



NEWS

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SUMMARY OF CASES ACCEPTED DURING THE WEEK OF NOVEMBER 15, 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.]

#04-128 *In re Bolden*, S099231. Original proceeding. In this case, which is related to the automatic appeal in *People v. Bolden* (2002) 29 Cal.4th 515, the court issued an order to show cause limited to the following issues: Is petitioner entitled to relief from the judgment of death (1) on the ground of ineffective assistance of trial counsel based upon counsel's failure to specifically inquire on voir dire about a juror's prior acquaintance with the victim, or (2) on the ground of juror misconduct based upon the juror's (a) failure to disclose his prior relationship with the victim, (b) prejudgment of the penalty issue, or (c) failure or refusal to deliberate on penalty?

#04-129 *In re Valdez*, S107508. Original proceeding. In this case, which is related to the automatic appeal in *People v. Valdez* (2004) 32 Cal.4th 73, the court issued an order to show cause limited to the following issues: Is petitioner entitled to relief on the claim that trial counsel provided ineffective assistance at the guilt and penalty phases of his trial based upon counsel's failure (1) to introduce a laboratory report or to question an investigating officer about the results of any testing done on a pair of trousers, (2) to make an adequate offer of proof and cite relevant authority with respect to third party culpability evidence, (3) to have petitioner examined by a mental health professional, or (4) to ask the trial court to reconsider the admissibility of third party culpability evidence at the penalty phase?

(over)

#04-130 *In re Cortinas*, S127439. (H025526; 120 Cal.App.4th 1153; Santa Clara County Superior Court; 106160.) Petition for review after the Court of Appeal reversed an order granting a petition for writ of habeas corpus. The court ordered briefing deferred pending decision in *In re Dannanberg*, S111029 (#03-02), which presents the following issue: At a parole suitability hearing that is held pursuant to Penal Code section 3041, must the Board of Prison Terms generally engage in a comparative proportionality analysis with respect to offenses of similar gravity and magnitude and consider base term matrices used by the Board in setting release dates and deny a parole date solely on the basis of the circumstances of the offense only when the offense is particularly egregious, or may the Board first determine whether the inmate is suitable for parole because he or she is no longer a threat to public safety and engage in a proportionality analysis only if it finds the inmate suitable for parole?

#04-131 *People v. Ochoa*, S128417. (D042215; 121 Cal.App.4th 1551, mod. 122 Cal.App.4th 823c; San Diego County Superior Court; SCD167401.) Petition for review after the Court of Appeal modified and affirmed a judgment of conviction of criminal offenses. The court ordered briefing deferred pending decision in (1) *People v. Black*, S126182 (#04-83), which concerns the effect of *Blakely v. Washington* (2004) 542 U.S. ___, 124 S.Ct. 2531, have on the trial court's imposition of upper term and consecutive sentences, and (2) *People v. Cage*, S127344 (#04-111), which concerns whether *all* statements made by an ostensible crime victim to a police officer in response to general investigative questioning are "testimonial hearsay" within the meaning of *Crawford v. Washington* (2004) 541 U.S. ___, 124 S.Ct. 1354 and inadmissible in the absence of an opportunity to cross-examine the declarant, or only statements made in response to a formal interview at a police station.

DISPOSITIONS

#03-102 *People v. Lodhia*, S116713, was dismissed.

#03-154 *People v. McDaniel*, S120337, was transferred to the Court of Appeal for reconsideration in light of *People v. Griffin* (2004) 33 Cal.4th 1015.

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