



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 April 25, 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.]

#16-127 *Leider v. Lewis, S232622*. (B244414; 243 Cal.App.4th 1078, mod. 244 Cal.App.4th 643c; Los Angeles County Superior Court; BC375234.) Petition for review after the Court of Appeal affirmed the judgment in a civil action. The court limited review to the following issues: (1) Does Civil Code section 3369 bar taxpayer actions brought under the authority of Code of Civil Procedure section 526a seeking to enjoin violations of Penal Code provisions concerning animal abuse? (2) Does the law of the case doctrine foreclose petitioners' reliance upon that legal argument in this appeal?

#16-128 *Perry 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?

#16-129 *Ryan v. Rosenfeld, S232582*. (A145465; nonpublished order; San Francisco County Superior Court; CGC10504983.) Petition for review after the Court of Appeal dismissed an appeal in a civil action. The court limited review to the following issue: Is the denial of a motion to vacate the judgment under Code of Civil Procedure section 663 separately appealable?

#16-130 *Sheppard, Mullin, Richter & Hampton, LLP v. J-M Manufacturing Co., Inc., S232946*. (B256314; 244 Cal.App.4th 590, mod. 245 Cal.App.4th 63b; Los Angeles County Superior Court; YC067332.) Petition for review after the Court of Appeal reversed the judgment in a civil action. This case presents the following issues: (1) May

a court rely on non-legislative expressions of public policy to overturn an arbitration award on illegality grounds? (2) Can a sophisticated consumer of legal services, represented by counsel, give its informed consent to an advance waiver of conflicts of interest? (3) Does a conflict of interest that undisputedly caused no damage to the client and did not affect the value or quality of an attorney's work automatically (i) require the attorney to disgorge all previously paid fees, and (ii) preclude the attorney from recovering the reasonable value of the unpaid work?

#16-131 *People v. Brown*, S233274. (E063384; 244 Cal.App.4th 1170; Riverside County Superior Court; RIF1402316.) Petition for review after the Court of Appeal affirmed an order granting a petition to recall sentence.

#16-132 *People v. Garcia*, S233171. (E063383; nonpublished opinion; Riverside County Superior Court; INF10002067.) Petition for review after the Court of Appeal affirmed an order granting a petition to recall sentence.

#16-133 *People v. Gonzalez*, S233219. (E063113; 244 Cal.App.4th 1058; Riverside County Superior Court; INF1101673.) Petition for review after the Court of Appeal affirmed an order granting a petition to recall sentence.

#16-134 *People v. Perry*, S233287. (B263124; 244 Cal.App.4th 1251; Los Angeles County Superior Court; BA387242.) Petition for review after the Court of Appeal affirmed an order granting a petition to recall sentence.

The court ordered briefing in *Brown*, *Garcia*, *Gonzalez*, and *Perry* deferred pending decision in *Harris v. Superior Court*, S231489 (#16-60), which presents the following issues: (1) Are the People entitled to withdraw from a plea agreement for conviction of a lesser offense and to reinstate any dismissed counts if the defendant files a petition for recall of sentence and reduction of the conviction to a misdemeanor under Proposition 47? (2) If the defendant seeks such relief, are the parties returned to the status quo with no limits on the sentence that can be imposed on the ground that the defendant has repudiated the plea agreement by doing so?

#16-135 *People v. Carrea*, S233011. (D068246; 244 Cal.App.4th 966; San Diego County Superior Court; SCD240790.) Petition for review after the Court of Appeal affirmed an order granting in part and denying in part a petition to recall sentence.

#16-136 *People v. Gratton*, S233057. (B262219; nonpublished opinion; Los Angeles County Superior Court; MA053037.) Petition for review after the Court of Appeal dismissed an appeal from denial of a post-conviction motion.

The court ordered briefing in *Carrea* and *Gratton* deferred pending decision in *People v. Valenzuela*, S232900 (#16-97), which presents the following issue: Is a defendant eligible for resentencing on the penalty enhancement for serving a prior prison term on a felony conviction after the superior court has reclassified the underlying felony as a misdemeanor under the provisions of Proposition 47?

