

ISSUES PENDING BEFORE THE CALIFORNIA SUPREME COURT IN CRIMINAL CASES

[These case summaries are made available to inform the public of the general subject matter in cases that the Supreme Court has accepted for review. The statement of the issue or issues in each case set out below does not necessarily reflect the views of the court, or define the specific issues that will be addressed by the court. This compilation is current as of Friday, May 2, 2014.]

People v. Aguilar, S213571. (A135516; 219 Cal.App.4th 1094; Contra Costa County Superior Court; 51202696.) Petition for review after the Court of Appeal affirmed a judgment of conviction of a criminal offense. This case presents the following issue: Does the failure to object to an order for payment of attorney fees, an order for payment of a criminal justice administration fee, and/or an order for payment of probation supervision fees forfeit a claim that the trial court erred in failing to make a finding of the defendant's ability to pay the amount in question? (See also *People v. Trujillo*, S213687.)

In re Alatraste, S214652. (B248072; 220 Cal.App.4th 1232; Los Angeles County Superior Court; BA344055.) Petition for review after the Court of Appeal denied petitions for writ of habeas corpus.

In re Bonilla, S214960. (B248199; 220 Cal.App.4th 1232; Los Angeles County Superior Court; BA320049.) Petitions for review after the Court of Appeal denied petitions for writ of habeas corpus.

Alatraste and *Bonilla* include the following issues: (1) Did Senate Bill 260 (Reg. Sess. 2013-2014), which includes provisions for a parole suitability hearing after a maximum of 25 years for most juvenile offenders serving life sentences, render moot any claim that such a sentence violates the Eighth Amendment to the federal Constitution and that the petitioner is entitled to a new sentencing hearing applying the mitigating factors for such juvenile offenders set forth in *Miller v. Alabama* (2012) 567 U.S. ___ [132 S.Ct. 2455]? If not: (2) Does *Miller* apply retroactively on habeas corpus to a prisoner who was a juvenile at the time of the commitment offense and who is presently serving a sentence that is the functional equivalent of life without the possibility of parole? (3) Is a total term of imprisonment of 77 years to life (*Alatraste*) or 50 years to life (*Bonilla*) for murder committed by a 16-year-old offender the functional equivalent of life without possibility of parole by denying the offender a meaningful opportunity for release on parole? (4) If so, does the sentence violate the Eighth Amendment absent consideration of the mitigating factors for juvenile offenders set forth in *Miller*?

People v. Aranda, S214116. (E056708; 219 Cal.App.4th 764; Riverside County Superior Court; RIF154701.) Petition for review after the Court of Appeal affirmed an order dismissing one count and remanding for further proceedings. This case presents the following issue: Did the Court of Appeal err by holding that double jeopardy prevents retrial of defendant for first degree murder where the jury did not return a verdict on that offense and deadlocked on the lesser included offenses of second degree murder and voluntary manslaughter, because the trial court failed to afford the jury an opportunity to return a partial acquittal on the charge of first degree murder? (See *Blueford v. Arkansas* (2012) 566 U.S. ___ [132 S.Ct. 2044]; *Stone v. Superior Court* (1982) 31 Cal.3d 503.)

People v. Banks, S213819. (B236152; nonpublished opinion; Los Angeles County Superior Court; BA347305.) Petition for review after the Court of Appeal amended and affirmed judgments of conviction of criminal offenses. The court limited review to the following issues: (1) Was the evidence sufficient to establish that defendant Matthews was a “major participant” within the meaning of Penal Code section 190.2, subdivision (d)? (2) Does the true finding on the special circumstance violate due process? (U.S. Const., 5th & 14th Amends.; Cal. Const., art. I, §§ 7, 15; *Enmund v. Florida* (1982) 458 U.S. 782.)

People v. Blackburn, S211078. (H037207; 215 Cal.App.4th 809; Santa Clara County Superior Court; BB304666.) Petition for review after the Court of Appeal affirmed an order extending a commitment as a mentally disordered offender. The court limited review to the following issue: Did the trial court prejudicially err by failing to advise defendant of his right to jury trial and obtain a personal waiver of that right? (See also *People v. Tran*, S211329.)

