



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 December 16, 2013

[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.]

#13-111 *People v. Aranda, S214116.* (E056708; 219 Cal.App.4th 764; Riverside County Superior Court; RIF154701.) Petition for review after the Court of Appeal affirmed an order dismissing one count and remanding for further proceedings. This case presents the following issue: Did the Court of Appeal err by holding that double jeopardy prevents retrial of defendant for first degree murder where the jury did not return a verdict on that offense and deadlocked on the lesser included offenses of second degree murder and voluntary manslaughter, because the trial court failed to afford the jury an opportunity to return a partial acquittal on the charge of first degree murder? (See *Blueford v. Arkansas* (2012) 566 U.S. ____ [132 S.Ct. 2044]; *Stone v. Superior Court* (1982) 31 Cal.3d 503.)

#13-112 *Packer v. Superior Court, S213894.* (B245923; 219 Cal.App.4th 226; Ventura County Superior Court; 2010013013.) Petition for review after the Court of Appeal denied a petition for peremptory writ of mandate. The court limited review to the following issue: Did the trial court abuse its discretion by denying a motion for recusal without an evidentiary hearing on the grounds that defendant failed to make a prima facie showing that recusal was warranted?

#13-113 *People v. Leggett, S214264.* (C073586; 219 Cal.App.4th 846; Shasta County Superior Court; 96F3095.) Petition for review after the Court of Appeal dismissed an appeal from a petition to recall sentence. The court ordered briefing deferred pending decision in *Teal v. Superior Court, S211708* (#13-63), which presents the following issue: Did defendant have the right to appeal the trial court's denial of his petition to recall his sentence under Penal Code section 1170.126, part of the Three Strikes Reform

Act of 2012, when the trial court held he did not meet the threshold eligibility requirements for resentencing?

#13-114 *People v. Mallett, S214584*. (G047080; nonpublished opinion; Riverside County Superior Court; RIF127195.) 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?

#13-115 *People v. Ramirez, S214133*. (G044703; 219 Cal.App.4th 655; Orange County Superior Court; 07WF2103.) Petition for review after the Court of Appeal remanded for resentencing and otherwise affirmed judgments of conviction of criminal offenses. The court ordered briefing deferred pending decision in *People v. Gutierrez*, S206365 (#13-01), and *People v. Moffett*, S206771 (#13-03), which present issues concerning the sentencing of juvenile offenders under Penal Code section 190.5, subdivision(b), in light of *Miller v. Alabama* (2012) 567 U.S. __ [132 S.Ct. 2455].

STATUS

#12-115 *People v. Diaz, S205145*. The court ordered the parties to submit supplemental briefs on the following issues: (1) Are there grounds for this court to reconsider precedent holding that a cautionary instruction concerning a defendant's extra-judicial statements must be given sua sponte, even in the absence of a statute mandating that the instruction be given? (See, e.g., *People v. Beagle* (1972) 6 Cal.3d 441, 455-456 and fn. 4; *People v. Carpenter* (1997) 15 Cal.4th 312, 392.) (2) What rationale exists for requiring the cautionary instruction to be given sua sponte, in light of other available instructions, including the general instructions on witness credibility that are routinely given in every case? (See, e.g., CALCRIM No. 226.) (3) If a cautionary instruction is not required sua sponte in every case in which a defendant's extrajudicial statements tending to prove guilt are admitted, under what circumstances, if any, should it be given upon request? (4) If the rule requiring the court to give the cautionary instruction sua sponte is changed, should the new rule apply retroactively to defendant's case? (5) What effect, if any, does the Legislature's adoption of Penal Code section 859.5, subdivision (e)(3), effective January 1, 2014, have on these issues?

#13-39 *Johnson v. California Department of Justice, S209167*. The court ordered the parties to submit supplemental briefs on the following issue: Should the court overrule *People v. Hofsheier* (2006) 37 Cal.4th 1185? The parties may wish to address the following questions: (1) What level of equal protection scrutiny applies to the statutory

difference in sex offender registration requirements between those convicted of violating Penal Code section 288a and those convicted of violating Penal Code section 261.5? (2) Has *Hofsheier* presented practical difficulties of application in the trial and appellate courts? (3) Has *Hofsheier* been extended beyond the sex offender registration context in ways that could not have been anticipated at the time of the decision? (4) Absent the limitations on *Hofsheier*'s application asserted in *People v. Manchel* (2008) 163 Cal.App.4th 1108, the validity of which is challenged in the present case, what principles, if any, constrain the application of *Hofsheier*? (5) Does *Hofsheier*'s equal protection analysis logically extend beyond the context of sex offender registration? (6) If *Hofsheier*'s holding is overruled, would and should the court's decision apply retroactively to offenders who have been convicted or released from custody since the decision in *Hofsheier* without registration orders or who have obtained relief by writ petition from preexisting registration requirements?

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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.