant is implicated "in the context of other evidence."[27] The court applied *Richardson v. Marsh*, explaining that it limited *Bruton* to cases where the statement was facially incriminating.[28] In *People v. Holmes*, the California Supreme Court acknowledged that *Gray v. Maryland* altered the *Bruton* doctrine, holding that obvious indication of redaction violated the Sixth Amendment.[29] And in *People v. Washington*, the Court of Appeal held that a co-defendant's inculpative jail call was nontestimonial under *Crawford*, and thus not barred by *Aranda/Bruton*.[30] It reasoned that the doctrine is "grounded exclusively in the confrontation clause and can be extended no farther than the metes and bounds of the clause defined by the United States Supreme Court."[31] Finally, *People v. Fletcher* held that the "sufficiency" of a redaction should be considered along with "other evidence presented at the trial."[32]

We now turn to evaluating how *Samia* affects the success prospects for *Aranda/Bruton* challenges by California defendants.

Some *Aranda/Bruton* cases — will *Samia* impact them?

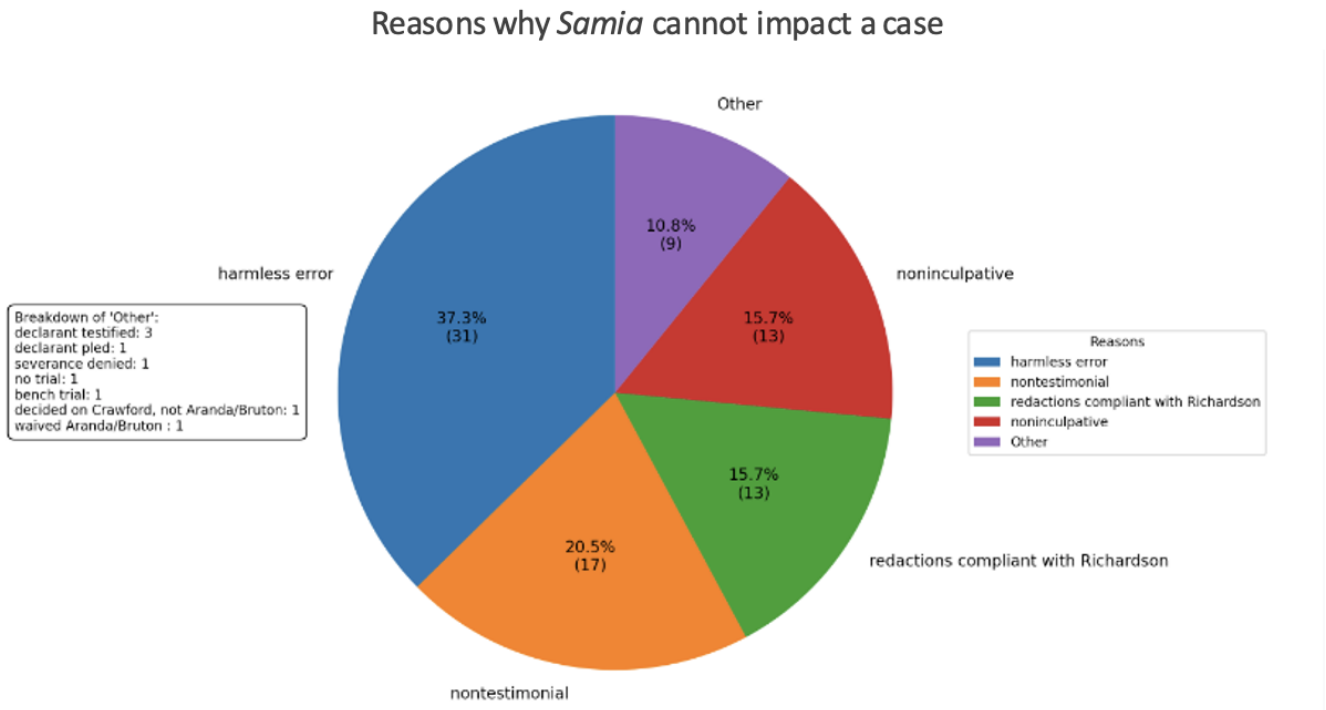
This small-scale study examines 87 California appellate court decisions that include *Aranda/Bruton* issues, all dated after 2004 to control for variation under *Crawford*.