#16-137 *People v. Carrillo*, S233192. (D067396; nonpublished opinion; Imperial County Superior Court; JCF32838.) Petition for review after the Court of Appeal affirmed an order denying a petition to recall sentence. The court ordered briefing deferred pending decision in *People v. Gonzales*, S231171 (#16-39), which 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?

#16-138 *People v. Cortinas*, S233246. (H042043; nonpublished opinion; Santa Clara County Superior Court; C1370576.) Petition for review after the Court of Appeal affirmed an order denying a petition to recall sentence. The court ordered briefing 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?

#16-139 *People v. Hollimon*, S232861. (G050259; nonpublished opinion; Orange County Superior Court; 13WF0274.) 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. Gallardo*, S231260 (#16-38), which presents 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?

#16-140 *People v. Moore*, S232851. (A143728; nonpublished opinion; San Mateo County Superior Court; SC081574.) Petition for review after the Court of Appeal modified and affirmed a judgment of conviction of a criminal offense. 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?

#16-141 *People v. Salvador*, S232690. (A142488; 244 Cal.App.4th 741; Contra Costa County Superior Court; 51200815.) Petition for review after the Court of Appeal remanded for resentencing and otherwise affirmed a judgment of conviction of criminal offenses.

#16-142 *People v. Vizcarra*, S232905. (G050644; nonpublished opinion; Orange County Superior Court; 11CF2055.) Petition for review after the Court of Appeal affirmed a judgment of conviction of criminal offenses.

The court ordered briefing in *Salvador* and *Vizcarra* deferred pending decision in *People v. Sanchez*, S216681 (#14-47), which presents the following issue: Was defendant’s Sixth Amendment right to confrontation violated by the gang expert’s reliance on testimonial hearsay (*Crawford v. Washington* (2004) 541 U.S. 36)?

#16-143 *People v. Snell*, S232846. (B256698; nonpublished opinion; Los Angeles County Superior Court; TA126746.) 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. 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?

#16-144 *People v. Triplett*, S233172. (C078492; 244 Cal.App.4th 824; Sutter County Superior Court; CRF140664, CRF140901.) Petition for review after the Court of Appeal affirmed in part and reversed in part an order granting in part and denying in part a petition to recall sentence. The court ordered briefing deferred pending decision in *People v. Gonzales*, S231171 (#16-39), which concerns the definition of the new offense of misdemeanor shoplifting (Pen. Code, § 459.5) and the application of Proposition 47 to second degree burglary generally, and *People v. Valenzuela*, S232900 (#16-97), which concerns the viability of a previously-imposed penalty enhancement for serving a prior prison term on a felony conviction after the superior court has reclassified the underlying felony as a misdemeanor under the provisions of Proposition 47.

#16-145 *People v. Wright*, S233154. (E063340; nonpublished opinion; San Bernardino County Superior Court; FVI801695.) Petition for review after the Court of Appeal affirmed an order denying a petition to recall sentence. The court ordered briefing deferred pending decision in *People v. Romanowski*, S231405 (#16-24), which 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)?

DISPOSITIONS

Review in the following case, which was granted and held for *Yvanova v. New Century Mortgage Corp.* (2016) 62 Cal.4th 919, was dismissed:

#15-123 *Boyce v. T.D. Service Co.*, S226267.

The following cases were transferred for reconsideration in light of *Yvanova v. New Century Mortgage Corp.* (2016) 62 Cal.4th 919:

#14-118 *Keshtgar v. U.S. Bank, N.A.*, S220012.

#14-131 *Mendoza v. JPMorgan Chase Bank, N.A.*, S220675.

#15-164 *Castro v. Indymac Indx Mortgage Loan Trust 2005-AR21*, S227876.

#15-197 *Flannigan v. Onuldo*, S229113.

#16-56 *Gehron v. Bank of America N.T.*, S231447.

#16-57 *Gehron v. Nicholas*, S231459.

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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.