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NEWS RELEASE

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Summary of Cases Accepted During the Week of April 23, 2007

[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.]

#07-156 *Barnett v. Superior Court*, S150229. (C051311; 146 Cal.App.4th 344; Butte County Superior Court; 91850.) Petition for review after the Court of Appeal granted in part and denied in part a petition for peremptory writ of mandate. This case includes the following issues: (1) Is a defendant seeking post-conviction discovery under Penal Code section 1054.9 required to produce evidence indicating that the discovery material he or she is requesting actually exists? (2) Does an out-of-state law enforcement agency become part of the prosecution team for the purposes of the disclosure obligations under *Brady v. Maryland* (1963) 373 U.S. 83, if that agency's involvement is limited to providing the prosecution in the current case with previously existing records regarding prior crimes of the defendant?

#07-157 *People v. Infante*, S151027. (H030376; nonpublished opinion; San Benito County Superior Court; CR0600089.) Petition for review after the Court of Appeal affirmed a judgment of conviction of criminal offenses. The court ordered briefing deferred pending decision in *People v. Crandell*, S134883 (#05-186), which presents the following issue: Does the imposition of a restitution fine under Penal Code section 1202.4, subdivision (b), violate a defendant's plea agreement if the fine was not an express term of the agreement?

In the following cases, which present issues relating to the effect of *Cunningham v. California* (2007) 549 U.S. ___, 127 S.Ct. 856, on

(over)

California sentencing law, the court ordered briefing deferred pending further order of the court:

#07-158 *People v. Ayyar*, S150748. (B180936; nonpublished opinion; Santa Barbara County Superior Court; 1014375.) Petition for review after the Court of Appeal remanded for resentencing and otherwise affirmed a judgment of conviction of criminal offenses.

#07-159 *People v. Stokes*, S151106. (B192558; nonpublished opinion; Los Angeles County Superior Court; VA093940.) Petition for review after the Court of Appeal modified and affirmed a judgment of conviction of criminal offenses.

STATUS

#06-88 *Chambers v. Superior Court*, S143491. The court limited the issues to be argued to the following issue: Is derivative information developed after *Pitchess* (*Pitchess v. Superior Court* (1974) 11 Cal.3d 531) disclosure in an earlier case subject to a protective order under Evidence Code section 1045, subdivision (e), when a later defendant, represented by the same attorney as the first defendant, files a *Pitchess* motion regarding the same law enforcement officer and obtains the name of the same complainant?

#06-10 *Elkins v. Superior Court*, S139073. The court directed the parties to file supplemental briefs addressing the following question: Are the Contra Costa County Superior Court's prior local rule of court (see Super. Ct. Contra Costa County, Local Rules, rule 12.5, eff. July 1, 2005), the trial scheduling order in the present case, and the court's current local rule (Super. Ct. Contra Costa County, Local Rules, rule 12.8, eff. Jan. 1, 2007) consistent with the hearsay rule (Evid. Code, § 1200 et seq.; *Fewel v. Fewel* (1943) 23 Cal.2d 431, 438 (conc. opn. of Traynor, J.); *Lacrabere v. Wise* (1904) 141 Cal. 554, 556; *Pajaro Valley Water Management Agency v. McGrath* (2005) 128 Cal.App.4th 1093, 1107), to the extent they call for the introduction of declarations into evidence at trial in a marital dissolution action?

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