These cases show that *Samia* will have a very limited impact, with the possibility to alter 3.4% of the cases. This could mean that lockstepping is rather meaningless. But the reasons why *Samia* changes things are important and demonstrate the effect of lockstepping even before *Samia*. Both suggest that California courts serve as poor venues to advance criminal procedural rights. *Samia* can't touch 96.6% of the cases.

The three cases it does impact, however, raise interesting questions about the doctrine's function.

An important note on the limitations of this study: it only considers cases on appeal, all of which address *Aranda/Bruton* issues appealed by the defendant or defendants. That means that successful *Aranda/Bruton* litigation at trial, which could also be impacted by *Samia*, is omitted.

When *Aranda/Bruton* issues fail and why *Samia* cannot touch them



Harmless error

Surprisingly, many courts actually found *Aranda/Bruton* errors. But that alone does not mandate reversal. To reverse on *Aranda/Bruton* courts must find that the error was not harmless beyond a reasonable doubt.[33] Cases below that standard are untouched by *Samia*, the logic being that these decisions are based on the evidence presented at the trial as a whole, not on the court's analysis of the *Aranda/Bruton* issue.

For example, in *People v. Lopez* the Court of Appeal concluded the trial court erred, but that the error was harmless because the "defendant was identified by witnesses

to the crime, the video showed defendant shooting Sanchez, and defendant's DNA was found in the vehicle driven to the scene of the crime by the shooter, Giraldo's statement that 'Marcos' shot Sanchez does not appear to have contributed to the jury's verdict."[34] In other words, the cumulative weight of the evidence overpowered any harm inflicted by an *Aranda/Bruton*-violative statement. Much the same occurred in 37.3% of surveyed cases.

Nontestimonial hearsay statements

In several cases, the appellate decision determined that *Aranda/Bruton* did not apply because the statements at issue were nontestimonial. *Samia* would not change these because it does not alter the limitation of the *Aranda/Bruton* doctrine to testimonial hearsay. For example, in *People v. Williams*, the statements at issue were made on a phone call between one defendant and another — the type "of conversations between close friends and family" courts frequently find to be nontestimonial.[35] This occurred in 20.5% of the cases.

Richardson

Several cases held that where redactions complied with *Richardson* there was no *Aranda/Bruton* error. These would not change after *Samia* because *Samia,* if anything, allows for more leeway on redactions than *Richardson*. Any redaction compliant with *Richardson* would necessarily comply with *Samia.*

In *People v. McGhee*, for example, the prosecution, before trial, proposed redactions of inculpative testimonial statements the prosecution sought to admit through a police officer.[36] The court noted that the "admission of [the co-defendant's] nonredacted confession to ascertain [the defendant]'s guilt would violate [his] Sixth Amendment rights."[37] But because this was a juvenile proceeding *Aranda/Bruton* did not mandate a cure: courts "presume that a trial judge knows and applies the governing law, and . . . presume that it applied the *Aranda/Bruton* rule" without curative instruction or severance.[38] The two defendants both moved for severance on the ground that the inculpative effect of the statements could not cured by redaction.[39] The court disagreed, "finding there was no reference to any other

defendant or even mention of 'we' or 'they.' The statements also did not shift blame to anyone else."[40]

So too for 15.5% of surveyed cases.

Statements that do not inculpate the defendant

Sometimes a co-defendant's statements mentioned the defendant, but no *Aranada/Bruton* issue occurred when that statement did not actually inculpate the defendant. The Court of Appeal addressed this in *People v. Carpenter*.[41] Yes, these statements were testimonial; yes, they were admitted in a joint trial; yes, they mention a co-defendant by name, but they did not *inculpate* that non-declarant co-defendant, so *Aranda/Bruton* did not apply.[42] Neither would *Samia*. This interesting issue appeared in 15.5% of cases.

