



NEWS RELEASE

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Summary of Cases Accepted During the Week of February 28, 2011

[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.]

#11-20 *People v. Ballard*, S190106. (E050584; nonpublished opinion; Riverside County Superior Court; RIF147039.) 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 *People v. Mesa*, S185688 (#10-125), which presents the following issue: Does Penal Code section 654 bar the imposition of separate sentences for the offense of active participation in a criminal street gang in violation of Penal Code section 186.22, subdivision (a), and for the crimes used to prove one element of that offense—that the defendant have promoted, furthered, and assisted felonious criminal conduct by members of the gang?

#11-21 *In re J.L.*, S189721. (G040507; 190 Cal.App.4th 1394; Orange County Superior Court; DL009632-16.) Petition for review after the Court of Appeal modified and affirmed orders in a wardship proceeding. The court ordered briefing deferred pending decision in *People v. Mosley*, S187965 (#11-07), which includes the following issue: Does the discretionary imposition of lifetime sex offender registration, which includes residency restrictions that prohibit registered sex offenders from living “within 2000 feet of any public or private school, or park where children regularly gather” (Pen. Code, § 3003.5, subd. (b)), increase the “penalty” for the offense within the meaning of *Apprendi v. New Jersey* (2000) 530 U.S. 466, and require that the facts supporting the trial court’s imposition of the registration requirement be found true by a jury beyond a reasonable doubt?

#11-22 *In re Macias, S189107.* (H033605; 189 Cal.App.4th 1326; Santa Clara County Superior Court; 113003.) Petition for review after the Court of Appeal reversed an order granting relief on a petition for writ of habeas corpus. The court ordered briefing deferred pending decision in *In re Shaputis, S188655* (#11-15), which presents the following issue: Did the Court of Appeal err in setting aside the denial of parole by the Board of Parole Hearings?

#11-23 *Roe v. Doe, S189814.* (C062505; nonpublished opinion; San Joaquin County Superior Court; CV033950.) Petition for review after the Court of Appeal affirmed the judgment in a civil action. The court ordered briefing deferred pending decision in *Quarry v. Doe 1, S171382* (#09-30), which presents the following issue: Did the Court of Appeal err in concluding that plaintiffs were entitled to rely on the delayed discovery provisions of the statute of limitations (Code Civ. Proc., § 340.1) for claims of childhood sexual abuse against specified non-perpetrators who knew of the abuse and had the ability to prevent it but failed to do so?

DISPOSITIONS

#09-70 *Birotte v. Superior Court, S176965.* The court ordered review dismissed.

#06-104 *Stark v. Superior Court, S145337.* The court ordered review in *Putnam v. Superior Court, C051075*, severed from *Stark v. Superior Court, C051073* and *C051074*, and ordered review in *Putnam* dismissed.

STATUS

#11-08 *In re S.W., S187897.* In this case in which review was previously granted, the court ordered briefing deferred pending decision in *People v. Mosley, S187965* (#11-07), which includes the following issue: Does the discretionary imposition of lifetime sex offender registration, which includes residency restrictions that prohibit registered sex offenders from living “within 2000 feet of any public or private school, or park where children regularly gather” (Pen. Code, § 3003.5, subd. (b)), increase the “penalty” for the offense within the meaning of *Apprendi v. New Jersey* (2000) 530 U.S. 466, and require that the facts supporting the trial court’s imposition of the registration requirement be found true by a jury beyond a reasonable doubt?

#11-07 *People v. Mosley, S187965.* In this case in which review was previously granted, the court ordered the parties to brief and argue the following issues in addition to the issue set forth in the People’s petition for review: (1) Does Penal Code section 3003.5,

subdivision (b), validly create a misdemeanor offense subject to violation by all persons required to register for life pursuant to Penal Code section 290 et seq., regardless of their parole status? (2) If Penal Code section 3003.5, subdivision (b), is not separately enforceable as a misdemeanor offense, does that section nevertheless operate to establish the residency restrictions contained therein as a valid condition of sex offender registration pursuant to Penal Code section 290 et seq.?

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