



Supreme Court of California
350 McAllister Street, San Francisco, CA 94102-4797
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NEWS RELEASE

Contact: [Cathal Conneely](mailto:Cathal.Conneely@courts.ca.gov), 415-865-7740

FOR IMMEDIATE RELEASE

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Summary of Cases Accepted and Related Actions for Week of April 27, 2015

[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.]

#15-50 *Augustus v. ABM Security Services, Inc., S224853.* (B243788; 233 Cal.App.4th 1065; Los Angeles County Superior Court; BC336416, BC345918, CG5444421.) Petition for review after the Court of Appeal reversed the judgment in a civil action. This case presents the following issues: (1) Do Labor Code, § 226.7, and Industrial Welfare Commission wage order No. 4-2001 require that employees be relieved of all duties during rest breaks? (2) Are security guards who remain on call during rest breaks performing work during that time under the analysis of *Mendiola v. CPS Security Solutions, Inc.* (2015) 60 Cal.4th 833?

#15-51 *Citizens for Fair REU Rates v. City of Redding, S224779.* (C071906; 233 Cal.App.4th 402, mod. 233 Cal.App.4th 1479a; Shasta County Superior Court; 171377.) Petition for review after the Court of Appeal reversed the judgment in a civil action. The court limited review to the following issues: (1) Is a payment in lieu of taxes (PILOT) transferred from the city utility to the city general fund a “tax” under Proposition 26 (Cal. Const., art. XIII C, § 1, subd. (1)(e))? (2) Does the exception for “reasonable costs to the local government of providing the service or product” apply to the PILOT (Cal. Const., art. XIII C, § 1, subd. (1)(e)(2))? (3) Does the PILOT predate Proposition 26?

#15-52 *People v. Espinoza, S224929.* (H039219; 233 Cal.App.4th 914; Santa Clara County Superior Court; CC954850.) Petition for review after the Court of Appeal reversed a judgment of conviction of criminal offenses. This case presents the following issues: (1) Did the trial court err in continuing trial in defendant’s absence without a valid waiver of his trial rights or appointment of counsel after defendant, who was out of custody and representing himself, voluntarily failed to appear for his ongoing trial?

(2) Was reversal required because the trial court refused to grant defendant a one-day continuance after it granted his motion during jury selection to represent himself?

#15-53 *Frealy v. Reynolds*, 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?”

#15-54 *Mendoza v. Nordstrom*, S224611. (9th Cir., No. 12-57130; 778 F.3d 834, Central District of California; 8:10-cv-00109-CJC-MLG.) Request under California Rules of Court, rule 8.548, that this court decide questions of California law presented in a matter pending in the United States Court of Appeals for the Ninth Circuit. The questions presented are: “(A) California Labor Code section 551 provides that ‘[e]very person employed in any occupation of labor is entitled to one day’s rest therefrom in seven.’ Is the required day of rest calculated by the workweek, or is it calculated on a rolling basis for any consecutive seven-day period? (B) California Labor Code section 556 exempts employers from providing such a day of rest ‘when the total hours of employment do not exceed 30 hours in any week *or six hours in any one day thereof.*’ (Emphasis added.) Does that exemption apply when an employee works less than six hours in any one day of the applicable week, or does it apply only when an employee works less than six hours in each day of the week? (C) California Labor Code section 552 provides that an employer may not ‘cause his employees to work more than six days in seven.’ What does it mean for an employer to ‘cause’ an employee to work more than six days in seven: force, coerce, pressure, schedule, encourage, reward, permit, or something else?”

#15-55 *People v. Wade*, S224599. (B255894; 234 Cal.App.4th 265; Los Angeles County Superior Court; BA421048.) Petition for review after the Court of Appeal reversed an order of dismissal of a criminal proceeding. This case presents the following issue: Is a defendant carrying a firearm “on his person” within the meaning of Penal Code section 25850, subdivision (a), if he is wearing a backpack containing a firearm?

#15-56 *People v. Doolittle*, S225118. (F067402; nonpublished opinion; Kern County Superior Court; C072410A.) Petition for review after the Court of Appeal affirmed an order denying a petition to recall sentence.