Other situations

There are several other reasons *Samia* will not impact cases: *Aranda/Bruton* does not apply in juvenile proceedings,[43] the declarant testified, mitigating any *Aranda/Bruton* violation,[44] the declarant pleaded before trial,[45] the case was reversed on *Crawford* rather than *Aranda/Bruton*,[46] the case did not go to trial before its appeal,[47] denial of severance affirmed under *Aranda/Bruton*,[48] or the appellant waived the argument by not raising it at trial.[49] Similarly, none could be altered by *Samia* because they were decided on grounds *Samia* does not touch — this makes up 10.8% of cases.

***Samia* could have affected the remaining three cases**

The appellate court granted three defendants relief under the *Aranda/Bruton* doctrine. That means they *could* be impacted by *Samia*. But *would* they? Where the answer is "yes," *Samia* may produce concerning consequences for California criminal defendants because California courts are forced into lockstep.

In *People v. Garcia* the court found an *Aranda/Bruton* violation where, although the

trial court empaneled separate juries, the "prosecutor repeatedly put before the jury the gist of [a co-defendant's] accusations against" the non-declarant co-defendants.[50] "The prosecutor dropped a trail of breadcrumbs for the jury to follow to the conclusion that [the co-defendant] implicated" the non-declarant-codefendants.[51] This conclusion required a contextual analysis, becoming problematic as the prosecutor continued to mention them.[52] It warned the trial court on remand that it "should not allow the prosecutor to hint, wink, and nudge the jury with slyly artful questions, such as whether [the co-defendant] corroborated witnesses and victims."[53] The court found the prosecutor's statements cumulatively inculpatory.

But *Samia* contemplates only situations where the witness's *testimony* is inculpative, not the prosecutor's questions. It is therefore harder to say how *Samia* would alter *Garcia*. Still, *Samia* would have applied because Garcia was granted relief of *Aranda/Bruton* grounds.

Two cases are interesting examples of what courts have called *Bruton* with a "twist," where by removing mention of one defendant, the statement becomes *more* inculpatory against the declarant–defendant. [54]

In *People v. Stallworth* the court explained that removing all references to the non-declarant defendant twisted the statement: it "now appeared that there were only three people in the car —and that Stallworth was claiming that there was no one in the front passenger seat." [55] The court concluded that, because of Stallworth's incomplete defense, by virtue of the redacted statement it was likely the jury would have come out the other way.[56] The court held that the trial court's admission of redacted statements and a failure to provide the defendants with separate juries was not a harmless error.[57] Because this incomplete defense likely affected the jury's verdict, the court reversed.[58]

Because *Samia* does not directly address this question, it is difficult to say how the court would have come out now. It would depend on how strongly the court adheres

to *Samia*'s four-corners logic. Here, Stallworth argued (and the court agreed) that the redactions impacted the credibility of his defense as a whole, considered alongside other evidence admitted at trial.[59] Specifically, the jury already "knew there was a passenger in the front seat, and two passengers in the second seat."[60] His redacted testimony removed a codefendant from the car, making his testimony lose credibility by virtue of its inconsistency on how many people were in the car.[61] In essence, the *Stallworth* court undertook a contextual analysis: Stallworth's redacted statement lost him credibility in the context of other evidence presented at trial. This is exactly the mechanics *Samia* no longer requires. Thus, a post-*Samia* court considering the same issue would lockstep, and might deny Stallworth any relief.

