



# NEWS RELEASE

Release Number: **S.C. 20/11**

Release Date: **May 20, 2011**

JUDICIAL COUNCIL OF  
CALIFORNIA  
ADMINISTRATIVE OFFICE  
OF THE COURTS  
Public Information Office  
455 Golden Gate Avenue  
San Francisco, CA 94102-3688  
www.courts.ca.gov

415-865-7740

Lynn Holton  
Public Information Officer

## Summary of Cases Accepted During the Week of May 16, 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.]*

**#11-53 *People v. Lara, S192784.*** (H036143; 193 Cal.App.4th 1393; Santa Clara County Superior Court; E1007527.) Petition for review after the Court of Appeal reversed a judgment of conviction of a criminal offense and remanded for further sentencing proceedings. This case presents the following issue: Does a trial court have discretion to dismiss or strike a prior serious felony conviction under Penal Code section 1385 in order to award the defendant additional presentence credits under Penal Code section 4019?

**#11-54 *People v. Manzo, S191400.*** (D055671; 192 Cal.App.4th 366; San Diego County Superior Court; SCS212840.) Review on the court's own motion 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: Could defendant be convicted of discharging a firearm at an occupied motor vehicle in violation of Penal Code section 246, if he was outside the vehicle at the time he discharged his firearm but the firearm itself was inside the vehicle?

**#11-55 *People v. Avila, S191317.*** (B219748; nonpublished opinion; Los Angeles County Superior Court; VA102440.) Petition for review after the Court of Appeal reversed in part a judgment of conviction of criminal offenses as to one defendant and otherwise affirmed judgments of conviction of criminal offenses. The court ordered briefing deferred pending decision in *People v. Favor, S189317* (#11-24), which presents the following issue: In order for an aider and abettor to be convicted of attempted willful, deliberate and premeditated murder by application of

the natural and probable consequences doctrine, must a premeditated attempt to murder have been a reasonably foreseeable consequence of the target offense or offenses, or is it sufficient that an attempted murder would be reasonably foreseeable?

**#11-56 *People v. Koontz, S192116.*** (B224697, B224701; 193 Cal.App.4th 151; Los Angeles County Superior Court; 2009002554.) Petition for review after the Court of Appeal remanded for further sentencing proceedings and otherwise affirmed a judgment of conviction of a criminal offense. The court ordered briefing deferred pending decision in *People v. Brown*, S181963 (#10-64), and *People v. Lara*, S192784 (#11-53), which present issues concerning the award of increased presentence custody credits for certain offenders under Penal Code section 4019.

**#11-57 *Tien v. Tenet Healthcare Corp., S191756.*** (B214333; 192 Cal.App.4th 1055; Los Angeles County Superior Court; JCCP4377, BC315897.) Petition for review after the Court of Appeal affirmed an order denying class certification in a civil action. The court ordered briefing deferred pending decision in *Brinker Restaurant Corp. v. Superior Court*, S166350 (#08-157), which presents issues concerning the proper interpretation of California's statutes and regulations governing an employer's duty to provide meal and rest breaks to hourly workers.

**#11-58 *People v. Zarate, S191676.*** (D056837; 192 Cal.App.4th 939; Imperial County Superior Court; JCF24760.) 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. Brown*, S181963 (#10-64), which presents the following issue: Does Penal Code section 4019, as amended to increase presentence custody credits for certain offenders, apply retroactively?

## **DISPOSITION**

The following case was transferred for reconsideration in light of *People v. Hernandez* (2011) 51 Cal.4th 733:

**#10-45 *People v. Sanchez, S179903.***

#