

**SUPREME COURT MINUTES  
TUESDAY, NOVEMBER 27, 2018  
SAN FRANCISCO, CALIFORNIA**

**S250829**

F074581 Fifth Appellate District

**PEOPLE v. LOPEZ  
(ANTHONY)**

Supplemental briefing ordered

In addition to the issues stated in the order granting review filed on November 20, 2018, the parties are directed to brief the following additional issues. In briefing these issues, the parties are to assume, solely for the sake of argument, and without prejudice to any contrary argument, that Penal Code section 459.5, subdivision (b), prohibits the prosecution from charging both shoplifting and theft of the same property under any circumstances.

- (1) Did defendant forfeit the argument under Penal Code section 459.5 by failing to object to the prosecution's charging both shoplifting and theft?
- (2) If defendant had objected, what should the trial court's ruling have been? Might it have ordered the prosecution to choose between a shoplifting charge and a theft charge? If so, and given the potential difficulty in proving the intent required for shoplifting, might the prosecution have chosen to charge only petty theft with a prior? In that event, would defendant have been prejudiced by the failure to object?
- (3) Was petty theft with a prior a lesser included offense of shoplifting under the accusatory pleading test? If so, could the trial court have instructed the jury on shoplifting as the charged offense and on petty theft as a lesser included offense? (See *People v. Reed* (2006) 38 Cal.4th 1224, 1227-1231.) If not, and assuming defendant had objected to charging both crimes, could the prosecution have moved to amend the charging document to make the theft charge a lesser included offense of shoplifting under the accusatory pleading test? If that had occurred, could the trial court have instructed on shoplifting as the charged offense and on petty theft as a lesser included offense? In that event, would defendant have been prejudiced by the failure to object?

**S104665****PEOPLE v. POORE  
(CHRISTOPHER ERIC)**

Extension of time granted

Based upon Deputy Attorney General Anthony Da Silva's representation that the respondent's brief is anticipated to be filed by March 29, 2019, an extension of time in which to file that brief is granted to January 28, 2019. After that date, only one further extension totaling about 62 additional days is contemplated.

An application to file an overlength brief must be served and filed no later than 60 days before the anticipated filing date. (See Cal. Rules of Court, rule 8.631(d)(1)(A)(ii) & (B)(ii).)

**S165998****PEOPLE v. PLATA (NOEL  
JESSE) & TRAN (RONALD  
TRI)**

Extension of time granted

Based upon Supervising Deputy State Public Defender Jolie Lipsig's representation that appellant Noel Jesse Plata's reply brief is anticipated to be filed by June 18, 2019, an extension of time in which to file that brief is granted to January 29, 2019. After that date, only three further extensions totaling about 139 additional days will be granted.

An application to file an overlength brief must be served and filed no later than 60 days before the anticipated filing date. (See Cal. Rules of Court, rule 8.631(d)(1)(A)(ii) & (B)(ii).)

**S180112****PEOPLE v. DANIELS, JR.,  
(JACKSON CHAMBERS)**

Extension of time granted

On application of appellant, it is ordered that the time to serve and file appellant's opening brief is extended to February 1, 2019.

**S188589****PEOPLE v. VALLES, JR.,  
(PEDRO CORTEZ)**

Extension of time granted

Based upon Deputy Attorney General Kelly E. Lebel's representation that the respondent's brief is anticipated to be filed by July 29, 2019, an extension of time in which to file that brief is granted to January 29, 2019. After that date, only three further extensions totaling about 180 additional days are contemplated.

An application to file an overlength brief must be served and filed no later than 60 days before the anticipated filing date. (See Cal. Rules of Court, rule 8.631(d)(1)(A)(ii) & (B)(ii).)

**S195943****JONES (ALBERT) ON H.C.**

Extension of time granted

Based upon counsel E. Anne Hawkins's representation that the reply to the informal response to the petition for writ of habeas corpus is anticipated to be filed by August 15, 2019, an extension of time in which to file that document is granted to January 18, 2019. After that date, only four further extensions totaling about 208 additional days are contemplated.

**S207510****PEOPLE v. BARBAR  
(MICHAEL)**

Extension of time granted

On application of appellant, it is ordered that the time to serve and file appellant's opening brief is extended to February 1, 2019.

**S214649****PEOPLE v. WADE  
(ANTHONY DARNELL)**

Extension of time granted

On application of appellant, it is ordered that the time to serve and file appellant's opening brief is extended to January 25, 2019.