People v. Centeno, S209957. (E054600; 214 Cal.App.4th 843; San Bernardino County Superior Court; FVA801798.) Petition for review after the Court of Appeal affirmed a judgment of conviction of criminal offenses. The court limited review to the following issue: Did the prosecutor commit misconduct in closing argument by misstating the state’s burden of proof?

People v. Chandler, S207542. (E054154; 211 Cal.App.4th 114; Riverside County Superior Court; SWF027980.) Petition for review after the Court of Appeal affirmed a judgment of conviction of a criminal offense. This case presents the following issue: Did the trial court err by failing to instruct the jury that the crime of attempting to make criminal threat — like the completed crime of making a criminal threat (Pen. Code, § 422) — requires that it be reasonable under the circumstances for the victim to have been in sustained fear?

People v. Chiu, S202724. (C063913; nonpublished opinion; Sacramento County Superior Court; 03F08566.) Petition for review after the Court of Appeal reversed a judgment of conviction of a criminal offense. This case presents the following issue: Does a conviction for first degree murder as an aider and abettor under the natural and probable consequences doctrine require that premeditated murder have been a reasonably foreseeable consequence of the target crimes or only that murder have been such a consequence?

People v. Conley, S211275. (C070272; 215 Cal.App.4th 1482; Yolo County Superior Court; CRF113234.) Petition for review after the Court of Appeal affirmed a judgment of conviction of criminal offenses. This case presents the following issue: Does the Three Strikes Reform Act of 2012 (Pen. Code, §§ 667, subd. (e)(2)(C), 1170.12, subd. (c)(2)(C)), which reduces punishment for certain non-violent third-strike offenders, apply retroactively to a defendant who was sentenced before the Act's effective date but whose judgment was not final until after that date?

People v. Cook, S215927. (E054307; 222 Cal.App.4th 1; Riverside County Superior Court; SWF10000834.) Petition for review after the Court of Appeal affirmed in part and reversed in part a judgment of conviction of criminal offenses. This case presents the following issue: Does Penal Code section 12022.7, subdivision (g), which provides that the great bodily injury enhancement of this section "shall not apply to murder or manslaughter . . .," allow an enhancement on a manslaughter conviction for the great bodily injury inflicted on another victim who was the subject of a separate manslaughter conviction?

People v. Cortez, S211915. (B233833; nonpublished opinion; Los Angeles County Superior Court; BA345971.) Petition for review after the Court of Appeal affirmed and reversed judgments of conviction of criminal offenses. This case presents the following issue: Did the Court of Appeal err by reversing the conviction of defendant Cortez due to error in admitting a statement made by defendant Bernal to his nephew, error in instructing the jury with CALCRIM No. 361, and prosecutorial misconduct?

People v. Cross, S212157. (C070271; 216 Cal.App.4th 1403; Sacramento County Superior Court; 09F06395, 11F03888.) Petition for review after the Court of Appeal affirmed a judgment of conviction of criminal offenses. This case presents the following issue: Did the trial court err in failing to advise defendant in accordance with *In re Yurko* (1974) 10 Cal.3d 857 before accepting a defense stipulation that he had a prior conviction for an offense that exposed him to an increased sentence under Penal Code section 273.5, subdivision (e)(1)?

People v. Diaz, S205145. (H036414; 208 Cal.App.4th 711; Santa Clara County Superior Court; CC954415.) Petition for review after the Court of Appeal affirmed a judgment of conviction of criminal offenses. This case presents the following issues: (1) Did the trial court err by failing to instruct the jury, on the court's own motion, that the jury was required to consider defendant's extrajudicial, oral statements with caution even though the statements constituted the alleged criminal act? (2) If so, did the Court of Appeal correctly conclude that the trial court's failure to instruct was harmless error?