#15-57 *People v. Lorta, S225050.* (F067122; nonpublished opinion; Kern County Superior Court; SC078430A.) Petition for review after the Court of Appeal affirmed an order denying a petition to recall sentence.

#15-58 *People v. Rodriguez, S225047.* (F067805; 233 Cal.App.4th 1403; Madera County Superior Court; MCR04652.) Petition for review after the Court of Appeal affirmed an order denying a petition to recall sentence.

The court ordered briefing in *Doolittle, Lorta*, and *Rodriguez* deferred pending decision in *People v. Chaney, S223676* (#15-13), and *People v. Valencia, S223825* (#15-14), which present the following issue: Does the definition of “unreasonable risk of danger to public safety” (Pen. Code, § 1170.18, subd. (c)) under Proposition 47 (“the Safe Neighborhoods and Schools Act”) apply on retroactivity or other grounds to resentencing under the Three Strikes Reform Act of 2012 (Pen. Code, § 1170.126)?

#15-59 *People v. Dragasitas, S224935.* (D064288; nonpublished opinion; San Diego County Superior Court; SCD233681.) 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. Lowe, S215727* (#14-32), which concerns whether Penal Code section 296, which permits the collection of DNA from certain felony arrestees, violates the Fourth Amendment under the analysis of *Maryland v. King* (2013) __ U.S. __ [133 S.Ct. 1958], and *People v. Buza, S223698* (#15-12), which concerns whether the compulsory collection of a biological sample from all adult felony arrestees for purposes of DNA testing (Pen. Code, §§ 296, subd. (a)(2)(C); 296.1, subd. (a)(1)(A)) violates the Fourth Amendment to the United States Constitution or article I, section 13, of the California Constitution?

#15-60 *People v. Jones, S225240.* (B255693; nonpublished opinion; Los Angeles County Superior Court; NA036778.) 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 *Braziel v. Superior Court, S218503* (#14-86), and *People v. Machado, S219819* (#14-88), which present the following issue: Is an inmate serving an indeterminate term of life imprisonment under the Three Strikes Law (Pen. Code, §§ 667, subds. (b)-(j), 1170.12), which was imposed for a conviction of an offense that is *not* a serious or violent felony, eligible for resentencing on that conviction under the Three Strikes Reform Act if the inmate is also serving an indeterminate term of life imprisonment under the Three Strikes Law for a conviction of an offense that *is* a serious or violent felony?

#15-61 *People v. Lexington National Ins. Corp., S224774.* (B251224; nonpublished opinion; Los Angeles County Superior Court; GA086366.) Petition for review after the Court of Appeal reversed an order denying a motion to vacate the forfeiture of a bail

bond in a criminal case. The court ordered briefing deferred pending decision in *People v. Safety National Casualty Ins. Co.*, S218712 (#14-84), which presents the following issue: May Penal Code section 977, subdivision (b)(1), be utilized to determine whether a proceeding at which a defendant charged with a felony failed to appear was a proceeding at which the defendant was “lawfully required” to appear for purposes of forfeiting bail under Penal Code section 1305, subdivision (a)(4)?

#15-62 *People v. Marquez*, S224749. (G048762; nonpublished opinion; Orange County Superior Court; 08CF3587.) 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. Lowe*, S215727 (#14-32), which presents the following issue: Does Penal Code section 296, which permits the collection of DNA from certain felony arrestees, violate the Fourth Amendment under the analysis of *Maryland v. King* (2013) __ U.S. __ [133 S.Ct. 1958]?

#15-63 *People v. Munoz*, S224900. (C075983; 233 Cal.App.4th 1394; Tehama County Superior Court; NCR77911.) Petition for review after the Court of Appeal affirmed a judgment of conviction of a criminal offense. The court ordered briefing deferred pending decision in *People v. Friday*, S218288 (#14-77), *People v. Garcia*, S218197 (#14-78), and *People v. Klatt*, 218755 (#14-79), which present 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?

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.

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