A similar situation arose in *People v. Bullock*.[62] Bullock argued "the redactions and editing of his kite 'distorted [his] role by making it falsely appear that he orchestrated and planned the assault, and prevented him from cross-examining Becker about the redacted portions of the statements that were exculpatory.'"[63] But this court appeared to find a reversible *Aranda/Bruton* violation on nontestimonial hearsay: a kite, or "notes that were passed between inmates."[64] There is no mention of *Crawford* in the opinion even though it was decided well after *Crawford* started appearing in other California appellate opinions.[65] So this case should have come out the other way: the kite is categorically nontestimonial under *Crawford;* no *Aranda/Bruton* issue likely existed even before *Samia*. *Samia* might not be responsible for a change in outcome.

Samia only contemplates one iteration of inculpative effect, leaving us to wonder about others, like *Garcia* and to a certain extent *Bullock*. Yet given the Supreme Court's insistence in *Samia* on a four-corners, direct-inculpation metric, it is possible *Garcia* might now fail on appeal. *Samia* redefines the threshold for what constitutes direct inculpation, moving away from a broader analysis and thus broader protection against the admission of potentially prejudicial statements. California courts could have gone farther in *Garcia* if not for federal doctrine's limits, which appears to contemplate a narrower set of circumstances under which redactions are

inappropriate. Thus, lockstepping blocks advocates from persuading courts to bolster the procedural rights of criminal defendants in California.

Broader implications of lockstepping

The California Supreme Court was long considered "a progressive leader in developing individual rights under its state constitution."[66] This included rejecting rights-abrogating federal decisions.[67] *Aranda* was a product of that ethos.[68] Proposition 8 undermined both evidentiary rules and California decisional law on evidence and criminal procedure.[69] *Samia* therefore illustrates the long-term consequences of a short-term, reactive fix.[70] It means that California is stuck with federal law — no matter how problematic or ineffectual it may be.

Samia addressed a circuit split, which makes it unlikely that the Supreme Court will consider the issue again.[71] That in turn makes it unlikely that California courts will be able to get the high court to notice issues of federal law arising in California cases. Commentators have observed the federal courts' reluctance to take up state cases rooted in federal law.[72] And because of lockstepping state courts are reluctant to vindicate federal rights.[73] The net effect is to disfavor potentially rights-advancing cases.

Samia doesn't mark a radical undermining of *Bruton* and its progeny — Proposition 8 did so when it unmoored the *Aranda* doctrine from the California constitution and locked it to the federal constitution. *Samia* then is a natural result of Proposition 8 forcing California courts to apply federal criminal procedural doctrine.

Conclusion

This article offered a brief, modern look at lockstepping; a study as a way to watch it in action in the light of a recent Supreme Court case. Just as it may in federal courts, the impact of *Samia* will be minimal in California, reinforcing the notion that California courts, by following federal precedent too closely, cannot offer the same level of procedural protection that might be needed for criminal defendants. Ultimately, locking California courts to federal doctrine ensures that the state

courts, far from being a source of expanding criminal procedural rights, only mirror the deficiencies of federal jurisprudence, leaving defendants with little recourse. To advance the rights of criminal defendants advocates should look elsewhere — perhaps to the state legislature.

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1. *People v. Aranda* (1965) 63 Cal.2d 518; *Bruton v. United States* (1968) 391 U.S. 123. ↑

2. *See Richardson v. Marsh* (1987) 481 U.S. 200 (holding that redactions and a limiting instruction would solve any Sixth Amendment violation); *Gray v. Maryland* (1998) 523 U.S. 185 (holding that obvious indication of redaction violated the Confrontation Clause); *Crawford v. Washington* (2004) 541 U.S. 36 (limiting the Confrontation Clause to testimonial hearsay). ↑

3. *Samia v. United States* (2023) 599 U.S. 635. The Court resolved a circuit split, in favor of those circuits that considered the inculpative effect of codefendant statements only by the "four corners" and whether the statements were inculpative in context of the trial. *See id.* at 655. ↑

4. *See id.* ("*Gray* qualified but confirmed this legal standard, reiterating that the *Bruton* rule applies only to 'directly accusatory' incriminating statements, as distinct from those that do 'not refer directly to the defendant' and 'bec[o]me incriminating only when linked with evidence introduced later at trial.'") (internal citations omitted). ↑

