



Supreme Court of California
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NEWS RELEASE

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FOR IMMEDIATE RELEASE

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Summary of Cases Accepted and Related Actions During Week of January 9, 2017

[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.]

#17-01 *Union of Medical Marijuana Patients, Inc. v. City of San Diego*, S238563. (D068185; 4 Cal.App.5th 103; San Diego County Superior Court; 37-2014-00013481-CU-TT-CTL.) Petition for review after the Court of Appeal affirmed the judgment in an action for administrative mandate. This case presents the following issues: (1) Is the enactment of a zoning ordinance categorically a “project” within the meaning of the California Environmental Quality Act (Pub. Resources Code, § 21000 et seq.)? (2) Is the enactment of a zoning ordinance allowing the operation of medical marijuana cooperatives in certain areas the type of activity that may cause a reasonably foreseeable indirect physical change to the environment?

#17-02 *People v. Perez*, S238354. (F069020; 3 Cal.App.5th 812; Fresno County Superior Court; CF94509578.) Petition for review after the Court of Appeal reversed an order denying a petition to recall sentence. This case presents the following issue: Did the Court of Appeal err when it failed to defer to the trial court’s factual finding that defendant did not use a deadly weapon during his previous assault and was therefore eligible for resentencing under the Three Strikes Reform Act of 2012 (Pen. Code, § 1170.126)?

#17-03 *People v. Bell*, S238339. (B263022; 3 Cal.App.5th 865; Los Angeles County Superior Court; NA047579.) Petition for review after the Court of Appeal affirmed a judgment of conviction of criminal offenses. The court ordered briefing deferred pending decision in *People v. Conteras*, S224564 (#15-46), which presents the following issue: Is a total sentence of 50 years to life or 58 years to life the functional equivalent of life without the possibility of parole for juvenile offenders?

#17-04 *People v. Bishop*, S238344. (C079346, C979492; nonpublished opinion; Tehama County Superior Court; NCR90853; NCR92344.) Petition for review after the Court of Appeal affirmed judgments of conviction of criminal offenses.

#17-05 *People v. Perez*, S238688. (D070173; nonpublished opinion; Imperial County Superior Court; JCF35772.) Petition for review after the Court of Appeal affirmed a judgment of conviction of a criminal offense.

The court ordered briefing in *Bishop* and *Perez* deferred pending decision in *People v. Hall*, S227193 (#15-157), which presents the following issues: (1) Are probation conditions prohibiting defendant from: (a) “owning, possessing or having in his custody or control any handgun, rifle, shotgun or any firearm whatsoever or any weapon that can be concealed on his person”; and (b) “using or possessing or having in his custody or control any illegal drugs, narcotics, narcotics paraphernalia without a prescription,” unconstitutionally vague? (2) Is an explicit knowledge requirement constitutionally mandated?

#17-06 *People v. Briggs*, S238668. (F072120; nonpublished opinion, Fresno County Superior Court; F10901778). Petition for review after the Court of Appeal affirmed an order granting in part and denying in part a petition to recall sentence.

#17-07 *In re Brown*, S238567. (C080301; nonpublished opinion; Yolo County Superior Court; 101437.) Petition for review after the Court of Appeal denied a petition for writ of habeas corpus.

#17-08 *People v. Lout*, S238093. (F072214; nonpublished opinion; Kern County Superior Court; BF136097B.) Petition for review after the Court of Appeal affirmed an order denying a post-judgment motion to modify sentence.

#17-09 *People v. Pargas*, S238169. (B264612; nonpublished opinion; Los Angeles County Superior Court; GA091922.) Petition for review after the Court of Appeal affirmed an order denying a post-judgment motion to modify sentence.

#17-10 *People v. Penilla*, S238608. (E064445; nonpublished opinion; San Bernardino County Superior Court; FWV1303255.) Petition for review after the Court of Appeal affirmed an order denying a motion to modify sentence.

#17-11 *People v. Scilagyi*, S238233. (F071468; nonpublished opinion; Tulare County Superior Court; VCF218243.) Petition for review after the Court of Appeal affirmed an order denying a post-judgment motion to modify sentence.

#17-12 *People v. Taylor*, S238485. (F072107; nonpublished opinion; Kern County Superior Court; BF156233A.) Petition for review after the Court of Appeal affirmed an order denying a post-judgment motion to modify sentence.

