



JUDICIAL COUNCIL OF
CALIFORNIA
ADMINISTRATIVE OFFICE
OF THE COURTS
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

Release Number: **S.C. 08/08**

Release Date: **February 22, 2008**

Summary of Cases Accepted During the Week of February 18, 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.]

#08-41 *People v. Daniels*, S159866. (C052984; nonpublished opinion; Sacramento County Superior Court; 05F03867, 05F04126.) Petition for review after the Court of Appeal affirmed in and reversed in part judgments of conviction of criminal offenses.

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.

#08-42 *In re Montgomery*, S159141. (B192544; 156 Cal.App.4th 930; San Luis Obispo County Superior Court; CR14384.) Petition for review after the Court of Appeal affirmed an order granting a petition for writ of habeas corpus.

The court ordered briefing deferred pending decision in *In re Lawrence*, S154018 (#07-399), *In re Shaputis*, S155872 (#07-428), and *In re Jacobson*, S156416 (#07-461), which include the following issue: In making parole suitability determinations for life prisoners, to what extent should the Board of Parole Hearings, under Penal Code section 3041, and

the Governor, under Article V, section 8(b) of the California Constitution and Penal Code section 3041.2, consider the prisoner's current dangerousness, and at what point, if ever, is the gravity of the commitment offense and prior criminality insufficient to deny parole when the prisoner otherwise appears rehabilitated?

#08-43 *People v. Tilley*, S159328. (C055089; nonpublished opinion; Shasta County Superior Court; 06F1483.) Petition for review after the Court of Appeal dismissed an appeal from a judgment of conviction of criminal offenses.

The court ordered briefing deferred pending decision in *People v. French*, S148845 (#07-10), which includes the question 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.

#