



NEWS RELEASE

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Summary of Cases Accepted During the Week of July 27, 2009

[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.]

#09-36 *People v. Ary, S173309.* (A113020; 173 Cal.App.4th 80; Contra Costa County Superior Court; 9805755.) Petition for review after the Court of Appeal remanded a judgment of conviction of criminal offenses for a determination whether defendant had been competent to stand trial. This case presents the following issue: At a retrospective competency hearing, does the prosecution or the defendant bear the burden of proving competence by a preponderance of the evidence?

#09-37 *Lopez v. Superior Court, S172589.* (G040679; 173 Cal.App.4th 266; San Bernardino County Superior Court; FVAFS700968.) Petition for review after the Court of Appeal denied a petition for peremptory writ of mandate. This case presents the following issue: Can a person committed as a mentally disordered offender challenge that determination at the time of a petition to extend the commitment or can the question be litigated only at the time of the original certification?

#09-38 *In re Molina, S173260.* (B208705; nonpublished opinion; San Luis Obispo County Superior Court; CR13298.) Petition for review after the Court of Appeal affirmed an order granting a petition for writ of habeas corpus. This case presents the following issue: When a court determines the Board of Parole Hearings abused its discretion in denying parole to an inmate, may it order the Board to release the inmate on parole or must it allow the Board to redetermine the inmate's parole

suitability and afford the Governor the opportunity to exercise his or her independent constitutional right to review parole decisions?

#09-39 *In re Prather*, S172903. (B211805; nonpublished opinion; Los Angeles County Superior Court; BH005392.) Petition for review after the Court of Appeal granted a petition for writ of habeas corpus. This case presents the following issue: When a court determines the Board of Parole Hearings abused its discretion in denying parole to an inmate, may it order the Board to find the inmate suitable for parole unless new and different evidence of the inmate's conduct in prison subsequent to the parole hearing at issue supports a determination that the inmate currently poses an unreasonable risk of danger to society if released on parole?

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