The court ordered briefing in *Briggs*, *Brown*, *Lout*, *Pargas*, *Penilla*, *Scilagyi*, and *Taylor* deferred pending decision in *People v. Valenzuela*, S232900 (#16-97), which presents the following issue: Is a defendant eligible for resentencing on the penalty enhancement for serving a prior prison term on a felony conviction after the superior court has reclassified the underlying felony as a misdemeanor under the provisions of Proposition 47?

#17-13 *People v. Buford*, S238790. (F069936; 4 Cal.App.5th 886; Kern County Superior Court; SC064734A.) Petition for review after the Court of Appeal affirmed an order denying a petition to recall sentence.

#17-14 *People v. Gardner*, S238446. (B268410; nonpublished opinion; Los Angeles County Superior Court; BA165537.) Petition for review after the Court of Appeal affirmed an order denying a petition to recall sentence.

#17-15 *People v. Salmon*, S238598. (H042341; nonpublished opinion; Santa Clara County Superior Court; CC827450.) Petition for review after the Court of Appeal affirmed an order denying a petition to recall sentence.

The court ordered briefing in *Buford*, *Gardner*, and *Salmon* deferred pending decision in *People v. Chaney*, S223676 (#15-13), and *People v. Valencia*, S223825 (#15-14), which present the following issue: Does the definition of “unreasonable risk of danger to public safety” (Pen. Code, § 1170.18, subd. (c)) under Proposition 47 (“the Safe Neighborhoods and Schools Act”) apply on retroactivity or other grounds to resentencing under the Three Strikes Reform Act of 2012 (Pen. Code, § 1170.126)?

#17-16 *People v. Curtis*, S238857. (C076045; nonpublished opinion; Sacramento County Superior Court; 11F04056, 10F07217.) Petition for review after the Court of Appeal affirmed a judgment of conviction of criminal offenses. The court ordered briefing deferred pending decision in *People v. DeHoyos*, S228230 (#15-171), which presents the following issue: Does the Safe Neighborhood and Schools Act [Proposition 47] (Gen. Elec. (Nov. 4, 2014)), which made specified crimes misdemeanors rather than felonies, apply retroactively to a defendant who was sentenced before the Act’s effective date but whose judgment was not final until after that date?

#17-17 *People v. Enquist*, S238804. (C079717; nonpublished opinion; Shasta County Superior Court; 12F2963.) Petition for review after the Court of Appeal affirmed an order granting in part and denying in part a petition to recall sentence.

#17-18 *People v. Sulitswalley*, S238539. (B271266; nonpublished opinion; Santa Barbara County Superior Court; 1256756.) Petition for review after the Court of Appeal reversed an order denying a post-judgment motion to modify sentence.

The court ordered briefing in *Enquist* and *Sulitswalley* deferred pending decision in *People v. Buycks*, S231765 (#16-19), which presents the following issue: Was defendant eligible for resentencing on the penalty enhancement for committing a new felony while released on bail on a drug offense even though the superior court had reclassified the conviction for the drug offense as a misdemeanor under the provisions of Proposition 47?

#17-19 *People v. Garcia*, S238581. (B264655; nonpublished opinion; Los Angeles County Superior Court; GA075903.) Petition for review after the Court of Appeal reversed an order denying a petition to recall sentence.

#17-20 *People v. Lecou*, S238664. (G051781; nonpublished opinion; Orange County Superior Court; 13HF1295.) Petition for review after the Court of Appeal affirmed an order denying a petition to recall sentence.

#17-21 *People v. Woodard*, S238782. (H042506; nonpublished opinion; Santa Clara County Superior Court; C1118724.) Petition for review after the Court of Appeal affirmed an order denying a petition to recall sentence.

The court ordered briefing in *Garcia*, *Lecou*, and *Woodard* deferred pending decision in *People v. Romanowski*, S231405 (#16-24), which present the following issue: Does Proposition 47 (“the Safe Neighborhoods and Schools Act”), which reclassifies as a misdemeanor any grand theft involving property valued at \$950 or less (Pen. Code, § 490.2), apply to theft of access card information in violation of Penal Code section 484e, subdivision (d)?

