SUPREME COURT MINUTES
THURSDAY, JANUARY 9, 2014
SAN FRANCISCO, CALIFORNIA

S206771	A133032 First Appellate District, Div. 5	**PEOPLE v. MOFFETT (ANDREW LAWRENCE)**
S206365	B227606 Second Appellate District, Div. 6	**PEOPLE v. GUTIERREZ (LUIS ANGEL)**

Case consolidated with:
S206771/S206365

THE PEOPLE, Plaintiff and Respondent,
v.
ANDREW LAWRENCE MOFFETT, Defendant and Appellant.

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THE PEOPLE, Plaintiff and Respondent,
v.
LUIS ANGEL GUTIERREZ, Defendant and Appellant.

The above-entitled cases are hereby consolidated for all purposes.

S205145   H036414 Sixth Appellate District   **PEOPLE v. DIAZ (DORA)**
Order filed
The order filed on December 18, 2013, signed by Cantil-Sakauye, C.J., is hereby amended to read in its entirety:
The parties are ordered 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?

Petitioner must serve and file its opening supplemental brief on or before January 21, 2014.
Respondent must serve and file its answering supplemental brief within 30 days after petitioner
timely files its brief. Petitioner may serve and file a supplemental reply brief within 20 days after
respondent files its brief.

The page limits applicable to briefs on the merits (Cal. Rules of Ct., rule 8.520(c)) apply to these
supplemental briefs.

S215712   **McKINNON (WILLIE**
                                                 SYLVESTER) v. S.C.
                                                 (PEOPLE)

Transferred to Court of Appeal, Fourth Appellate District, Division Two
The above-entitled matter is transferred to the Court of Appeal, Fourth Appellate District,
Division Two.

SUPREME COURT OF CALIFORNIA
ORAL ARGUMENT CALENDAR
SACRAMENTO SESSION
FEBRUARY 4 and 5, 2014

FIRST AMENDED

The following cases are placed upon the calendar of the Supreme Court for hearing at its courtroom in the Stanley Mosk Library and Courts Building, 914 Capitol Mall, Sacramento, California, on February 4 and 5, 2014.

TUESDAY, FEBRUARY 4, 2014 — 10:00 A.M.

(1)   S173972   Loeffler (Kimberly) et al. v. Target Corporation
                (*Moore, J., assigned justice pro tempore; Kennard, J., not participating*)
(2)   S200872   Long Beach Police Officers Association v. City of Long Beach et al. (Los Angeles Times Communications LLC, Real Party in Interest)

1:30 P.M.

(3)   S206720   In re Alonzo J.; People v. Alonzo J.
(4)   S206771   People v. Moffett (Andrew Lawrence) and
      S206365   People v. Gutierrez (Luis Angel)
                (*consolidated cases*)
(5)   S049626   People v. Hajek (Stephen Edward) and Vo (Loi Tan)
                [Automatic Appeal]

WEDNESDAY, FEBRUARY 5, 2014 — 9:00 A.M.

(6)   S199339   People v. Arriaga (Victor)
(7)   S101984   People v. Chism (Calvin Dion) [Automatic Appeal]
(8)   S049741   People v. Suff (William Lester) [Automatic Appeal]
(9)   S115284   People v. Trinh (Dung Dinh Anh) [Automatic Appeal]
                (*To be called and continued to the April 2014 calendar*)

CANTIL-SAKAUYE
Chief Justice

If exhibits are to be transmitted to this court, counsel must apply to the court for permission. (See Cal. Rules of Court, rule 8.224(c).)