People v. Eid, S211702. (G046129; 216 Cal.App.4th 740; Orange County Superior Court; 05HF2101.) Petition for review after the Court of Appeal affirmed in part and reversed in part a judgment of conviction of criminal offenses. This case presents the following issue: Can a defendant be convicted of two separate, uncharged, lesser included offenses of a single charged offense if the lesser offenses are not included in each other?

People v. Elizalde, S215260. (A132071; 222 Cal.App.4th 351; Contra Costa County Superior Court; 050809038.) Petition for review after the Court of Appeal affirmed judgments of conviction of criminal offenses. The court limited review to the following issues: (1) Was defendant subjected to custodial interrogation without the benefit of warnings under *Miranda v. Arizona* (1966) 384 U.S. 436, when he was questioned about his gang affiliation during an interview while being booked into jail, or did the questioning fall within the booking exception to *Miranda*? (2) If the questioning fell outside the booking exception, was defendant prejudiced by the admission of his incriminating statements at trial?

People v. Elmore, S188238. (B216917; nonpublished opinion; Los Angeles County Superior Court; TA090607.) Petition for review after the Court of Appeal reversed a judgment of conviction of a criminal offense. This case presents the following issue: Does the doctrine of imperfect self-defense apply when the defendant's actual, but unreasonable, belief in the need to defend himself was based solely on a psychotic delusion?

People v. Eroshevich, S210545. (B231411; 214 Cal.App.4th 1335; Los Angeles County Superior Court; BA353907.) Petition for review after the Court of Appeal reversed orders dismissing counts and granting a new trial in a criminal case. This case presents the following issues: (1) If a trial court issues a ruling equivalent to an acquittal after a jury has entered a guilty verdict and the Court of Appeal reverses the trial court's ruling on appeal, does the trial court's erroneous acquittal nevertheless bar retrial under principles of double jeopardy if, on remand, the defendant renews an earlier motion for a new trial? (2) In such circumstances, is the Court of Appeal permitted to direct a trial court to dismiss charges and acquit a defendant if the trial court decides to grant the defendant's motion for a new trial under Penal Code section 1181?

People v. Ford, S212940. (A135733; 217 Cal.App.4th 1354; Sonoma County Superior Court; SCR-530837. Petition for review after the Court of Appeal affirmed an order awarding victim restitution in a criminal action. This case presents the following issue: Did the trial court have jurisdiction to award restitution to the victim although defendant's probationary term had expired nine days earlier?

People v. Goldsmith, S201443. (B231678; 203 Cal.App.4th 1515; Los Angeles County Superior Court; BR048189, 102693IN.) Petition for review after the Court of Appeal affirmed a judgment of conviction of a criminal offense. The court limited review to the following issues: (1) What testimony, if any, regarding the accuracy and reliability of the automated traffic enforcement system (ATES) is required as a prerequisite to admission of the ATES-generated evidence? (2) Is the ATES evidence hearsay and, if so, do any exceptions apply?

People v. Gonzalez, S207830. (D059713; 211 Cal.App.4th 405; San Diego County Superior Court; SCD228173.) Petition for review after the Court of Appeal affirmed in part and reversed in part a judgment of conviction of criminal offenses. This case presents the following issue: Was defendant properly convicted of both oral copulation of an unconscious person and oral copulation of an intoxicated person? (See *People v. Craig* (1941) 17 Cal.2d 453.)

People v. Goolsby, S216648. (E052297; 222 Cal.App.4th 1323; San Bernardino County Superior Court; FSB905099.) Petition for review after the Court of Appeal reversed a judgment of conviction of a criminal offense. This case presents the following issue: Did the Court of Appeal err in holding that Penal Code section 654 and *Kellett v. Superior Court* (1966) 63 Cal.2d 822 prohibited retrying defendant on a lesser related offense, when the prosecution had not formally charged him with the lesser offense but the jury was instructed on it without objection?

