



Supreme Court of California
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NEWS RELEASE

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FOR IMMEDIATE RELEASE

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Summary of Cases Accepted and Related Actions During Week of February 15, 2016

[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.]

#16-38 *People v. Gallardo*, S231260. (B257357; nonpublished opinion; Los Angeles County Superior Court; VA126705.) Petition for review after the Court of Appeal affirmed in part and reversed in part a judgment of conviction of criminal offenses. The court limited review to the following issue: Was the trial court's decision that defendant's prior conviction constituted a strike incompatible with *Descamps v. U.S.* (2013) 570 U.S. __ (133 S.Ct. 2276) because the trial court relied on judicial fact-finding beyond the elements of the actual prior conviction?

#16-39 *People v. Gonzales*, 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?

#16-40 *People v. Maita*, S230957. (C074872; nonpublished opinion; El Dorado County Superior Court; P12CRF0509, P13CRF0072.) Petition for review after the Court of Appeal affirmed in part and reversed in part a judgment of conviction of criminal offenses. The court limited review to the following issue: In light of an amendment to Health and Safety Code section 11379 defining "transports" as transportation for sale (Stats. 2013, ch. 504, § 2), was defendant's sentence improperly enhanced with a prior conviction for transporting a controlled substance?

#16-41 *In re Ricardo P., S230923.* (A144149; 241 Cal.App.4th 676; Alameda County Superior Court; J14023676.) Petition for review after the Court of Appeal modified and affirmed orders in a juvenile wardship proceeding. This case presents the following issue: Did the trial court err by imposing an “electronics search condition” on the juvenile as a condition of his probation when that condition had no relationship to the crimes he committed but was justified on appeal as reasonably related to future criminality under *People v. Olguin* (2008) 45 Cal.4th 375 because it would facilitate the juvenile’s supervision?

#16-42 *People v. Avila, S231790.* (E063508; nonpublished opinion; San Bernardino County Superior Court; FVI026060.) Petition for review after the Court of Appeal affirmed the denial of a petition to recall sentence.

#16-43 *People v. Banuelos, S231180.* (B261696; nonpublished opinion; Los Angeles County Superior Court; TA133315.) Petition for review after the Court of Appeal affirmed the denial of a petition to recall sentence.

#16-44 *People v. Cook, S231563.* (A144054; nonpublished opinion; Contra Costa County Superior Court; 51421254.) Petition for review after the Court of Appeal affirmed the denial of a petition to recall sentence.

#16-45 *People v. Peacock, S230948.* (E063095; 242 Cal.App.4th 708; San Bernardino County Superior Court; FVI1200374.) Petition for review after the Court of Appeal affirmed the denial of a petition to recall sentence.

#16-46 *People v. Sirman, S231704.* (B262302; Los Angeles County Superior Court; MA030244.) Petition for review after the Court of Appeal affirmed the denial of a petition to recall sentence.

The court ordered briefing in *Avila, Banuelos, Cook, Peacock, and Sirman* deferred pending decision in *People v. Cuen, S231107* (#16-22), and *People v. Romanowski, S231405* (#16-24), which present 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)?

#16-47 *People v. Campbell, S231420.* (E061360; nonpublished opinion; Riverside County Superior Court; RIF1307671.) Petition for review after the Court of Appeal affirmed a judgment of conviction of criminal offenses.

#16-48 *People v. Roberts*, S231744. (A143484; nonpublished opinion; Humboldt County Superior Court; CR1007331, CR1101730, CR1206025, CR1304138B.) Petition for review after the Court of Appeal affirmed judgments of conviction of criminal offenses.

The court ordered briefing in *Campbell* and *Roberts* deferred pending decision in *People v. DeHoyos*, S228230 (#15-171), which presents the following issue: Does the Safe Neighborhood and Schools Act [Proposition 47] (Gen. Elec. (Nov. 4, 2014)), which made specified crimes misdemeanors rather than felonies, apply retroactively to a defendant who was sentenced before the Act's effective date but whose judgment was not final until after that date?

#16-49 *People v. Carver*, S231268. (C078239; nonpublished opinion; Placer County Superior Court; 62131666.) Petition for review after the Court of Appeal affirmed the denial of a petition to recall sentence.

#16-50 *People v. Ceja*, S231658. (E062467; nonpublished opinion; San Bernardino County Superior Court; FSB1404077.) Petition for review after the Court of Appeal affirmed the denial of a petition to recall sentence.

#16-51 *People v. Salgado*, S231791. (G051358; nonpublished opinion; Orange County Superior Court; 12WF1843.) Petition for review after the Court of Appeal affirmed the denial of a petition to recall sentence.

