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ONE MINUTE BRIEF

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NUMBER: 2019-07 **DATE:** 03-07-19 **BY:** Devallis Rutledge **TOPIC:** "The *Williamson* Rule"

ISSUE: How does the "*Williamson* rule" affect charge selection?

California has so many criminal statutes in so many different codes that a defendant's conduct will often violate two or more, which may carry different levels of punishment. To aid in charge selection in such cases, the California Supreme Court adopted a rule some 65 years ago that provides that when both a **special** statute and a more **general** statute cover a defendant's conduct, prosecution must usually be under the **special** one. *In re Williamson* (1954) 43 Cal.2d 651, 654. (This rule was often previously referred to as the "*Swann-Gilbert* rule." *People v. Swann* (1963) 213 Cal.App.2d 447; *People v. Gilbert* (1969) 1 Cal.3d 475.)

The effect of the *Williamson* rule is to oblige arresting/booking officers and prosecutors to identify possible **alternative charges** under special statutes and not simply to opt for the most-familiar charges or those providing the greatest punishment. Here are some illustrative cases, in which convictions were reversed for violation of the *Williamson* rule:

- *People v. Joseph* (2019) ___ Cal.App.5th ___, No. B285062—filing a **false report of a stolen vehicle** should be prosecuted under the **special** misdemeanor section VC § 10501(a), rather than under the **general** felony perjury section, PC § 118(a).

- *People v. Sun* (2018) 29 Cal.App.5th 946—**discharging a laser at an occupied aircraft** must be prosecuted under the **special** statute, PC § 247.5, not as an ADW under the more **general** statute, PC § 245.

- *People v. Henry* (2018) 28 Cal.App.5th 786—signing a **false or fictitious name on a promise to appear** on a traffic citation falls under the **special** misdemeanor statute, VC § 40504(b), instead of the **general** felony false personation section, PC § 529(a)(3).

- *In re Fernando C.* (2014) 227 Cal.App.4th 499—**fighting on school grounds** in violation of **special** statute PC § 415.5 cannot be prosecuted under the more **general** section, PC § 415.

- *People v. Murphy* (2011) 52 Cal.4th 81—filing a **false report of vehicle theft**, a misdemeanor under **special** statute, VC § 10501(a), cannot be prosecuted under the **general** felony statute for offering false documents for filing, PC § 115(a).

- *People v. Duran* (2004) 124 Cal.App.4th 666—the **special** misdemeanor statute on furnishing **false information on a firearm application**, PC § 28210(b), preempts charges under **general** statutes for attempted possession of a firearm by a felon, §§ 664/29800(a)(1).

- *Finn v. Superior Court* (1984) 156 Cal.App.3d 268—**fraudulently obtaining money from the sale of a mobile home**, a misdemeanor under the **special** statutes, H&S §§ 18060.5(c) and 18020.5, cannot be prosecuted as felony grand theft under **general** section PC § 487.

- In determining appropriate charges to be filed, the prosecutor should consider not only the potential charges identified by arresting/booking officers, but also alternative offenses supported by the admissible evidence—including the violation of **special** statutes addressing the defendant's particular conduct. Probable cause to file criminal charges "*is not confined to the charge invoked by the officer at the time of arrest or to closely-related charges.*" *Schmidlin v. Palo Alto* (2007) 157 Cal.App.4th 728, 779.

BOTTOM LINE: The "*Williamson rule*" usually requires that conduct proscribed by a **special** criminal statute be prosecuted under that statute, rather than under a more **general** one.

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