People v. Gutierrez, S206365. (B227606; 209 Cal.App.4th 646; Ventura County Superior Court; 2008011529.) Petition for review after the Court of Appeal affirmed a judgment of conviction of criminal offenses. The court limited review to the following issue: Does the sentence of life without parole imposed on this juvenile offender under Penal Code section 190.5, subdivision (b), violate the Eighth Amendment under *Miller v. Alabama* (2012) __ U.S. __ [132 S.Ct. 2455]?

People v. Hubbard, S216444. (B239519; nonpublished opinion; Los Angeles County Superior Court; SA075027.) Petition for review after the Court of Appeal reversed a judgment of conviction of criminal offenses. This case presents the following issue: Does Penal Code section 424 apply only to public officers who are charged with the receipt, safekeeping, transfer, or disbursement of public moneys, or does the statute apply to a public officer who authorizes the disbursement of public funds even if the actual authority to approve the disbursement lies elsewhere?

Hudec v. Superior Court, S213003. (G047465; 218 Cal.App.4th 311; Orange County Superior Court; C47710.) Petition for review after the Court of Appeal granted a petition for peremptory writ of mandate. This case presents the following issue: Does Penal Code section 1026.5, subdivision (b)(7), give a person who was committed after being found not guilty of criminal charges by reason of insanity the right to refuse to testify in a proceeding to extend that civil commitment?

People v. Ikeda, S209192. (B238600; 213 Cal.App.4th 326; Ventura County Superior Court; 2011007697.) Petition for review after the Court of Appeal affirmed a judgment of conviction of a criminal offense. This case presents the following issues: (1) After detaining a person outside a hotel room, may law enforcement officers enter the detainee's room to conduct a protective sweep under *Maryland v. Buie* (1990) 494 U.S. 325 based on a reasonable suspicion the room harbors a person posing a danger to officer safety? (2) Did law enforcement officers have reasonable suspicion in this case to believe defendant's hotel room harbored a person who posed a danger to officer safety?

James v. State of California, S214385. (F065003; 219 Cal.App.4th 1265; Tulare County Superior Court; VCU241117.) Petition for review after the Court of Appeal reversed the judgment in an action for writ of administrative mandate. The court ordered briefing deferred pending the United States Supreme Court's consideration and disposition of *United States v. Castleman*, No. 12-1371, cert. granted Oct. 1, 2013, ___ U.S. ___ [134 S.Ct. 49, 186 L.Ed.2d 962], which concerns whether a Tennessee conviction for misdemeanor domestic assault constitutes a "misdemeanor crime of domestic violence" for purposes of the federal Gun Control Act of 1968 (18 U.S.C. § 922(g)(9)).

Johnson v. California Department of Justice, S209167. (E055194; nonpublished opinion; San Bernardino County Superior Court; CIVDS1105422.) Petition for review after the Court of Appeal reversed the judgment denying a petition for writ of mandate. This case presents the following issue: Do the equal protection principles of *People v. Hofsheier* (2006) 37 Cal.4th 1185 bar mandatory sex offender registration for a defendant convicted of oral copulation between a "person over the age of 21 years" and a "person who is under 16 years of age" (Pen. Code, § 288a, subd. (b)(2))?

People v. Lavender, S209975. (D057655, D057686; Imperial County Superior Court; JCF21566.) Petition for review after the Court of Appeal reversed a judgment of conviction of criminal offenses. This case presents the following issue: Did the Court of Appeal err by reversing defendants' convictions for juror misconduct and remanding for a new trial rather than remanding for an evidentiary hearing into the misconduct?

People v. Le, S202921. (D057392; 205 Cal.App.4th 739, mod. 205 Cal.App.4th 1528a; San Diego County Superior Court; SCD212126.) Petition for review after the Court of Appeal affirmed judgments of conviction of criminal offenses. This case presents the following issue: Does Penal Code section 1170.1, subdivision (f), as interpreted by *People v. Rodriguez* (2009) 47 Cal.4th 501, preclude a trial court from imposing both a firearm use enhancement under Penal Code section 12022.5, subdivision (a), and a gang enhancement under Penal Code section 186.22, subdivision (b)(1)(B), when the offense is a serious felony as a matter of law?