5. Ellen M. Slatkin, *Severed from Reality: Severed from Reality: A Profound Disconnect Between Samia's Implications and its Litigation*, Vol. 61, No. 3 Crim. Law Bulletin (forthcoming July 2025). ↑

6. *See id.* ↑

7. *See, e.g.,* David Aram Kaiser & David A. Carrillo, *California Constitutional Law: Reanimating Criminal Procedural Rights After the "Other" Proposition 8* (2016) 56 Santa Clara L. Rev. 33 (noting that the Truth-in-Evidence provision of the California constitution opened the door for the judiciary to abrogate individual rights); Miguel A. Méndez, *The Victims' Bill of Rights—Thirty Years Under Proposition 8* (2014) 25 Stan. L. Rev. 379, 420 (explaining that the proposition put the evidence code in the hands of the electorate); Kenneth P. Miller, *The California Supreme Court and Popular Will* (2016) 19 Chap. L. Rev. 151, 152 (showing that "under California's constitution, the people, not the courts, have the last word on the state definition of rights—so long, of course, as their decisions do not contravene federal law"). ↑

8. *See Vega v. Tekoh* (2022) 597 U.S. 134 (holding that *Miranda* does not provide a basis for § 1983 claims because it does not rise to the level of a constitutional violation); *United States v. Tsarnaev* (2022) 595 U.S. 302 (reinstating the death penalty after holding that the right to an impartial trial does not require complete ignorance of the case by the jury); *Jones v. Hendrix* (2023) 599 U.S. 465 (noting that § 2255(e) "bars a federal prisoner from proceeding under § 2241 unless the § 2255 remedy by motion is inadequate or ineffective to test the legality of his detention."); *see also Dobbs v. Jackson Women's Health Org.* (2022) 579 U.S. 215 (overturning *Roe v. Wade* on the theory that the right to abortion is not deeply rooted in our nation's history). ↑

9. Matthew Segal & Julie Murray, *States Supreme Courts Offer the Best Chance to Advance Rights* (May 2, 2023) ACLU (explaining that "state supreme courts can — and often do — interpret [state constitutional] provisions to provide broader protections for civil rights and civil liberties than the U.S. Supreme Court has recognized or preserved under federal law"). *See also* William J. Brennan, *State Constitutions and the Protection of Individual Rights* (1977) 90 Harv. L. Rev. 489 ("[S]tate courts cannot rest when they have afforded their citizens the full protections of the federal Constitution. State constitutions, too, are a font of individual liberties, their protections often extending beyond those required by the Supreme Court's

interpretation of federal law."); Brandon V. Stracener & David A. Carrillo, *State Court Takeaways from Dobbs* (April 26, 2023) State Court Report. ↑

10. Mark L. Miller & Ronald F. Wright, *Leaky Floor: State Law Below Federal Constitutional Limits* (2008) 50 Ariz. L. Rev. 277, 277. ↑

11. U.S. Const. art. VI, cl. 2. ↑

12. *See* Miller & Wright, *Leaky Floor: State Law Below Federal Constitutional Limits*, 50 Ariz. L. Rev. at 239–253. ↑

13. Brandon V. Stracener & David A. Carrillo, *State Court Takeaways from Dobbs* (April 26, 2023) State Court Report. ↑

14. *See* Scott Dodson*, The Gravitational Force of Federal Law* (2016) 164 U. Pa. L. Rev. 703, 717; James A. Gardner, *Autonomy and Isomorphism: The Unfulfilled Promise of Structural Autonomy in American State Constitutions* (2014) 60 Wayne L. Rev. 31, 34; *see also* David A. Carrillo & Brandon V. Stracener, *We need to clarify the cogent reasons standard*, SCOCAblog (Aug. 29, 2022) (explaining that California's version is the doctrine of "cogent reasons," which requires its courts "to adopt federal law when interpreting California constitutional provisions absent strong reason to depart"); Cal. Const. art I, §24 ("Rights guaranteed by this Constitution are not dependent on those guaranteed by the United States Constitution."); *but see Gabrielli v. Knickerbocker* (1938) 12 Cal.2d 85, 89 ("[C]ogent reasons must exist before a state court in construing a provision of the state constitution will depart from the construction placed by the Supreme Court of the United States on a similar provision in the federal constitution."). ↑

