

THREE STRIKES

3 Strikes • Three Strikes Law • Three Strikes California Three Strikes Law

Steal a Pizza — Get Life in Prison!

It could happen to you. It did happen to Jerry DeWayne Williams, who was convicted for stealing a single slice of pepperoni pizza from a group of children. He received a **Third Strike** sentence because he had two prior felony strike convictions.

Jerry Williams was sentenced to life in prison after pinching the pizza...because he had a history of robbery, attempted robbery, unauthorized use of a motor vehicle, and possession of a controlled substance. Making off with the slice was petty theft, but, because of California state law and Williams' earlier convictions, the crime was classified as a **felony**.

California Three Strikes

Under the **California Three Strikes Law**-also known as "**Three Strikes and You're Out Law**"-those who have been convicted of two or more **prior strikes** face a life term sentence for the third felony conviction—even if the third felony conviction is not a **strike**. Those defendants who have been convicted of a prior strike must be sentenced to prison for twice the determinate term or twice the minimum for the indeterminate term.

Example: The defendant is convicted of one count of robbery with a knife, with a single strike prior. The base (determinate) term for the robbery is 2, 3, or 5 years. Since the defendant had a prior strike, his current sentence can be 4, 6, or 10 years (doubled). The enhancement for the knife is only 1 year and is not doubled. The defendant is additionally punished with a 5 year enhancement if (as in this example) the current offense of robbery is a **serious felony** as defined in Penal Code Sections 667(a) and 1192.7. In this case it is a serious felony and so 5 years is added to the defendant's sentence. The total maximum years the defendant could be sentenced to is 16 years (10 + 1 + 5 years).

The **Three Strikes Law** in California is harsh. This law is a tough-on-crime law that increases punishments for repeat offenders. In addition to lengthening prison sentences the Three Strikes Law also reduces prison credits for good behavior. The Three Strikes Law's passage was based on the belief that it would protect Californians from **violent repeat offenders** who belong behind bars.

What are "Strike" Priors?

- Convictions in California for "violent" or "serious" felonies under Penal Code Sections 667.5 (c) and 1192.7(c) are "strike" priors (Penal Code Section 667(d) (1).
- Felony convictions from another state that have all the elements of "serious" or "violent" felonies under Penal Code Sections 667.5 (c) and 1192.7(c) are "strike" priors. Penal Code Section 667.(d) (2)
- Juvenile offenses (adjudications) for certain offenses are "strikes" when the juvenile was 16 or 17 years old at the time of the offense. Penal Code 667 (d) (3)

Examples of Serious or Violent "Strikes":

- Murder or Voluntary Manslaughter
- Mayhem (serious and deliberate injury that disfigures or disables a person)
- Rape
- Sodomy by Force
- Oral Copulation by Force
- Sexual Abuse of a Child under 14 years of age
- Any Felony Punishable by Death or Imprisonment for Life
- Any Felony using a Firearm or Inflicting Great Bodily Injury
- Robbery
- Exploding any Device with Intent to Murder or Injure
- Grand Theft involving a Firearm
- Attempted Murder
- Kidnapping
- Continuous Sexual Abuse of a Child
- Carjacking with a Deadly Weapon
- Offering to or selling, furnishing, administering, or giving, to a minor any heroin, cocaine, phencyclidine (PCP), or any methamphetamine-related drug
- Assault by a life prisoner on a non-inmate

(For a complete list, refer to California Penal Code Sections 1192.7.(c) and 667.5.(c). For juvenile strikes see Section 707(b) of the California Welfare and Institutions code.)

Facts about California Three Strikes Law Crimes

- Under **California Three Strikes Law**, a single night of criminal activity's multiple crimes can be counted as separate strikes – meaning that one night of poor judgment could rack up two or more **strikes**.
- There are no expiration dates on prior offenses, so even a conviction from far in the past will remain as a strike. In addition, a felony conviction that occurred before **California Three Strikes Law** was enacted will still be counted as a **strike**.
- Certain Juvenile offenses (adjudications) are counted as strikes. A defendant could be one strike away from life in prison, even though prior strikes were committed before a defendant became an adult.
- Prior convictions do not necessarily need to have resulted in prison terms to be counted as **strikes** under **California Three Strikes Law**.
- Even if a defendant has received dismissal on successful completion of probation, the crime will still be counted as a **strike**.
- Expunged convictions can still be counted as prior **strikes**.

The Law Offices of Jerry Nicholson Can Help

We are a tough, aggressive, and experienced criminal defense law firm who believe that all defendants, no matter what the accusation, are entitled to a thorough and aggressive defense. "**Strike**" offenses are very serious and defending against them can be complicated. In California the stakes are high when the accused is facing any "**strike**" offenses. Some inexperienced lawyers will plead these cases without a fight. However, an experienced **criminal defense lawyer**, such as Jerry Nicholson, will do the following:

- Aggressively evaluate all the evidence to determine as quickly as possible whether to prepare a defense for trial, or prepare to negotiate a plea bargain with the prosecutor or judge to cancel a strike (striking a strike).
- Conduct legal research on prior strike convictions to determine if there could be a basis for questioning and attacking their validity.
- Prepare a "Statement in Mitigation" to argue for a reduced sentence, for review by the District Attorney's Office Strike Committee.
- Prepare a Romero Motion asking the sentencing judge to cancel a prior "**strike**" conviction.

As a **Criminal Defense Law Firm** we take pride in our work, and our results reflect our commitment and dedication to our clients. Jerry Nicholson has helped many clients receive dismissals, acquittals, probation, or reduced penalties.

If you have been arrested for or charged with a crime that could potentially be a "third strike" or a "strike" under **California's Three Strike Laws** you need to speak to an experienced **California criminal defense attorney**. Call us to set up a **FREE consultation** to examine the facts, discuss your particular circumstances, and how we may best represent you.