



MEDIA ADVISORY

Release Number: 22

Release Date: July 19, 2007

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California Supreme Court Rules on State's Determinate Sentencing Law

San Francisco — In two written opinions, the Supreme Court today clarified the impact of the U.S. Supreme Court's decision in *Cunningham v. California* (2007) 127 S.Ct. 856, on California's determinate sentencing law.

Both opinions are now available on the California Courts Web site at <http://www.courtinfo.ca.gov/courts/supreme/#pub>. The opinions apply to those sentencing cases that are pending on appeal.

The summary below is designed to assist the news media in its coverage of these rulings.

***People v. Black* (S126182):**

(1) Imposition of an upper term sentence does not violate a defendant's Sixth Amendment right to a jury trial under *Cunningham v. California* (2007) 127 S.Ct. 856, if a single aggravating factor has been established by the jury's verdict, the defendant's admissions, or the defendant's prior convictions.

(2) In this case, there was no Sixth Amendment error in the imposition of the upper term because two aggravating factors properly were established; the jury concluded that the crime involved force or violence, and the judge concluded that defendant's prior convictions were numerous or of increasing seriousness.

(3) There is no Sixth Amendment right to a jury trial on facts that support a trial court's decision to impose consecutive sentences.

***People v. Sandoval*, S148917:**

(1) Imposition of the upper term in this case violated the defendant's Sixth Amendment right to a jury trial because there were no aggravating factors established by the jury's verdict, defendant's admissions, or

(over)

defendant's prior convictions, and the error was not harmless beyond reasonable doubt.

(2) The case must be remanded for resentencing. At the sentencing hearing, the judge has full discretion to impose the lower, middle, or upper term.

For docket information on each case, or for the names of counsel, please see the court's Case Information System at <http://appellatecases.courtinfo.ca.gov/search.cfm?dist=0>.

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