**S215960****PEOPLE v. MENDOZA  
(ANGEL)**

Extension of time granted

Based upon counsel Catherine White's representation that the appellant's opening brief is anticipated to be filed by July 24, 2019, an extension of time in which to file that brief is granted to January 25, 2019. After that date, only three further extensions totaling about 182 additional days are contemplated.

An application to file an overlength brief must be served and filed no later than 60 days before the anticipated filing date. (See Cal. Rules of Court, rule 8.631(d)(1)(A)(ii) & (B)(ii).)

**S216466****PEOPLE v. BALCOM (JASON  
MICHAEL)**

Extension of time granted

On application of appellant, it is ordered that the time to serve and file appellant's opening brief is extended to January 25, 2019.

**S245607**

A149482 First Appellate District, Div. 3

**MELLENDEZ (GEORGE) v.  
SAN FRANCISCO BASEBALL  
ASSOCIATES LLC**

Extension of time granted

On application of respondent's and good cause appearing, it is ordered that the time to serve and file the response to amicus curiae brief is extended to January 7, 2019.

**S247074**      D072981 Fourth Appellate District, Div. 1      **WEBB (BETTIE) ON H.C.**  
Extension of time granted

On application of the Attorney General and good cause appearing, it is ordered that the time to serve and file the amicus curiae brief is extended to December 27, 2018.

**S249495**      D067313 Fourth Appellate District, Div. 1      **PEOPLE v. OROZCO  
(ERNEST)**

Extension of time granted

On application of appellant and good cause appearing, it is ordered that the time to serve and file the opening brief on the merits is extended to November 21, 2018.

**S249757**      **JONES (TIMOTHY RAY) ON  
H.C.**

Extension of time granted

On application of respondent and good cause appearing, it is ordered that the time to serve and file the informal response is extended to December 31, 2018.

**S249872**      A150689 First Appellate District, Div. 1      **PEOPLE v. VEAMATAHAU  
(JOSEPH)**

Extension of time granted

On application of appellant and good cause appearing, it is ordered that the time to serve and file the opening brief on the merits is extended to December 17, 2018.

**S193534**      **WEAVER (LA TWON) ON  
H.C.**

Order filed

Petitioner's "Application for Leave to File a Motion for Reconsideration and Declaration of Counsel in Support Thereof" filed on November 26, 2018, is granted.

**S241471**      B265011 Second Appellate District, Div. 2      **McCLAIN (MICHAEL) v.  
SAV-ON DRUGS**

Order filed

The request of counsel for respondents in the above-referenced cause to allow two counsel to

argue on behalf of respondents at oral argument is hereby granted.

The request of respondents to allocate to David F. McDowell 10 minutes and Janill L. Richards 20 minutes of respondents' 30-minute allotted time for oral argument is granted.

Fourth Appellate District, Div. 2      **TRANSFER ORDERS**

The following matters, now pending in the Court of Appeal, Fourth Appellate District, are transferred from Division Two to Division One:

1. E068836      Jeremy Swanson, Individually and as Successor in interest, etc. et al. v. County of Riverside; Melody Andersen-Martin, Individually and as Successor in interest, etc. et al. v. County of Riverside
2. E068691      Jason Cartaya v. M & T Bank et al.
3. E069479      Atlantic Specialty Insurance Company et al. v. Liberty Mutual Insurance Company et al.
4. E068556      Offshore Supply Systems v. CS Industries, Inc. et al.
5. E069179      Desiree Wiles v. Wayne Jackson
6. E068264      Robert Maher et al. v. Milestone Financial LLC et al.
7. E068310      Christopher Ross v. County of Riverside
8. E068497      Donna Williams v. County of San Bernardino Sheriff's Department
9. E069248      Highland Springs Conference and Training Center et al. v. City of Banning; SCC Acquisitions, Inc. et al.
10. E068904      City of Riverside v. Vanowen Holdings, LLC
11. E069284      Robert Devine II v. Michael Brink
12. E069193      Margaret Cowdery v. Old Mutual Financial Life Insurance Company
13. E069410      Glenn Moss et al. v. Dale Duncan et al.
14. E069077      Angelica Perales v. Select Portfolio Servicing, N.A. et al.
15. E067679      City of Hesperia v. Lake Arrowhead Community Services District et al.

**G048970**

Fourth Appellate District, Div. 3

**ORANGE COUNTY WATER  
DISTRICT v. RADIOSHACK  
CORPORATION**

The order filed on October 29, 2018, transferring the case from Division Three to Division One, is hereby amended to reflect the above case number.