



**SUPREME COURT OF CALIFORNIA
ORAL ARGUMENT CALENDAR
SAN FRANCISCO SESSION
OCTOBER 2 and 3, 2017**

FIRST AMENDED

The following cases are placed upon the calendar of the Supreme Court for hearing at its courtroom in the Ronald M. George State Office Complex, Warren Building, 350 McAllister Street, Fourth Floor, San Francisco, California, on October 2 and 3, 2017.

MONDAY, OCTOBER 2, 2017—9:00 A.M.

- (1) T.H., a Minor, et al. v. Novartis Pharmaceuticals Corporation, S233898
(Mauro, J., assigned justice pro tempore)
- (2) Kurwa (Badrudin) v. Kislinger (Mark B.), et al., S234617
(McConnell, A. P. J., assigned justice pro tempore)
- (3) Jackson (Patrick Lowell) v. Superior Court of Riverside County (People, Real Party in Interest), S235549
(McGuinness, A. P. J., assigned justice pro tempore)

1:30 P.M.

- (4) People v. Gallardo (Sulma Marilyn), S231260
(Hoffstadt, J., assigned justice pro tempore)
- (5) People v. Contreras (Leonel), et al., S224564
(Kriegler, J., assigned justice pro tempore)
- (6) People v. Rices (Jean Pierre) [Automatic Appeal], S175851
(Nares, J., assigned justice pro tempore)

TUESDAY, OCTOBER 3, 2017—9:00 A.M.

- (7) People v. Frierson (James Belton), S236728
(Miller, J., assigned justice pro tempore)
- (8) People v. Hicks (Marvin Travon), S232218
(Moore, J., assigned justice pro tempore)

CANTIL-SAKAUYE

Chief Justice

If exhibits are to be transmitted to this court, counsel must apply to the court for permission. (See Cal. Rules of Court, rule 8.224(c).)

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The following case summaries are issued to inform the public about cases that the California Supreme Court has scheduled for oral argument and of their general subject matter. In most instances, the descriptions set out below are reproduced from the original news release issued when review in each of these matters was granted and are provided for the convenience of the public. The descriptions do not necessarily reflect the view of the court or define the specific issues that will be addressed by the court.

MONDAY, OCTOBER 2, 2017—9:00 A.M.

(1) *T.H., a Minor, et al. v. Novartis Pharmaceuticals Corporation, S233898 (Mauro, J., assigned justice pro tempore)*

#16-199 T.H., a Minor, et al. v. Novartis Pharmaceuticals Corporation, S233898.

(D067839; 245 Cal.App.4th 589; Superior Court of San Diego County; 37-2013-00070440-CU-MM-CTL.) Petition for review after the Court of Appeal reversed an order in a civil action. The court limited review to the following issue: May the brand name manufacturer of a pharmaceutical drug that divested all ownership interest in the drug be held liable for injuries caused years later by another manufacturer's generic version of that drug?

(2) *Kurwa (Badrudin) v. Kislinger (Mark B.), et al., S234617 (McConnell, A. P. J., assigned justice pro tempore)*

#16-269 Kurwa (Badrudin) v. Kislinger (Mark B.), et al., S234617. (B264641; nonpublished opinion; Superior Court of Los Angeles County; KC045216.) Petition for review after the Court of Appeal dismissed an appeal in a civil action. This case presents the following issue: Can plaintiff take an appeal in the current posture of this litigation?

(3) *Jackson (Patrick Lowell) v. Superior Court of Riverside County (People, Real Party in Interest), S235549 (McGuinness, A. P. J., assigned justice pro tempore)*

#16-295 Jackson (Patrick Lowell) v. Superior Court of Riverside County (People, Real Party in Interest), S235549. (E064010; 247 Cal.App.4th 767; Superior Court of

Riverside County; INF1500950.) Petition for review after the Court of Appeal denied a petition for writ of peremptory mandate or prohibition. This case presents the following issue: After an incompetent defendant has reached the maximum three-year commitment provided for by law, can the prosecution initiate a new competency proceeding by obtaining dismissal of the original complaint and proceeding on a new charging document?

1:30 P.M.

(4) *People v. Gallardo (Sulma Marilyn), S231260 (Hoffstadt, J., assigned justice pro tempore)*

#16-38 *People v. Gallardo (Sulma Marilyn), S231260. (B257357; nonpublished opinion; Superior Court of Los Angeles County; VA126705.)* Petition for review after the Court of Appeal affirmed in part and reversed in part a judgment of conviction of criminal offenses. The court limited review to the following issue: Was the trial court's decision that defendant's prior conviction constituted a strike incompatible with *Descamps v. U.S.* (2013) 570 U.S. __ (133 S.Ct. 2276) because the trial court relied on judicial fact-finding beyond the elements of the actual prior conviction?

(5) *People v. Contreras (Leonel), et al., S224564 (Kriegler, J., assigned justice pro tempore)*

#15-46 *People v. Contreras (Leonel), et al., S224564. (D063428; nonpublished opinion; Superior Court of San Diego County; SCD236438.)* 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: Is a total sentence of 50 years to life or 58 years to life the functional equivalent of life without the possibility of parole for a juvenile offender within the meaning of the Eighth Amendment?

(6) *People v. Rices (Jean Pierre), S175851 [Automatic Appeal] (Nares, J., assigned justice pro tempore)*

This matter is an automatic appeal from a judgment of death.

TUESDAY, OCTOBER 3, 2017—9:00 A.M.

(7) *People v. Frierson (James Belton), S236728 (Miller, J., assigned justice pro tempore)*

#16-362 *People v. Frierson (James Belton), S236728.* (B260774; 1 Cal.App.5th 788; Superior Court of Los Angeles County; GA043389.) Petition for review after the Court of Appeal affirmed an order denying a petition to recall sentence. The court limited review to the following issue: What is the standard of proof for a finding of ineligibility for resentencing under Proposition 36? (See *People v. Arevalo* (2016) 244 Cal.App.4th 836; cf. *People v. Osuna* (2014) 225 Cal.App.4th 1020)?

(8) *People v. Hicks (Marvin Travon), S232218 (Moore, J., assigned justice pro tempore)*

#16-87 *People v. Hicks (Marvin Travon), S232218.* (B259665; 243 Cal.App.4th 343; Superior Court of Los Angeles County; MA058121.) 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 err when it refused to inform the jury at the retrial of a murder charge that defendant had been convicted of gross vehicular manslaughter in the first trial? (Compare *People v. Batchelor* (2014) 229 Cal.App.4th 1102.)