



**SUPREME COURT OF CALIFORNIA
ORAL ARGUMENT CALENDAR
SAN FRANCISCO SESSION
JANUARY 4 and 5, 2017**

The following cases are placed upon the calendar of the Supreme Court for hearing at its courtroom in the Ronald M. George State Office Complex, Earl Warren Building, 350 McAllister Street, Fourth Floor, San Francisco, California, on January 4 and 5, 2017.

WEDNESDAY, JANUARY 4, 2017—9:00 A.M.

- (1) Banning Ranch Conservancy v. City of Newport Beach et al.
(Newport Banning Ranch, LLC et al., Real Parties in Interest), S227473
- (2) John M. Carmack, as Trustee, etc., et al. v. Reynolds (Rick H.)
(Todd A. Frealy, as Trustee in Bankruptcy, etc., Real Party in Interest),
S224985
- (3) Flethez (Frank) v. San Bernardino County Employees Retirement
Association, S226779

1:30 P.M.

- (4) People v. Gonzales (Giovanni), S231171
- (5) People v. Merritt (Andre), S231644
- (6) People v. Brooks (Donald Lewis) [Automatic Appeal], S099274

THURSDAY, JANUARY 5, 2017—9:00 A.M.

- (7) Perry (Wilson Dante) v. Bakewell Hawthorne, LLC, S233096
- (8) People v. Garcia (Ignacio), S218197
- (9) People v. Romanowski (Daniel), S231405

1:30 P.M.

- (10) People v. Patterson (Ron Douglas), S225193
- (11) People v. Reese (Keith Ryan), S230259

CANTIL-SAKAUYE

Chief Justice

If exhibits are to be transmitted to this court, counsel must apply to the court for permission. (See Cal. Rules of Court, rule 8.224(c).)

**SUPREME COURT OF CALIFORNIA
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The following case summaries are issued to inform the public about cases that the California Supreme Court has scheduled for oral argument and of their general subject matter. In most instances, the descriptions set out below are reproduced from the original news release issued when review in each of these matters was granted and are provided for the convenience of the public. The descriptions do not necessarily reflect the view of the court or define the specific issues that will be addressed by the court.

WEDNESDAY, JANUARY 4, 2017 — 9:00 A.M.

(1) *Banning Ranch Conservancy v. City of Newport Beach et al. (Newport Banning Ranch, LLC et al., Real Parties in Interest), S227473*

#15-147 Banning Ranch Conservancy v. City of Newport Beach et al. (Newport Banning Ranch, LLC et al., Real Parties in Interest), S227473. (G049691; 236 Cal.App.4th 1341; Orange County Superior Court; 30-2012-00593557.) Petition for review after the Court of Appeal reversed the judgment in an action for writ of administrative mandate. This case presents the following issues: (1) Did the City’s approval of the project at issue comport with the directives in its general plan to “coordinate with” and “work with” the California Coastal Commission to identify habitats for preservation, restoration, or development prior to project approval? (2) What standard of review should apply to a city’s interpretation of its general plan? (3) Was the city required to identify environmentally sensitive habitat areas — as defined in the California Coastal Act of 1976 (Pub. Resources Code, § 3000, et seq.) — in the environmental impact report for the project?

(2) *John M. Carmack, as Trustee, etc., et al. v. Reynolds (Rick H.) (Todd A. Frealy, as Trustee in Bankruptcy, etc., Real Party in Interest), S224985*

#15-53 John M. Carmack, as Trustee, etc., et al. v. Reynolds (Rick H.) (Todd A. Frealy, as Trustee in Bankruptcy, etc., Real Party in Interest), S224985. (9th Cir. No. 12-60068; 779 F.3d 1028; Central District of California; BAP No. 11-1433, Bankr. Case No. 09-

14039-MJ, Adversary Case No. 09-01205-MJ.) Request under California Rules of Court, rule 8.548, that this court decide a question of California law presented in a matter pending in the United States Court of Appeals for the Ninth Circuit. The question presented is: “Does section 15306.5 of the California Probate Code impose an absolute cap of 25 percent on a bankruptcy estate’s access to a beneficiary’s interest in a spendthrift trust that consists entirely of payments from principal, or may the bankruptcy estate reach more than 25 percent under other sections of the Probate Code?”

(3) *Flethez (Frank) v. San Bernardino County Employees Retirement Association*, S226779

#15-120 Flethez (Frank) v. San Bernardino County Employees Retirement Association, S226779. (D066959; 236 Cal.App.4th 65; San Bernardino County Superior Court; CIVDS1212542.) Petition for review after the Court of Appeal reversed the judgment in an action for writ of administrative mandate. This case includes the following issue: If a retroactive award of service-connected disability retirement benefits is made in an administrative mandate proceeding, is prejudgment interest under Civil Code section 3287 calculated from the day after the employee’s last day of regular compensation or the day on which the employee submitted the claim for the benefits?

