



# NEWS RELEASE

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## Summary of Cases Accepted During the Week of June 13, 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.]*

**#11-66 *People v. Beltran, S192644.*** (A124392; nonpublished opinion; San Francisco County Superior Court; 175503.) Petition for review after the Court of Appeal reversed a judgment of conviction of a criminal offense. This case presents the following issues: (1) Was the jury misinstructed with former CALCRIM No. 570 on provocation and heat of passion as a basis for a conviction of voluntary manslaughter? (2) Did the prosecutor misstate the applicable law on the subject in argument? (3) Did the trial court accurately respond to a jury question on the subject? (4) If there was error, was defendant prejudiced?

**#11-67 *County of Los Angeles v. Los Angeles County Employee Relations Comm., S191944.*** (B217668; 192 Cal.App.4th 1409; Los Angeles County Superior Court; BS116993.) Petition for review after the Court of Appeal reversed the judgment in an action for writ of administrative mandate. This case presents the following issues: (1) Under the state Constitution (Cal. Const., art. I, § 1), do the interests of non-union-member public employees in the privacy of their personal contact information outweigh the interests of the union representing their bargaining unit in obtaining that information in furtherance of its duties as a matter of labor law to provide fair and equal representation of union-member and non-union-member employees within the bargaining unit? (2) Did the Court of Appeal err in remanding to the trial court with directions to apply a specific notice procedure to protect such employees' privacy rights instead of permitting the parties to determine the proper procedure for doing so?

**#11-68 *Doe v. Harris, S191948.*** (Ninth Cir. No. 09-17362; \_\_\_ F.3d \_\_\_, 2011 WL 1226366; Northern District of California; No. 3:07-cv-03585-JL.) 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. As restated by the court, the issue is: “Under California law of contract interpretation as applicable to the interpretation of plea agreements, does the law in effect at the time of a plea agreement bind the parties or can the terms of a plea agreement be affected by changes in the law?”

**#11-69 *People v. Leiva, S192176.*** (B214397; 193 Cal.App.4th 114; Los Angeles County Superior Court; PA035556.) Petition for review after the Court of Appeal affirmed an order revoking probation in a criminal case. This case presents the following issues: (1) Did the trial court have jurisdiction to revoke defendant’s probation? (2) Did sufficient evidence support the trial court’s finding that defendant either failed to report to his probation officer or reentered the country illegally? (3) Did the trial court’s finding rely upon admissible evidence?

**#11-70 *People v. Yarbrough, S192751.*** (B222399; 193 Cal.App.4th 921; Los Angeles County Superior Court; PA065170.) Petition for review after the Court of Appeal reversed a judgment of conviction of a criminal offense. This case presents the following issue: Did the Court of Appeal err in determining that an unenclosed second floor balcony “is not part of a building” such that entry onto the balcony could not constitute burglary?

**#11-71 *People v. Moore, S192529.*** (E048982; 193 Cal.App.4th 746; San Bernardino County Superior Court; VCR6558.) Petition for review after the Court of Appeal affirmed an order extending an insanity commitment to the state hospital. The court ordered briefing deferred pending decision in *People v. Aranda*, S188204 (#11-06), which presents the following issues: (1) Is the trial court’s failure to give a standard reasonable doubt instruction (CALJIC No. 2.90) reversible per se or is such failure subject to harmless error review? (2) If so, should harmless error be assessed under *People v. Watson* (1956) 46 Cal.2d 818, or *Chapman v. California* (1967) 386 U.S. 18?

**#11-72 *People v. Prado, S192854.*** (B221964; nonpublished opinion; Los Angeles County Superior Court; KA084737.) Petition for review after the Court of Appeal affirmed a judgment of conviction of a criminal offense.

**#11-73 *People v. Rankin, S192459.*** (C065011; nonpublished opinion; Butte County Superior Court; CM031684.) Petition for review after the Court of Appeal affirmed a judgment of conviction of criminal offenses.

The court ordered briefing in *Prado* and *Rankin* deferred pending decision in *People v. Sanchez*, S188453 (#11-12), which includes the following issue: When a defendant indicates the intention to move to withdraw a plea of guilty or no contest on the ground of ineffective assistance of appointed counsel, is the trial court obligated to conduct a *Marsden* hearing (*People v. Marsden* (1970) 2 Cal.3d 118) and determine whether counsel should be removed and replaced by new appointed counsel?

**#11-74 *People v. Smith*, S192048.** (A124895; 193 Cal.App.4th 1; Alameda County Superior Court; CH43770.) 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. Dungo*, S176886 (#09-77), *People v. Gutierrez*, S176620 (#09-78), *People v. Lopez*, S177046 (#09-79), and *People v. Rutterschmidt*, S176213 (#09-80), which present issues concerning the right of confrontation under the Sixth Amendment when the results of forensic tests performed by a criminalist who does not testify at trial are admitted into evidence and how the decision of the United States Supreme Court in *Melendez-Diaz v. Massachusetts* (2009) 557 U.S. \_\_\_, 129 S.Ct. 2527, 174 L.Ed.2d 314, affects this court's decision in *People v. Geier* (2007) 41 Cal.4th 555.

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