People v. Loper, S211840. (D062693; 216 Cal.App.4th 969; San Diego County Superior Court; SCD225263.) Petition for review after the Court of Appeal dismissed an appeal from the denial of a request for recall of sentence under Penal Code section 1170, subdivision (e). The court directed the parties to brief the following issues: (1) Is a trial court's order denying the recall of a sentence under Penal Code section 1170, subdivision (e) appealable? (2) Assuming such an order is appealable, what is the proper standard of review on appeal? (3) Was the trial court's order denying the recall of defendant's sentence correct in this case?

People v. Lowe, S215727. (D059007; 221 Cal.App.4th 1276; Riverside County Superior Court; RIF132717.) Petition for review after the Court of Appeal modified and affirmed a judgment of conviction of criminal offenses. This case presents the following issue: Does Penal Code section 296, which permits the collection of DNA from certain felony arrestees, violate the Fourth Amendment under the analysis of *Maryland v. King* (2013) __ U.S. __ [133 S.Ct. 1958]?

Luis M. v. Superior Court, S207314. (B238460; 210 Cal.App.4th 982; MJ20593.) Petition for review after the Court of Appeal vacated an order in a juvenile wardship proceeding. This case presents the following issue: Could the restitution order in this case of felony vandalism for acts of graffiti be based on the victim city's average cost of removing, cleaning, and repairing incidents of graffiti on an annual basis, or was proof of the actual costs of mitigating the graffiti at issue in this case required?

People v. Moffett, S206771. (A133032; 209 Cal.App.4th 1465; Contra Costa County Superior Court; 050513788.) Petition for review after the Court of Appeal remanded for resentencing and otherwise affirmed a judgment of conviction of criminal offenses. This case presents the following issue: Did the Court of Appeal err in remanding for resentencing in light of *Miller v. Alabama* (2012) 567 U.S. __ [132 S.Ct. 2455], although Penal Code section 190.5, subdivision (b), does not mandate a sentence of life without parole for a juvenile convicted of a special circumstance murder?

People v. Moran, S215914. (H039330; nonpublished opinion; Santa Clara County Superior Court; C1243366.) Petition for review after the Court of Appeal modified and affirmed a judgment of conviction of a criminal offense. This case presents the following issue: Was the condition of probation barring defendant from all Home Depot stores and their parking lots after he was convicted of shoplifting at a single Home Depot store unconstitutionally overbroad as impinging on his constitutional right to travel?

People v. Mosley, S187965. (G038379; 188 Cal.App.4th 1090; Orange County Superior Court; 05NF4105.) Petition for review after the Court of Appeal modified and affirmed a judgment of conviction of a criminal offense. This case presents the following issue: Does the discretionary imposition of lifetime sex offender registration, which includes residency restrictions that prohibit registered sex offenders from living “within 2000 feet of any public or private school, or park where children regularly gather” (Pen. Code, § 3003.5, subd. (b)), increase the “penalty” for the offense within the meaning of *Apprendi v. New Jersey* (2000) 530 U.S. 466, and require that the facts supporting the trial court’s imposition of the registration requirement be found true by a jury beyond a reasonable doubt?

Packer v. Superior Court, S213894. (B245923; 219 Cal.App.4th 226; Ventura County Superior Court; 2010013013.) Petition for review after the Court of Appeal denied a petition for peremptory writ of mandate. The court limited review to the following issue: Did the trial court abuse its discretion by denying a motion for recusal without an evidentiary hearing on the grounds that defendant failed to make a prima facie showing that recusal was warranted?

