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NEWS RELEASE

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Summary of Cases Accepted During the Week of March 27, 2006

[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.]

#06-34 People v. Delgado, S141282. (B180315; unpublished opinion; Los Angeles County Superior Court; YA055467.) Petition for review after the Court of Appeal affirmed a judgment of conviction of criminal offenses.

#06-35 People v. Miles, S140413. (C045348; unpublished opinion; San Joaquin County Superior Court; SF087174A.) Petition for review after the Court of Appeal affirmed a judgment of conviction of criminal offenses.

Delgado and *Miles* both concern the adequacy of proof that a prior conviction was a serious felony for purposes of recidivist sentencing. (See *People v. Rodriguez* (1998) 17 Cal.4th 253.) In *Delgado*, the issue is whether the reference to "245(a)(1) ASSLT W DWPN" in the abstract of judgment for the prior conviction sufficed to prove that the defendant had previously violated Penal Code section 245, subdivision (a)(1), by committing assault with a deadly weapon rather than assault by means of force likely to produce great bodily injury. (See Pen. Code, § 1192.7, subd. (c)(31).) In *Miles*, the issue is whether the reference to "armed bank robbery" in the commitment form for a prior conviction in federal court sufficed to prove that the defendant had previously violated 18 U.S.C. section 2113(a) by committing an offense that would constitute robbery under California law rather than the version of the federal crime that would be commercial burglary under California law. (See Pen. Code, § 1192.7, subds. (c)(19), (d).)

(over)

#06-36 Environmental Protection Information Center v. Department of Forestry & Fire Protection, S140547. (A104828, A104830, A105388, A105391; 134 Cal.App.4th 1093, mod. 135 Cal.App.4th 642a; Humboldt County Superior Court; CV990445.) Petition for review after the Court of Appeal reversed the judgment in an action for writ of administrative mandate. This case presents issues relating to environmental review of the master plan for timber harvesting related to the Headwaters Forest Project.

#06-37 People v. Allen, S140565. (A101086; unpublished opinion; Solano County Superior Court; FCR193532.) Petition for review after the Court of Appeal remanded a judgment of conviction of a criminal offense for further proceedings. The court ordered briefing deferred pending decision in *People v. Johnson*, S127602 (#05-212), which presents the following issue: What is the appropriate remedy for *Wheeler/Batson* error (*People v. Wheeler* (1978) 22 Cal.3d 258; *Batson v. Kentucky* (1986) 476 U.S. 79) in this case—outright reversal of defendant's conviction or a limited remand to permit the trial court to inquire into the prosecutor's reasons for removing minority jurors?

DISPOSITION

The following case was transferred to the Court of Appeal for reconsideration in light of *Kinsman v. Unocal Corp.* (2005) 37 Cal.4th 659:

#04-142 Grahn v. Exxon Mobil Corporation, S128826.

STATUS

#05-169 Independent Energy Producers Assn., Inc. v. McPherson, S135819. The court invited the parties to file supplemental briefs addressing whether, and, if so, under what circumstances, the kind of initiative challenge that is at issue in this case should be resolved prior to, rather than after, an election.