



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 May 16, 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.]

#16-168 *In re Kirchner*, S233508. (D067920; 244 Cal.App.4th 1398; San Diego; C21804, CRN26291.) Petition for review after the Court of Appeal reversed an order granting relief on a petition for writ of habeas corpus. This case presents the following issue: When a juvenile offender seeks relief from a life-without-parole sentence that has become final, does Penal Code section 1170, subdivision (d)(2), which permits most juvenile offenders to petition for recall of a life-without-parole sentence imposed pursuant to Penal Code section 190.5 after 15 years, provide an adequate remedy under *Miller v. Alabama* (2012) 567 U.S. ___ [132 S.Ct. 2455], as recently construed in *Montgomery v. Louisiana* (2016) 577 U.S. ___ [136 S.Ct. 718]?

#16-169 *In re Ward*, S142694. Original proceeding. In this case, which is related to the automatic appeal in *People v. Ward* (2005) 36 Cal.4th 186, the court issued an order to show cause on claims of alleged juror misconduct for considering extrajudicial information during penalty phase deliberations and ineffective assistance of counsel at the penalty phase.

#16-170 *People v. Adams*, S233099. (B257829; 245 Cal.App.4th 498; Los Angeles County Superior Court; YA084177.) Petition for review after the Court of Appeal modified and affirmed judgments 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?

#16-171 *People v. Almanza*, S233704. (B258565; nonpublished opinion; Santa Barbara County Superior Court; 1434130.) 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. Macabeo*, S221852 (#14-135), which presents the following issues: (1) May law enforcement officers conduct a search incident to the authority to arrest for a minor traffic offense, so long as a custodial arrest (even for an unrelated crime) follows? (2) Did *Riley v. California* (2014) __ U.S. __ [134 S.Ct. 2473, 189 L.Ed.2d 430] require the exclusion of evidence obtained during the warrantless search of the suspect's cell phone incident to arrest, or did the search fall within the good faith exception to the exclusionary rule (see *Davis v. United States* (2011) 564 U.S. __ [131 S.Ct. 2419, 180 L.Ed.2d 285]) in light of *People v. Diaz* (2011) 51 Cal.4th 84?

#16-172 *People v. Ferguson*, S233596. (C078270; nonpublished opinion; Butte County Superior Court; CM041680.) Petition for review after the Court of Appeal reversed an order reducing a conviction of a felony offense to a misdemeanor. The court ordered briefing deferred pending decision in *People v. Buycks*, S231765 (#16-19), which presents the following issue: Was defendant eligible for resentencing on the penalty enhancement for committing a new felony while released on bail on a drug offense after the superior court had reclassified the conviction for the drug offense as a misdemeanor under the provisions of Proposition 47?

#16-173 *People v. Kelm*, S233806. (D068319; nonpublished opinion; San Diego County Superior Court; SCD256541.) Petition for review after the Court of Appeal affirmed an order denying a post-conviction motion for resentencing.

#16-174 *People v. McPherson*, S233815. (C078083; nonpublished opinion; Shasta County Superior Court; 12F6348, 14F4595.) Petition for review after the Court of Appeal affirmed a judgment of conviction of criminal offenses.

The court ordered briefing in *Kelm* and *McPherson* 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?

#16-175 *People v. Mejia*, S233345. (G051527; nonpublished opinion; Los Angeles County Superior Court; 96CF2994.) Petition for review after the Court of Appeal affirmed an order denying a petition to recall sentence.

#16-176 *People v. Mora, S233317.* (E063905; nonpublished opinion; Riverside County Superior Court; INF1100811.) Petition for review after the Court of Appeal affirmed an order denying a petition to recall sentence.

The court ordered briefing in *Mejia* and *Mora* deferred pending decision in *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)?

#16-177 *People v. Meraz, S233213.* (E061584; nonpublished opinion; Riverside County Superior Court; INF058375.) Petition for review after the Court of Appeal remanded for resentencing and otherwise affirmed a judgment of conviction of criminal offenses. The court ordered briefing deferred pending decision in *People v. Conley*, S211275 (#13-70), which presents the following issue: Does the Three Strikes Reform Act of 2012 (Pen. Code, §§ 667, subd. (e)(2)(C), 1170.12, subd. (c)(2)(C)), which reduces punishment for certain non-violent third-strike offenders, apply retroactively to a defendant who was sentenced before the Act’s effective date but whose judgment was not final until after that date?

#16-178 *People v. Moor, S233304.* (B256126; nonpublished opinion; Los Angeles County Superior Court; PA072172.) Petition for review after the Court of Appeal modified and affirmed judgments of conviction of criminal offenses. The court ordered briefing 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)?

#16-179 *People v. Yount, S233678.* (C079082; nonpublished opinion; Yolo County Superior Court; CRF072760, CRF086110, CRF090986, CRF106123.) Petition for review after the Court of Appeal affirmed an order granting in part and denying in part a petition to recall sentence. The court ordered briefing deferred pending decision in *People v. Martinez*, S231826 (#16-88), which presents the following issue: Could defendant use a petition for recall of sentence under Penal Code section 1170.18 to request the trial court to reduce his prior felony conviction for transportation of a controlled substance to a misdemeanor in light of the amendment to Health and Safety Code section 11379 effected by Proposition 47?

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.