People v. Prunty, S210234. (C071065; 214 Cal.App.4th 1110; Sacramento County Superior Court; 10F07981.) Petition for review after the Court of Appeal affirmed a judgment of conviction of criminal offenses. The court limited review to the following issue: Is evidence of a collaborative or organizational nexus required before multiple subsets of the Norteños can be treated as a whole for the purpose of determining whether a group constitutes a criminal street gang within the meaning of Penal Code section 186.22, subdivision (f)?

In re R.V., S212346. (G046961; 217 Cal.App.4th 296; Orange County Superior Court; DL034139.) Petition for review after the Court of Appeal affirmed orders in a juvenile wardship proceeding. This case includes the following issues: (1) Which party bears the burden of proof in a juvenile competency proceeding? (2) What is the proper standard of review on appeal of a trial court’s finding that the juvenile is competent?

People v. Schaeffer, S205260. (E053499; 208 Cal.App.4th 1; Riverside County Superior Court; RIF1102208.) Petition for review after the Court of Appeal remanded in part and otherwise affirmed a judgment of conviction of criminal offenses. This case presents the following issue: In a case involving possession of drugs and misdemeanor drug use, could the trial court, as a condition of probation, require defendant to “[r]eside at a residence approved by the Probation Officer and not move without his/her prior approval”?

People v. Scott, S211670. (H037923; 216 Cal.App.4th 848; Monterey County Superior Court; SS080912.) Petition for review after the Court of Appeal affirmed a judgment of conviction of a criminal offense. This case presents the following issue: Was defendant entitled to a county jail commitment under the Criminal Justice Realignment Act of 2011 when the trial court imposed and suspended execution of a prison sentence before the Act’s effective date, but revoked probation and ordered execution of the sentence after the Act went into effect?

People v. Shazier, S208398. (H035423; 212 Cal.App.4th 520; Santa Clara County Superior Court; 210813.) Petition for review after the Court of Appeal reversed an order of commitment as a sexually violent predator. This case presents the following issue: Did the Court of Appeal correctly reverse the order of commitment in this case for prejudicial prosecutorial misconduct at a third commitment trial under the Sexually Violent Predator Act (Welf. & Inst. Code, § 6600 et seq.)?

People v. Smith, S210898. (D060317; 215 Cal.App.4th 382; Riverside County Superior Court; BAF004719.) Petition for review after the Court of Appeal ordered sentence modified and otherwise affirmed. The court limited review to the following issue: Was defendant properly convicted of murder under the natural and probable consequences theory of aiding and abetting?

Steen v. Appellate Division, S174773. Original proceeding. The court issued an order to show cause why petitioner’s misdemeanor conviction for failure to appear in court on a traffic infraction should not be vacated, as requested in the petition for writ of mandate, on the following grounds. (1) Penal Code section 959.1, subdivision (c)(1), violates the separation of powers doctrine (Cal. Const., art. III, § 3) by permitting a clerk of court, rather than a prosecutor, to issue a complaint “for the offenses of failure to appear, pay a fine, or comply with an order of the court.” (2) Penal Code section 959.1, subdivision (c), violates due process. (See U.S. Const., 14th Amend.; Cal. Const., art. I, § 7.) (3) The prosecution in this case was not commenced within the statute of limitations. (See Pen. Code, §§ 802, subd. (a), 804.)

People v. Stevens, S209643. (B241356; 213 Cal.App.4th 1301; San Luis Obispo County Superior Court; F471357.) Petition for review after the Court of Appeal affirmed an order of commitment as a mentally disordered offender. The court limited review to the following issue: May an expert's testimony in support of a defendant's commitment under the Mentally Disordered Offender Act (Pen. Code § 2960 et seq.) that the defendant used force or violence in committing the commitment offense (Pen. Code § 2962, subd. (e)(P)) and that he received treatment for at least 90 days in the year before being paroled (Pen. Code § 2962, subd. (c)) be based entirely on hearsay?