15. Cal. Const. Art. VI §13. ("No judgment shall be set aside, or new trial granted, in any cause, on the ground of misdirection of the jury, or of the improper admission or rejection of evidence, or for any error as to any matter of pleading, or for any error as to any matter of procedure, unless, after an examination of the entire cause, including the evidence, the court shall be of the opinion that the error complained of has resulted in a miscarriage of justice."). ↑

16. *See Aranda*, 63 Cal.2d at 530. ↑

17. *Id.* at 529 n.8. ↑

18. *Id.* at 528. ↑

19. *Id.* ↑

20. *Id.* ↑

21. *Id.* at 530–31. ↑

22. *Id.* at 526. ↑

23. It reads in full: "Except as provided by statute hereafter enacted by a two-thirds vote of the membership in each house of the Legislature, relevant evidence shall not be excluded in any criminal proceeding. . . . Nothing in this section shall affect any existing statutory rule of evidence relating to privilege or hearsay, or Evidence Code Sections 352, 782 or 1103." Cal. Const. art. I, §28(f)(2). ↑

24. Miguel A. Méndez, *The Victims' Bill of Rights—Thirty Years Under Proposition 8* (2014) 25 Stan. L. & Pol'y Rev. 379, 380. ↑

25. *See People v. Washington* (2017) 15 Cal.App.5th 19, 27 ("Because section 1098 is not a rule of evidence, we conclude the hearsay exception to Proposition 8's rule of abrogation does not apply, and *Aranda* does not require the exclusion of Nancy's testimony that Denetric threatened to kill Mark."). ↑

26. *Washington*, 15 Cal.App.5th at 27. ↑

27. *People v. Mitcham* (1992) 1 Cal.4th 1027, 1046. ↑

28. *Id.* at 243 (quoting *Richardson v. Marsh* (1987) 481 U.S. 200, 208). ↑

29. *People v. Holmes* (2022) 12 Cal.5th 719, 749 (noting that "the redactions here comported with *Gray*'s holding"). ↑

30. *People v. Washington* (2017) 15 Cal.App.5th 19, 29. *Crawford* limited the Confrontation Clause to "testimonial" statements, or statements with the primary purpose of use in a criminal prosecution. *Crawford v. Washington* (2004) 514 U.S. 36, 53. ↑

31. *Id.* ↑

32. *People v. Fletcher* (1996) 13 Cal.4th 451, 468. ↑

33. *Chapman v. California* (1967) 386 U.S. 18, 24. ↑

34. *People v. Lopez*, 2016 WL 106300 at *5 (Cal. Ct. App. Jan. 8, 2016). ↑

35. *People v. Williams*, 2016 WL 3078651 at *6 (Cal. Ct. App. May 23, 2016). ↑

36. *People v. McGhee*, 2022 WL 1617124 at *9 (Cal. Ct. App. May 23, 2022). ↑

37. *Id.* ↑

38. *Id.* ↑

39. *Id.* ↑

40. *Id.* ↑

41. *People v. Carpenter*, 2021 WL 5917591 at *18 (Cal. Ct. App. Dec. 15, 2021). ↑

42. *Id.* ↑

43. *See In re M.R.*, 2020 WL 831908 at *6 (Cal. Ct. App. Feb. 20, 2020). ↑

44. *See People v. Hoyos* (2007) 41 Cal.4th 827 896 ("A codefendant's extrajudicial statement implicating another defendant need not be excluded when the codefendant testifies and is available for cross-examination."). ↑

45. *See People v. Moreno*, 2016 WL 5801906 at *5 (Cal. Ct. App. Oct. 2016). ↑

46. *See People v. Murillo*, 2005 WL 1819361 at *7 (Cal. Ct. App. Aug. 3, 2005). ↑

