



NEWS

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Lynn Holton, Public Information Officer

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SUMMARY OF CASES ACCEPTED DURING THE WEEK OF JUNE 7, 2004

[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 description or descriptions set out below do not necessarily reflect the view of the court, or define the specific issues that will be addressed by the court.]

#04-54 *Big Creek Lumber Co. v. County of Santa Cruz*, S123659. (H023778; 115 Cal.App.4th 952, mod. 116 Cal.App.4th 763b; Santa Cruz County Superior Court; CV134816, CV137992.) Petition for review after the Court of Appeal affirmed in part and reversed in part the judgment in a civil action. This case presents the following issue: Do the state timber laws (Gov. Code, § 51100 et seq. [California Timberland Productivity Act of 1982]; Pub. Resources Code, § 4511 et seq. [Z'berg-Nejedly Forest Practice Act of 1973]) preempt all county regulation of timber harvesting, including the designation of zoning districts where harvesting can take place and the permissible location of helicopter operations related to timber harvesting?

#04-55 *People v. Hofsheier*, S124636. (H026217; 117 Cal.App.4th 438; Santa Cruz County Superior Court; F07121.) 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 Penal Code section 290 violate the equal protection clause of the state or federal Constitution by requiring a defendant convicted of oral copulation with a minor to register as a sex offender but not requiring such registration by a defendant convicted of unlawful sexual intercourse with a minor?

#04-56 *People v. Ibarra*, S124067. (E031542; unpublished opinion; Riverside County Superior Court; RIF96585.) Petition for review after the Court of Appeal

(over)

reversed a judgment of conviction of a criminal offense. This case includes the following issue: In light of the Court of Appeal's finding of *Wheeler/Batson* error (*People v. Wheeler* (1978) 22 Cal.3d 258; *Batson v. Kentucky* (1986) 476 U.S. 79), what is the appropriate remedy in this case—outright reversal of defendant's conviction or a limited remand to permit the trial court to inquire into the prosecutor's reasons for removing minority jurors?

#04-57 *Koebke v. Bernardo Heights Country Club*, S124179. (D041058; 116 Cal.App.4th 791; San Diego County Superior Court; GIC767256.) Petition for review after the Court of Appeal affirmed in part and reversed in part the judgment in a civil action. This case presents the following issues: (1) Does the Unruh Act (Civ. Code, § 51) prohibit discrimination based upon marital status? (2) Does the Act's prohibition against discrimination on the basis of gender or sexual orientation bar a business establishment from providing benefits only to legally married couples, so long as California law does not permit couples of the same sex to marry?

#04-58 *Rico v. Mitsubishi Motors Corp.*, S123808. (E033616; 116 Cal.App.4th 51; San Bernardino County Superior Court; RCV39233.) Petition for review after the Court of Appeal affirmed an order in a civil action. This case includes the following issue: Did the trial court properly disqualify plaintiffs' attorneys and plaintiffs' expert witnesses as a sanction when an attorney representing one of the plaintiffs, after inadvertently receiving a document prepared by defense counsel that included confidential work product, extensively reviewed the document with the attorneys representing other plaintiffs and with plaintiffs' expert witnesses?

#04-59 *People v. Robinson*, S123938. (B149425; 116 Cal.App.4th 1302; Los Angeles County Superior Court; GA036768.) Petition for review after the Court of Appeal reversed a judgment of conviction of criminal offenses. This case presents the following issue: Where the trial court found a prima facie case of *Wheeler/Batson* error with regard to the third African-American potential juror removed by the prosecutor with a peremptory challenge (*People v. Wheeler* (1978) 22 Cal.3d 258; *Batson v. Kentucky* (1986) 476 U.S. 79), was the court required to obtain the prosecutor's reasons for

removing each of the three African-American potential jurors or could the court limit its inquiry to the prosecutor's reasons for the third challenge?

#04-60 *In re Sheena K.*, S123980. (B167626; 116 Cal.App.4th 436; Los Angeles County Superior Court; KJ19106.) Petition for review after the Court of Appeal modified and affirmed orders in a wardship proceeding. This case presents the following issue: Is a challenge to a condition of juvenile probation as unconstitutionally vague or overbroad waived or forfeited by the failure to object to the condition at the time of the dispositional hearing in juvenile court?

#04-61 *People v. Lopez*, S123684. (B162333; unpublished opinion; Los Angeles County Superior Court; BA1945465.) Petition for review after the Court of Appeal modified and affirmed judgments of conviction of a criminal offense. The court ordered briefing deferred pending decision in *People v. Lopez*, S119294 (#03-136), which presents the following issue: Is a defendant who is convicted of first degree murder with a finding that the crime was committed for the benefit of a criminal street gang within the meaning of Penal Code section 186.22 subject to an enhancement of 10 years under section 186.22, subdivision (b)(1)(C) or instead to a minimum parole eligibility term of 15 years under section 186.22, subdivision (b)(5), which applies where the defendant is convicted of "a felony punishable by imprisonment in the state prison for life"?

#04-62 *In re Martin M.*, S123963. (H025631; unpublished opinion; Santa Clara County Superior Court; J121122.) Petition for review after the Court of Appeal reversed an order in a wardship proceeding. The court ordered briefing deferred pending decision in *People v. Hofsheier*, S124636 (#04-55), which presents the following issue: Does Penal Code section 290 violate the equal protection clauses of the state and federal Constitutions by requiring a defendant convicted of oral copulation with a minor to register as a sex offender but not requiring such registration for a defendant convicted of unlawful sexual intercourse with a minor?

#04-63 *People v. Williams*, S123910. (C042763; 116 Cal.App.4th 1114; Sacramento County Superior Court; 01F08475.) Petition for review after the Court of Appeal affirmed in part and reversed in part a judgment of conviction of criminal offenses. The court ordered briefing deferred pending decision in *People v. Howard*,

S108353 (#02-151), which presents the following issues: (1) Is the offense of driving in willful or wanton disregard for the safety of persons or property while fleeing from a pursuing police officer (Veh. Code, § 2800.2) a felony inherently dangerous to human life for purposes of the second degree felony-murder rule? (2) Is the offense of proximately causing death or serious bodily injury by willful flight from a pursuing police officer (Veh. Code, § 2800.3) a more specific offense precluding application of the second degree felony-murder rule where death occurs during the offense of driving in willful or wanton disregard for the safety of persons or property while fleeing from a pursuing police officer (Veh. Code, § 2800.2)?

DISPOSITION

#03-31 *Vedanta Society of So. California v. California Quartet, Ltd.*, S112816, was dismissed in light of the settlement of the action.

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