In re Taylor, S206143. (D059574; 209 Cal.App.4th 210; San Diego County Superior Court; HC19612, HC19731, HC19742, HC19743.) Petition for review after the Court of Appeal affirmed orders granting relief on petitions for writ of habeas corpus. The court limited review to the following issue: Does the residency restriction of Penal Code section 3003.5, subdivision (b), when enforced as a mandatory parole condition against registered sex offenders paroled to San Diego County, constitute an unreasonable statutory parole condition that infringes on their constitutional rights? (See *In re E.J.* (2010) 47 Cal.4th 1258, 1282, fn. 10.)

Teal v. Superior Court, S211708. (B247196; 217 Cal.App.4th 308; Los Angeles County Superior Court; NA026415.) Petition for review after the Court of Appeal denied a petition for peremptory writ of mandate. This case presents the following issue: Did defendant have the right to appeal the trial court's denial of his petition to recall his sentence under Penal Code section 1170.126, part of the Three Strikes Reform Act of 2012, when the trial court held he did not meet the threshold eligibility requirements for resentencing?

People v. Tom, S202107. (A124764, A130151; 204 Cal.App.4th 480; San Mateo County Superior Court; SC064912.) Petition for review after the Court of Appeal reversed a judgment of conviction of a criminal offense. This case presents the following issue: Did the admission of defendant's post-arrest, pre-*Miranda* silence as substantive evidence of guilt violate his Fifth Amendment rights?

People v. Tran, S211329. (H036977; 216 Cal.App.4th 102; Santa Clara County Superior Court; 205026.) Petition for review after the Court of Appeal affirmed an order extending a commitment after a judgment of not guilty by reason of insanity. The court limited review to the following issues: Did the trial court prejudicially err by failing to advise defendant of his right to jury trial and obtain a personal waiver of that right? Does the Court of Appeal have authority to declare a rule of procedure for the trial courts? (See also *People v. Blackburn*, S211078.)

People v. Trujillo, S213687. (H038316; nonpublished opinion; Santa Clara County Superior Court; C1199870.) Petition for review after the Court of Appeal reversed a judgment of conviction of a criminal offense and remanded with directions. This case presents the following issue: Does the failure to object to an order for payment of a presentence investigation fee and/or an order for payment of probation supervision fees forfeit a claim that the trial court erred in failing to make a finding of the defendant's ability to pay the amount in question? (See also *People v. Aguilar*, S213571.)

People v. Vargas, S203744. (B231338; 206 Cal.App.4th 971; Los Angeles County Superior Court; KA085541.) Petition for review after the Court of Appeal affirmed a judgment of conviction of criminal offenses. The court limited review to the following issue: Did the trial court abuse its discretion under *People v. Superior Court (Romero)* (1996) 13 Cal.4th 497, by failing to dismiss one of defendant's two strikes, given that they arose from the same act?

People v. Whitmer, S208843. (B231038; 213 Cal.App.4th 122; Los Angeles County Superior Court; GA079423.) Petition for review after the Court of Appeal affirmed a judgment of conviction of criminal offenses. The court limited review to the following issue: Was defendant properly sentenced on multiple counts of grand theft or did his multiple takings constitute a single offense under *People v. Bailey* (1961) 55 Cal.2d 514?

People v. Wright, S202433. (B228640; 204 Cal.App.4th 1084; Los Angeles County Superior Court; BA358919.) Petition for review after the Court of Appeal affirmed a judgment of conviction of a criminal offense. This case presents the following issues: (1) Did the trial court misapply *People v. Wheeler* (1978) 22 Cal.3d 258 and *Batson v. Kentucky* (1986) 476 U.S. 79 by granting a prosecution motion claiming the defense was selectively excluding prospective Caucasian jurors when defense counsel, asked his reason for excluding a particular female Caucasian juror, acknowledged that one of his reasons for the challenge was to achieve a more gender-balanced jury? (2) Did the trial court err by reseating the juror and then refusing to allow the defense to exercise a peremptory challenge after acknowledging that defense counsel had provided a legitimate gender-neutral reason for challenging that particular female Caucasian juror? (3) If the trial court erred by reseating the juror, is that error reversible per se or subject to a harmless error analysis?