#17-22 *People v. Gudino*, S238074. (F071563; nonpublished opinion; Kings County Superior Court; 07CM7087.) 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. Estrada*, S232114 (#16-104), which presents the following issue: Did the trial court improperly rely on the facts of counts dismissed under a plea agreement to find defendant ineligible for resentencing under the provisions of Proposition 36?

#17-23 *People v. Mills*, S238839. (E064610; nonpublished opinion; Riverside County Superior Court; SWF1403242,) Petition for review after the Court of Appeal affirmed an order denying a petition to recall sentence.

#17-24 *People v. Ortiz*, S238280. (C079847; nonpublished opinion; Sacramento County Superior Court; 13F05800.) Petition for review after the Court of Appeal affirmed a judgment of conviction of criminal offenses.

The court ordered briefing in *Mills* and *Ortiz* deferred pending decision in *People v. Page*, S230793 (#16-28), which presents the following issue: Does Proposition 47 (“the Safe Neighborhoods and Schools Act”) apply to the offense of unlawful taking or driving a vehicle (Veh. Code, § 10851), because it is a lesser included offense of Penal Code section 487, subdivision (d), and that offense is eligible for resentencing to a misdemeanor under Penal Code sections 490.2 and 1170.18?

#17-25 *In re Q.H.*, S238077. (A142771; nonpublished opinion; San Francisco County Superior Court; JW126271.) Petition for review after the Court of Appeal affirmed orders in a juvenile wardship proceeding. The court ordered briefing deferred pending decision in *Facebook, Inc. v. Superior Court*, S230051 (#15-232), which presents the following issues: (1) Did the Court of Appeal properly conclude that defendants are not entitled to *pretrial* access to records in the possession of Facebook, Instagram, and Twitter under the federal Stored Communications Act (18 U.S.C. § 2701, et seq.) and *People v. Hammon* (1997) 15 Cal.4th 117? (2) Does an order barring pretrial access to the requested records violate defendants’ right to compulsory process and confrontation under the Sixth Amendment or their due process right to a fair trial? (3) Should this court limit or overrule *People v. Hammon* (1997) 15 Cal.4th 117?

#17-26 *People v. Roddy*, S238708. (B264891; nonpublished opinion; Los Angeles County Superior Court; GA076631.) Petition for review after the Court of Appeal reversed an order denying a petition to recall sentence.

#17-27 *People v. Swann*, S238651. (D069217; nonpublished opinion; San Diego County Superior Court; SCD221767.) Petition for review after the Court of Appeal reversed an order granting in part and denying in part a petition to recall sentence.

The court ordered briefing in *Roddy* and *Swann* deferred pending decision in *People v. Gonzales*, S231171 (#16-39), which presents the following issue: Was defendant entitled to resentencing under Penal Code section 1170.18 on his conviction for second degree burglary either on the ground that it met the definition of misdemeanor shoplifting (Pen. Code, § 459.5) or on the ground that section 1170.18 impliedly includes any second degree burglary involving property valued at \$950 or less?

#17-28 *People v. Windfield*, S238073. (E055062; 3 Cal.App.5th 739; San Bernardino County Superior Court; FVA900999.) Petition for review after the Court of Appeal modified judgments of conviction of criminal offenses, ordered a limited remand, and otherwise affirmed. The court ordered briefing deferred pending decision in *People v.*

Canizales, S221958 (#14-134), which presents the following issue: Was the jury properly instructed on the “kill zone” theory of attempted murder?

DISPOSITIONS

Review in the following cases, which were granted and held for *Harris v. Superior Court* (2016) 1 Cal.5th 984, was dismissed:

#16-131 *People v. Brown*, S233274.

#16-183 *People v. Bell*, S234017.

#16-132 *People v. Garcia*, S233171.

#16-317 *People v. Dunn*, S236282.

#16-133 *People v. Gonzalez*, S233219.

#16-318 *People v. Flynn*, S236377.

#16-134 *People v. Perry*, S233287.

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The Supreme Court of California is the state's highest court and its decisions are binding on all other California state courts. The court's primary role is to decide matters of statewide importance and to maintain uniformity in the law throughout California by reviewing matters from the six districts of the California Courts of Appeal and the fifty-eight county superior courts (the trial courts). Among its other duties, the court also decides all capital appeals and related matters and reviews both attorney and judicial disciplinary matters.