The court ordered briefing in *Carver*, *Ceja*, and *Salgado* deferred pending decision in *People v. Page*, S230793 (#16-28), which presents the following issue: Does Proposition 47 ("the Safe Neighborhoods and Schools Act") apply to the offense of unlawful taking or driving a vehicle (Veh. Code, § 10851), because it is a lesser included offense of Penal Code section 487, subdivision (d), and that offense is eligible for resentencing to a misdemeanor under Penal Code sections 490.2 and 1170.18?

#16-52 *People v. Diaz*, S231848. (B264244; nonpublished opinion; Ventura County Superior Court; 2010001002.) Petition for review after the Court of Appeal affirmed a resentencing order. The court ordered briefing deferred pending decision in *People v. Morales*, S228030 (#15-156), which presents the following issue: Can excess custody credits be used to reduce or eliminate the one-year parole period required by Penal Code section 1170.18, subdivision (d), upon resentencing under Proposition 47?

#16-53 *People v. Dokins*, S231052. (B250572; 241 Cal.App.4th 1179; Los Angeles County Superior Court; TA123801.) Petition for review after the Court of Appeal affirmed in part and reversed in part a judgment of conviction of a criminal offense.

#16-54 *People v. Jimenez*, S231740. (C074048; nonpublished opinion; Sacramento County Superior Court; 08F07560.) Petition for review after the Court of Appeal affirmed a judgment of conviction of criminal offenses.

The court ordered briefing in *Dokins* and *Jimenez* deferred pending decision in *People v. Franklin*, S217699 (#14-56), which includes the following issues: (1) Is a total term of imprisonment of 50 years to life for murder committed by a 16-year-old offender the functional equivalent of life without possibility of parole by denying the offender a meaningful opportunity for release on parole? (2) If so, does the sentence violate the Eighth Amendment absent consideration of the mitigating factors for juvenile offenders set forth in *Miller v. Alabama* (2012) 567 U.S. __ [132 S.Ct. 2455]? (3) Did Senate Bill 260 (Reg. Sess. 2013-2014), which includes provisions for a parole suitability hearing after a maximum of 25 years for most juvenile offenders serving life sentences, render moot any claim that such a sentence violates the Eighth Amendment?

#16-55 *People v. Gaines*, S231723. (A141836; 242 Cal.App.4th 1035; Contra Costa County Superior Court; 051322684.) Petition for review after the Court of Appeal affirmed a judgment of conviction of criminal offenses. The court ordered briefing deferred pending decision in *People v. Hall*, S227193 (#15-157), which presents the following issues: (1) Are probation conditions prohibiting defendant from: (a) “owning, possessing or having in his custody or control any handgun, rifle, shotgun or any firearm whatsoever or any weapon that can be concealed on his person”; and (b) “using or possessing or having in his custody or control any illegal drugs, narcotics, narcotics paraphernalia without a prescription,” unconstitutionally vague? (2) Is an explicit knowledge requirement constitutionally mandated?

#16-56 *Gehron v. Bank of America N.T.*, S231447. (E060701; nonpublished opinion; Riverside County Superior Court; INC1302638.) Petition for review after the Court of Appeal affirmed the judgment in a civil action.

#16-57 *Gehron v. Nicholas*, S231459. (E061855; nonpublished opinion; Riverside County Superior Court; INC1302638.) Petition for review after the Court of Appeal affirmed the judgment in a civil action.

The court ordered briefing in *Bank of America* and *Nicholas* deferred pending decision in *Yvanova v. New Century Mortgage Corp.*, S218973 (#14-100), which presents the

following issue: In an action for wrongful foreclosure on a deed of trust securing a home loan, does the borrower have standing to challenge an assignment of the note and deed of trust on the basis of defects allegedly rendering the assignment void?

#16-58 *In re Patrick F.*, S231428. (A143586;242 Cal.App.4th 104; Alameda County Superior Court; SJ14023322.) Petition for review after the Court of Appeal modified and affirmed orders in a juvenile wardship proceeding. The court ordered briefing deferred pending decision in *In re Ricardo P.*, S230923 (#16-##), which presents the following issue: Did the trial court err imposing an “electronics search condition” on minor as a condition of his probation when it had no relationship to the crimes he committed but was justified on appeal as reasonably related to future criminality under *People v. Olguin* (2008) 45 Cal.4th 375 because it would facilitate his supervision?

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The Supreme Court of California is the state's highest court and its decisions are binding on all other California state courts. The court's primary role is to decide matters of statewide importance and to maintain uniformity in the law throughout California by reviewing matters from the six districts of the California Courts of Appeal and the fifty-eight county superior courts (the trial courts). Among its other duties, the court also decides all capital appeals and related matters and reviews both attorney and judicial disciplinary matters.