1:30 P.M.

(4) *People v. Gonzales (Giovanni)*, S231171

#16-39 People v. Gonzales (Giovanni), S231171. (D067544; 242 Cal.App.4th 35; Imperial County Superior Court; JCF32479.) Petition for review after the Court of Appeal affirmed the denial of a petition to recall sentence. This case presents the following issue: Was defendant entitled to resentencing under Penal Code section 1170.18 on his conviction for second degree burglary either on the ground that it met the definition of misdemeanor shoplifting (Pen. Code, § 459.5) or on the ground that section 1170.18 impliedly includes any second degree burglary involving property valued at \$950 or less?

(5) ***People v. Merritt (Andre), S231644***

#16-65 *People v. Merritt (Andre), S231644*. (E062540; nonpublished opinion; San Bernardino County Superior Court; FVI1300082.) Petition for review after the Court of Appeal reversed a judgment of conviction of criminal offenses. This case presents the following issue: Is the failure to instruct the jury on the elements of a charged offense reversible per se or subject to harmless error review? (See *Neder v. United States* (1999) 527 U.S. 1; *People v. Mil* (2012) 53 Cal.4th 400; *People v. Cummings* (1993) 4 Cal.4th 1233.)

(6) ***People v. Brooks (Donald Lewis), S099274*** [Automatic Appeal]

This matter is an automatic appeal from a judgment of death.

THURSDAY, JANUARY 5, 2017 — 9:00 A.M.

(7) ***Perry (Wilson Dante) v. Bakewell Hawthorne, LLC, S233096***

#16-128 *Perry (Wilson Dante) v. Bakewell Hawthorne, LLC, S233096*. (B264027; 244 Cal.App.4th 712; Los Angeles County Superior Court; BC500198.) Petition for review after the Court of Appeal affirmed the judgment in a civil action. The court limited review to the following issue: Does Code of Civil Procedure section 2034.300, which requires a trial court to exclude the expert opinion of any witness offered by a party who has unreasonably failed to comply with the rules for exchange of expert witness information, apply to a motion for summary judgment?

(8) ***People v. Garcia (Ignacio), S218197***

#14-78 *People v. Garcia (Ignacio), S218197*. (H039603; 224 Cal.App.4th 1283; Santa Clara County Superior Court; C1243927.) Petition for review after the Court of Appeal affirmed a judgment of conviction of a criminal offense. This case presents the following issue: Are the conditions of probation mandated by Penal Code section 1203.067, subdivision (b), for persons convicted of specified felony sex offenses — including waiver of the privilege against self-incrimination, required participation in polygraph examinations, and waiver of the psychotherapist–patient privilege — constitutional?

(9) ***People v. Romanowski (Daniel), S231405***

#16-22 People v. Romanowski (Daniel), S231405 (B263164; 242 Cal.App.4th 151; Los Angeles County Superior Court; A064403.) Petition for review after the Court of Appeal reversed an order denying a petition to recall sentence. This case presents the following issue: Does Proposition 47 (“the Safe Neighborhoods and Schools Act”), which reclassifies as a misdemeanor any grand theft involving property valued at \$950 or less (Pen. Code, § 490.2), apply to theft of access card information in violation of Penal Code section 484e, subdivision (d)?

1:30 P.M.

(10) ***People v. Patterson (Ron Douglas), S225193***

#15-90 People v. Patterson (Ron Douglas), S225193. (E060758; nonpublished opinion; Riverside County Superior Court; RIF1201642.) Petition for review after the Court of Appeal affirmed a judgment of conviction of criminal offenses. This case presents the following issue: Was defendant entitled to withdraw his plea (Pen. Code, § 1018) because his trial counsel assertedly provided constitutionally inadequate assistance of counsel during plea negotiations by failing to investigate and advise defendant of the immigration consequences of his plea?

(11) ***People v. Reese (Keith Ryan), S230259***

#16-02 People v. Reese (Keith Ryan), S230259. (B253610; 240 Cal.App.4th 592; Los Angeles County Superior Court; TA125272.) Petition for review after the Court of Appeal modified and affirmed a judgment of conviction of criminal offenses. The court limited review to the following issue: Did the trial court violate defendant’s constitutional right to equal protection of the laws when it denied defendant’s request for transcripts of the opening statements and closing arguments from defendant’s first trial, which ended in a mistrial?