47. *See People v. Zapata*, 2023 WL 5694522 at *4 (Cal. Ct. App. Sept. 5, 2023) (affirming a finding of guilt after an "evidentiary hearing," not a trial). ↑

48. See People v. Holmes (2022) 12 Cal.5th 719 750 (noting that because no *Aranda/Bruton* error occurred, the lower court "did not abuse its discretion in denying severance). ↑

49. *See People v. Coulter*, 2016 WL 4257186 at *14 (Cal. Ct. App. Aug. 12, 2016) ("The failure to object waives appellate review of alleged *Aranda/Bruton* error."). ↑

50. *People v. Garcia*, 2008 WL 186618 at *8 (Cal. Ct. App. Jan. 23, 2008). ↑

51. *Id.* ↑

52. *Id.* at *12. ↑

53. *Id.* at *13. ↑

54. *See, e.g., People v. Gamache* (2010) 48 Cal.4th 347, 379. ↑

55. *People v. Stallworth* (2008) 164 Cal. App. 4th 1079. ↑

56. *Id.* ↑

57. *Id.* 1101. ↑

58. *Id.* at 1101. ↑

59. *Id.* at 1091. ↑

60. *Id.* ↑

61. *See id.* ↑

62. *People v. Bullock*, 2011 WL 5831556 at *4 (Cal. Ct. App. Nov 21, 2011) ("In Bullock's appeal, we are presented with the flip side of the Aranda–Bruton problem—the claim that the trial court, by redacting incriminating statements to protect codefendants' Aranda–Bruton rights, denied him his

right to have his unredacted statements admitted."). ↑

63. *Id.* at *7. ↑

64. *Id.* ↑

65. *See, e.g., People v. Harrison*, 2007 WL 4100080 at *1 (Cal. Ct. App. Nov. 19, 2007) (applying *Crawford* to an *Aranda/Bruton* issue). ↑

66. David Aram Kaiser & David A. Carrillo, *California Constitutional Law: Reanimating Criminal Procedural Rights After the 'Other' Proposition 8* (2016) 56 Santa Clara L. Rev. 33, 35. ↑

67. *See id.* at 37. ↑

68. *See id.* at 35. ↑

69. *See* Jeff Brown, *Proposition 8: Origins and Impact—A Public Defender's Perspective* (1992) 23 Pac. L.J. 881, 883–85. ↑

70. *See id.* at 883–85. ↑

71. *See* Petition for Writ of Certiorari, *Samia v. United States* (2023) 599 U.S. 635 (No. 22–196) ("In assessing only the four corners of the redacted confession, the court of appeals has taken sides in a mature and entrenched circuit conflict."); *see Samia v. United States* (2023) 599 U.S. 635, 654 (resolving the split in the Second Circuit's favor by holding "The Confrontation Clause rule that Samia proposes would require federal and state trial courts to conduct extensive pretrial hearings to determine whether the jury could infer from the Government's case in its entirety that the defendant had been named in an altered confession."). ↑

72. *See e.g.,* Daniel J. Meador, *Straightening Out Federal Review of State Criminal Cases* (1983) 44 Ohio St. L.J. 273 (discussing the struggle of habeas petitioners to gain review in federal court on federal constitutional violations arising in state criminal court); *but see* Martin K. Redish, *Supreme Court Review of State Court 'Federal' Decisions: A Study in Interactive Federalism*

(1985) 19 Ga. L. Rev. 861, 863 (arguing that "only if the state court makes clear that federal law is not essential to its decision will the Supreme Court even contemplate the possible existence of an independent and adequate state ground"). ↑

73. Nicole A. Gordon & Douglas Gross, *Justiciability of Federal Claims in State Court* (1984) 59 Notre Dame L. Rev. 1145 (explaining that state courts are often reluctant — but have a duty under the Supremacy Clause to — vindicate federal rights). ↑