



# NEWS

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## **SUMMARY OF CASES ACCEPTED DURING THE WEEK OF SEPTEMBER 20, 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.]

#04-105 *People v. Cottle*, S126550. (C043594; 119 Cal.App.4th 745; Sacramento County Superior Court; 02F03971, 96F09935.) Petition for review after the Court of Appeal reversed a judgment of conviction of criminal offenses. The case presents the following issue: Where relevant new information was disclosed after the 12 regular jurors had been sworn but before the alternate jurors had been sworn, did the trial court err in denying defendant's request to reopen the jury selection process to permit the exercise of a peremptory challenge to one of the original 12 jurors?

#04-106 *Garcia v. Superior Court*, S127432. (G032739; 120 Cal.App.4th 1252; Orange County Superior Court; 02CFF1970.) Petition for review after the Court of Appeal granted a petition for peremptory writ of mandate. This case presents the following issue: Is a defendant entitled to file a declaration under seal in support of a motion for discovery under *Pitchess v. Superior Court* (1974) 11 Cal.3d 531 if the declaration contains information protected from disclosure by the attorney-client or work-product privilege, and, if so, may the trial court nonetheless grant counsel for the police department access to the sealed document so long as the access is accompanied by a protective order?

#04-107 *People v. Miranda*, S126607. (B162992; unpublished opinion; Ventura County Superior Court; CR48899A.) Petition for review after the Court of Appeal

(over)

modified and affirmed a judgment of conviction of criminal offenses. 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”?

## **DISPOSITIONS**

#03-38 *People v. Lewis*, S112635, was dismissed.

#04-20 *People v. Johnson*, S121712, was transferred to the Court of Appeal for reconsideration in light of *People v. Mosby* (2004) 33 Cal.4th 353.

## **STATUS**

#04-94 *Kristine H. v. Lisa R.*, S126945. The court directed the parties to brief the following issues in this case: (1) Is the judgment establishing parental rights issued September 8, 2000 invalid? Is the judgment invalid because it was based upon a stipulation? If so, is such a stipulated judgment void or voidable? (2) If the judgment establishing parental rights is invalid, may the superior court nevertheless determine whether Lisa R. is a parent of the child? (3) May Family Code section 7611 be applied in a gender-neutral fashion to determine whether a parent-child relationship exists between a woman and a child? (4) May Lisa R. be determined to be a parent of a child under cases such as *People v. Sorensen* (1968) 68 Cal.2d 280 and *Johnson v. Calvert* (1993) 5 Cal.4th 84 that consider a person’s intention to cause the birth of the child? (5) What impact, if any, will Family Code section 297.5, which will become effective on January 1, 2005, have on the issues in this case?

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