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NEWS RELEASE

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Summary of Cases Accepted During the Week of February 11, 2008

[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.]

#08-27 *People v. Cogswell, S158898.* (D049038; 156 Cal.App.4th 698; San Diego County Superior Court; SCN201693.) Petition for review after the Court of Appeal reversed a judgment of conviction of criminal offenses. This case presents the following issue: Must a prosecutor request that an out-of-state sexual assault victim, who does not wish to return to California and testify, be taken into custody under the Uniform Act to Secure Attendance of Witnesses from without the State in Criminal Cases (Pen. Code, § 1334 et seq.) in order to demonstrate the due diligence required to satisfy the finding of unavailability under Evidence Code section 240 that would permit the victim's preliminary hearing testimony to be admitted into evidence at trial?

#08-28 *In re Marshall on Discipline, S156550.* (Unpublished order; State Bar Ct. No. 01-O-01459.) Petition for writ of review after a State Bar Court recommendation of discipline. This case presents the following issue: Was admission to the Alternative Discipline Program appropriate in this attorney disciplinary matter? Were the required program and the discipline recommended by the State Bar Court in this matter a proper and adequate response to the member's actions, or should this court impose a greater degree of discipline?

#08-29 *In re Nolan W., S159524.* (D050408; 156 Cal.App.4th 1499; San Diego County Superior Court; NJ13442.) Petition for review after the Court of Appeal annulled a judgment of contempt in a dependency proceeding. The court limited review to the following issues: (1) Did the juvenile court have the authority to order the minor's mother to

participate in a substance abuse program as part of her reunification plan? (2) Did Welfare and Institutions Code section 213 authorize the juvenile court to hold the minor's mother in contempt and incarcerate her for failing to comply with that component of the reunification plan?

#08-30 *People v. Robinson, S158528.* (C044703; 156 Cal.App.4th 508; Sacramento County Superior Court; 00F06871.) Petition for review after the Court of Appeal affirmed a judgment of conviction of criminal offenses. The court limited the issues to be briefed and argued to the following: (1) Does the issuance of a "John Doe" complaint and arrest warrant timely commence a criminal action and thereby satisfy the statute of limitations? (2) Does an unknown suspect's DNA profile satisfy the "particularity" requirement for an arrest warrant? (3) What remedy is there, if any, for the unlawful collection of genetic material under the DNA and Forensic Identification Data Base and Data Bank Act of 1998 (Pen. Code, § 295 et seq.)?

#08-31 *People v. Stevens, S158852.* (A112197; 156 Cal.App.4th 537; Alameda County Superior Court; C148565.) Petition for review after the Court of Appeal affirmed a judgment of conviction of criminal offenses. This case includes the following issue: Did the trial court abuse its discretion in requiring a uniformed, armed deputy sheriff to sit immediately beside the defendant during his testimony?

#08-32 *Stockton Citizens for Sensible Planning v. City of Stockton, S159690.* (C050885; 157 Cal.App.4th 332; San Joaquin County Superior Court; CV024375.) Petition for review after the Court of Appeal affirmed the judgment in an action for writ of administrative mandate. This case presents the following issue: Was plaintiffs' challenge to the approval of a Wal-Mart Supercenter project filed within the applicable statute of limitations on the theory that the approval was invalid and thus did not trigger the running of the limitations period?

#08-33 *People v. Beckham, S159850.* (B193050; nonpublished opinion; Los Angeles County Superior Court; BA292953.) Petition for review after the Court of Appeal affirmed a judgment of conviction of criminal offenses.

#08-34 *People v. Bocanegra, S158828.* (B183267; nonpublished opinion; Los Angeles County Superior Court; NA063127.) Petition for review after the Court of Appeal affirmed a judgment of conviction of criminal offenses.

#08-35 *People v. Gonzales, S159835.* (H031003; nonpublished opinion; Santa Clara County Superior Court; CC624228.) Petition for review after the Court of Appeal affirmed a judgment of conviction of criminal offenses.

#08-36 *People v. Martinez*, S159730. (B193976; nonpublished opinion; Los Angeles County Superior Court; BA272802.) Petition for review after the Court of Appeal affirmed a judgment of conviction of criminal offenses.

#08-37 *People v. Trejo*, S159660. (B195184; nonpublished opinion; Los Angeles County Superior Court; VA093677.) Petition for review after the Court of Appeal affirmed a judgment of conviction of criminal offenses.

The court ordered briefing in *Beckham*, *Bocanegra*, *Gonzales*, *Martinez*, and *Trejo* deferred pending decision in *People v. Towne*, S125677 (#04-75), which presents issues concerning the use as aggravating sentencing of such factors as being on probation or parole when a crime was committed and prior unsatisfactory performance on probation or parole.

#08-38 *In re Dannenberg*, S158880. (H030031; 156 Cal.App.4th 1387; Santa Clara County Superior Court; 101531.) Petition for review after the Court of Appeal granted a petition for writ of habeas corpus. The court ordered briefing deferred pending decision in *In re Lawrence*, S154018 (#07-399), *In re Shaputis*, S155872 (#07-428), and *In re Jacobson*, S156416 (#07-461), which include the following issue: In making parole suitability determinations for life prisoners, to what extent should the Board of Parole Hearings, under Penal Code section 3041, and the Governor, under Article V, section 8(b) of the California Constitution and Penal Code section 3041.2, consider the prisoner's current dangerousness, and at what point, if ever, is the gravity of the commitment offense and prior criminality insufficient to deny parole when the prisoner otherwise appears rehabilitated?

#08-39 *People v. Dodson*, S159754. (E040617; nonpublished opinion; San Bernardino County Superior Court; FSB39894.) 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. Lopez*, S149364 (#07-107), and *People v. Olguin*, S149303 (#07-108), which present the following issue: May a trial court impose a condition of probation requiring a probationer to obtain permission from his or her probation officer in order to own any pet?

#08-40 *People v. Gunter*, S158890. (B196075; 156 Cal.App.4th 913; Los Angeles County Superior Court; YA065224.) 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. Gomez*, S140612 (#06-32), which presents the following issue: Can a defendant be convicted of robbery for using force or fear in the victim's immediate presence while carrying away stolen property, or does such a conviction require that the defendant use force or fear in the victim's immediate presence while taking the property or preventing the victim from regaining it?