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NEWS RELEASE

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Summary of Cases Accepted During the Week of January 17, 2005

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 description or descriptions set out below do not necessarily reflect the view of the court, or define the specific issues that will be addressed by the court.

#05-10 *Sara M. v. Superior Court*, S129821. (F045972; 123 Cal.App.4th 1251; Tuolumne County Superior Court; JV5731.) Petition for review after the Court of Appeal granted a petition for peremptory writ of mandate. This case presents the following issue: Can the juvenile court terminate reunification services at a six-month review hearing based solely on a parent's failure to maintain contact with a child during the six months preceding the hearing, where the child was over the age of three years on the date of the initial removal from parental custody and the initial removal was not on grounds of abandonment?

#05-11 *Smith v. Superior Court*, S129476. (B176918; 123 Cal.App.4th 128; Los Angeles County Superior Court; BC284690.) Petition for review after the Court of Appeal denied a petition for peremptory writ of mandate. This case presents the following issue: Where an employee's employment terminates upon the completion of an agreed-upon period of employment or a specific task, has the employee been "discharged" within the meaning of Labor Code section 201 such that "the wages earned and unpaid at the time of discharge are due and payable immediately"?

#05-12 *People v. Davey*, S129226. (A102885; 122 Cal.App.4th 1548; Marin County Superior Court; SC123734.) Petition for review after the Court of Appeal reversed a judgment of conviction of criminal offenses and remanded for resentencing.

#05-13 *People v. Juarez*, S130032. (B165580; 124 Cal.App.4th 56; Los Angeles County Superior Court; KA058374.) Petition for review after the Court of Appeal remanded for resentencing and otherwise affirmed a judgment of conviction of a criminal offense.

#05-14 *People v. Moore*, S129027. (B166427; unpublished opinion; Los Angeles County Superior Court; YA053516.) Petition for review after the Court of Appeal modified judgment, remanded for resentencing, and otherwise affirmed judgments of conviction of criminal offenses.

#05-15 *People v. Picado*, S129826. (A102251; 123 Cal.App.4th 1216; Alameda County Superior Court; H-30242.) Petition for review after the Court of Appeal remanded for modification and otherwise affirmed a judgment of conviction of criminal offenses.

The court ordered briefing in *Davey*, *Juarez*, *Moore*, and *Picado* deferred pending decision in *People v. Black*, S126182 (#04-83) and *People v. Towne*, S125677 (#04-75), which include the following issues: (1) Does *Blakely v. Washington* (2004) 542 U.S. ___, 124 S.Ct. 2531, preclude a trial court from making findings on aggravating factors in support of an upper term sentence? (2) What effect does *Blakely* have on a trial court's imposition of consecutive sentences?

#05-16 *People v. Kendrick*, S129294. (F044059; 122 Cal.App.4th 1305; Fresno County Superior Court; F02671963-7.) Petition for review after the Court of Appeal dismissed an appeal from a judgment of conviction of a criminal offense. The court ordered briefing deferred pending decision in *People v. Shelton*, S124503 (#04-67), which presents the following issues: (1) Was defendant required to obtain a certificate of probable cause (Pen. Code, § 1237.5; Cal. Rules of Court, rule 31) in order to claim on appeal that the manner of calculating the maximum sentence he agreed to in a plea agreement violated Penal Code section 654? (2) Was defendant's post-plea claim that a portion of the sentence to which he had agreed was unauthorized barred as an impermissible challenge to the plea itself?

#05-17 *People v. Kilday*, S129567. (A099095; 123 Cal.App.4th 406; San Mateo County Superior Court; SC050425.) Petition for review after the Court of Appeal affirmed in part and reversed in part a judgment of conviction of criminal offenses.

#05-18 *People v. Ruiz*, S129498. (B169642; unpublished opinion; Los Angeles County Superior Court; PA044100.) Petition for review after the Court of Appeal reversed a judgment of conviction of criminal offenses. The court ordered briefing in *Kilday* and *Ruiz* deferred pending decision in *People v. Cage*, S127344 (#04-111), which includes the following issue: Are *all* statements made by an ostensible crime victim to a police officer in response to general investigative questioning "testimonial hearsay" within the meaning of *Crawford v. Washington* (2004) 541 U.S. ___, 124 S.Ct. 1354 and inadmissible in the absence of an opportunity to

cross-examine the declarant, or does “testimonial hearsay” include only statements made in response to a formal interview at a police station?

#05-19 *Quest International, Inc. v. Icode Corporation*, S128935.

(G032276; 122 Cal.App.4th 745; Orange County Superior Court; 01CC02109.) Petition for review after the Court of Appeal dismissed an appeal in a civil action. The court ordered briefing deferred pending decision in *Le Francois v Goel*, S126630 (#04-98), which presents the following issue: Does a trial court have the inherent power to rule on a second motion for summary judgment or, in the alternative, for summary adjudication, even though the second motion did not meet the requirements of Code of Civil Procedure section 1008, subdivision (a), relating to applications for reconsideration, or the requirements of Code of Civil Procedure section 437c, subdivision (f)(2), relating to motions for summary judgment following an unsuccessful motion for summary adjudication?

STATUS

#04-83 *People v. Black*, S126182. The court directed the parties to file supplemental briefs addressing the effect of *United States v. Booker* (2005) — S.Ct. —

<http://a257.g.akamaitech.net/7/257/2422/12jan20051100/www.supremecourt.gov/opinions/04pdf/04-104.pdf> on this case.

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