

**SUPREME COURT MINUTES
MONDAY, MAY 5, 2014
SAN FRANCISCO, CALIFORNIA**

S049626

**PEOPLE v. HAJEK
(STEPHEN EDWARD) & VO
(LOI TAN)**

Opinion filed: Judgment affirmed as modified

The lying-in-wait special-circumstance findings are reversed as to both defendants. All Penal Code former section 12022.5 enhancements found true as to defendant Hajek are struck and replaced with enhancements under Penal Code former section 12022, subdivision (b) (now § 12022, subd. (b)(1)). The superior court is directed to amend the abstract of judgment to reflect this modification and to forward the amended abstract of judgment to the Department of Corrections and Rehabilitation. The judgments are otherwise affirmed.

Majority Opinion by Baxter, J.

-- joined by Cantil-Sakauye, C. J., Werdegarr, Chin, Corrigan, and Liu, JJ.

Concurring and Dissenting Opinion by Kennard, J.*

* Retired Associate Justice of the Supreme Court, assigned by the Chief Justice pursuant to article VI, section 6 of the California Constitution.

S101984

**PEOPLE v. CHISM (CALVIN
DION)**

Opinion filed: Judgment affirmed as modified

Defendant is entitled to 96 days of conduct credit under former section 4019, subdivisions (a)(1), (c), (f). The superior court is directed to modify the abstract of judgment to reflect that defendant is entitled to 96 days of conduct credit. (§2933.1, subdivision (c).) In all other respects, including the verdict of death, the judgment is affirmed.

Majority Opinion by Chin, J.

-- joined by Cantil-Sakauye, C. J., Baxter, Werdegarr, and Corrigan, JJ.

Concurring and Dissenting Opinion by Liu, J.

Concurring and Dissenting Opinion by Kennard, J.*

* Retired Associate Justice of the Supreme Court, assigned by the Chief Justice pursuant to article VI, section 6 of the California Constitution.

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

Opinion filed

Juveniles who commit crimes that reflect impetuosity, irresponsibility, inability to assess risks and consequences, vulnerability to peer pressure, substance abuse, or pathologies traceable to an unstable childhood cannot and should not escape punishment. And when the crime is “a vicious murder,” it is “beyond question” that a juvenile offender “deserve[s] severe punishment.” (*Miller, supra*, 567 U.S. at p. ___ [132 S.Ct. at p. 2469].) Because Moffett and Gutierrez have been convicted of special circumstance murder, each will receive a life sentence. (§ 190.5(b).) The question is whether each can be deemed, at the time of sentencing, to be irreparably corrupt, beyond redemption, and thus unfit ever to reenter society, notwithstanding the “diminished culpability and greater prospects for reform” that ordinarily distinguish juveniles from adults. (*Miller*, at p. ___ [132 S.Ct. at p. 2464].) Because the trial courts here decided that question without proper guidance on the sentencing discretion conferred by section 190.5(b) and the considerations that must inform the exercise of that discretion, we remand both cases for proceedings not inconsistent with this opinion.

Majority Opinion by Liu, J.

-- joined by Cantil-Sakauye, C. J., Werdegar, Chin, and Kennard*, JJ.

Concurring Opinion by Corrigan, J.

-- joined by Cantil-Sakauye, C. J., Baxter, and Chin, JJ.

Concurring Opinion by Liu, J.

* Retired Associate Justice of the Supreme Court, assigned by the Chief Justice pursuant to article VI, section 6 of the California Constitution.

S218267 B255664 Second Appellate District, Div. 7**WORKMAN (CHRISOULA) v.
S.C. (WORKMAN)**

Petition for review & application for stay denied

S082101**PEOPLE v. RHOADES
(ROBERT BOYD)**

Order filed

Good cause appearing, respondent’s “Application for Relief from Default to File Supplemental Respondent’s Brief,” filed on April 30, 2014, is granted.

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The HONORABLE TERENCE L. BRUINIERS, Associate Justice of the Court of Appeal, First Appellate District, Division Five, is hereby assigned to assist the Supreme Court, as a justice thereof, on May 5, 2014, and until completion and disposition of all causes and matters submitted pursuant to this assignment including, if necessary by reason of a vacancy or disqualification of a Supreme Court justice, petitions for rehearing arising out of such causes and matters.