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Public Information Office
455 Golden Gate Avenue
San Francisco, CA 94102-3688
www.courtinfo.ca.gov

415-865-7740

Lynn Holton
Public Information Officer

NEWS RELEASE

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Summary of Cases Accepted During the Week of January 14, 2008

[This news release is issued to inform the public and the press of cases that the Supreme Court has accepted and of their general subject matter. The statement of the issue or issues in each case set out below does not necessarily reflect the view of the court, or define the specific issues that will be addressed by the court.]

#08-11 *People v. Ceja*, S157932. (D049566; 155 Cal.App.4th 1246; San Diego County Superior Court; SCE262242) 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: If a defendant is improperly convicted of both stealing property and receiving the same stolen property (see Pen. Code, section 496, subd. (a)), should the theft conviction or the receiving conviction be reversed?

#08-12 *In re Jose C.*, S158043. (D049525; 155 Cal.App.4th 1115; Imperial County Superior Court; JIL23536.) Petition for review after the Court of Appeal affirmed orders in a juvenile wardship proceeding. This case presents the following issue: Can a juvenile wardship proceeding under Welfare and Institutions Code section 602 be predicated entirely on the violation of a federal statute?

#08-13 *People v. Moya*, S157980. (B192331; nonpublished opinion; Los Angeles County Superior Court; KA074073.) 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 trial court err to defendant's prejudice in failing to instruct the jury on voluntary manslaughter on a theory of provocation and heat of passion as a lesser included offense of second degree murder?

#08-14 *People v. Chaffee*, S158873. (E042070, E043099; nonpublished opinion; San Bernardino; FMB006880.) Petition for review after the

Court of Appeal affirmed a judgment of conviction of a criminal offense. The court ordered briefing deferred pending decision in *People v. Towne*, S125677 (#04-75), and *People v. French*, S148845 (#07-10), which present issues concerning the use as aggravating sentencing of such factors as being on probation or parole when a crime was committed and prior unsatisfactory performance on probation or parole, and whether the trial court violated defendant's Sixth Amendment right to a jury trial, as interpreted in *Cunningham v. California* (2007) 549 U.S. ___, 127 S.Ct. 856, by imposing an upper term sentence based on aggravating factors not found true by the jury, where the defendant entered a no contest plea and was sentenced in accordance with his plea agreement.

#08-15 *People v. Linarez*, S158154. (C052722; 155 Cal.App.4th 1393; Butte County Superior Court; CM024191.) Petition for review after the Court of Appeal affirmed a judgment of conviction of a criminal offense. The court ordered briefing deferred pending decision in *People v. Towne*, S125677 (#04-75), and *People v. Nguyen*, S154847 (#07-416), which present issues concerning the use as aggravating sentencing of such factors as being on probation or parole when a crime was committed and prior unsatisfactory performance on probation or parole, and whether a prior juvenile adjudication of a criminal offense in California can constitutionally subject a defendant to the provisions of the three strikes law (Pen. Code, §§ 667, subds. (b)-(i), 1170.12) although there is no right to a jury trial in juvenile wardship proceedings in this state.

#08-16 *People v. Moore*, S158888. (H029699; nonpublished opinion; Santa Clara County Superior Court; CC459684.) Petition for review after the Court of Appeal affirmed a judgment of conviction of criminal offenses.

#08-17 *People v. Thomas*, S158980. (B169300; 156 Cal.App.4th 988; Los Angeles County Superior Court; MA024801.) Petition for review after the Court of Appeal affirmed a judgment of conviction of criminal offenses.

#08-18 *People v. Venzor*, S158821. (B186141; nonpublished opinion; Santa Barbara County Superior Court; 1095298.) Petition for review after the Court of Appeal affirmed a judgment of conviction of criminal offenses.

#08-19 *People v. Zepeda*, S158717. (C053912; nonpublished opinion; Butte County Superior Court; CM024049.) Petition for review after the Court of Appeal affirmed a judgment of conviction of criminal offenses.

The court ordered briefing in *Moore*, *Thomas*, *Venzor*, and *Zepeda* deferred pending decision in *People v. Towne*, S125677 (#04-75), which presents issues concerning the use as aggravating sentencing of such factors as being on probation or parole when a crime was committed and prior unsatisfactory performance on probation or parole.

DISPOSITIONS

Review in the following case was dismissed:

#07-07 *Federici v. Gursev Schneider & Co.*, S147905.

Review in the following case was dismissed in light of *People v. Sloan* (2007) 42 Cal.4th 110 and *People v. Izaguirre* (2007) 42 Cal.4th 126:

#07-09 *People v. Jenkins*, S147926.

The following case was transferred for reconsideration in light of *People v. Sloan* (2007) 42 Cal.4th 110:

#07-282 *People v. Julius*, S152672.

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