



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 February 27, 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.]

#17-74 *People v. Chavez*, S238929. (C074138; 5 Cal.App.5th 110; Yolo County Superior Court; CRF042140.) Petition for review after the Court of Appeal affirmed a post-conviction order in a criminal case. The court limited review to the following issues: (1) Does Penal Code section 1203.4 eliminate a trial court's discretion under Penal Code section 1385 to dismiss a matter in the interests of justice? (2) Do trial courts have authority to grant relief under Penal Code section 1385 after sentence has been imposed, judgment has been rendered, and any probation has been completed?

#17-75 *People v. Valenzuela*, S239122. (B269027; 5 Cal.App.5th 449; Ventura County Superior Court; 2013025724.) Petition for review after the Court of Appeal affirmed an order denying a petition to recall sentence. This case presents the following issue: Does a conviction for active gang participation in violation of Penal Code section 186.22, subdivision (a), which requires that the defendant willfully promote, further, or assist in any *felonious* criminal conduct of the gang, remain valid when the underlying conduct in question was reduced from a felony to a misdemeanor pursuant to Proposition 47?

#17-76 *People v. Bussey*, S239540. (C079797; nonpublished opinion; Placer County Superior Court; 62-135055.) 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. Page*, S230793 (#16-28), which concerns whether Proposition 47 ("the Safe Neighborhoods and Schools Act") applies to the offense of unlawful taking or driving a vehicle (Veh. Code, § 10851), and *People v. Romanowski*, S231405 (#16-24), which concerns whether Proposition 47, which reclassifies as a misdemeanor any grand theft involving property valued at \$950 or less (Pen. Code, § 490.2), applies to theft of access card information in violation of Penal Code section 484e, subdivision (d).

#17-77 *In re D.W.*, S239644. (A146790; nonpublished opinion; Contra Costa County Superior Court; J15-01018.) Petition for review after the Court of Appeal modified and affirmed orders in a juvenile wardship proceeding. The court ordered briefing deferred pending decision in *In re Ricardo P.*, S230923 (#16-41), which presents the following issue: Did the trial court err imposing an “electronics search condition” on minor as a condition of his probation when it had no relationship to the crimes he committed but was justified on appeal as reasonably related to future criminality under *People v. Olguin* (2008) 45 Cal.4th 375 because it would facilitate his supervision?

#17-78 *People v. DeHughes*, S239494. (C077959; nonpublished opinion; Shasta County Superior Court; 13F7660.) Petition for review after the Court of Appeal affirmed a judgment of conviction of criminal offenses.

#17-79 *People v. Vallejos*, S239749. (A146470; nonpublished opinion; Solano County Superior Court; VCR219677.) Petition for review after the Court of Appeal affirmed a judgment of conviction of a criminal offense.

The court ordered briefing in *DeHughes* and *Vallejos* 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?

#17-80 *People v. Garcia*, S238634. (B255328; nonpublished opinion; Los Angeles County Superior Court; VA128373.) Petition for review after the Court of Appeal modified and affirmed a judgment of conviction of criminal offenses. The court ordered briefing deferred pending decision in *People v. Mateo*, S232674 (#16-147), which presents the following issue: In order to convict an aider and abettor of attempted willful, deliberate and premeditated murder under the natural and probable consequences doctrine, must a premeditated attempt to murder have been a natural and probable consequence of the target offense? In other words, should *People v. Favor* (2012) 54 Cal.4th 868 be reconsidered in light of *Alleyne v. United States* (2013) ___ U.S. ___ [113 S.Ct. 2151] and *People v. Chiu* (2014) 59 Cal.4th 155?

#17-81 *People v. Inatowitz*, S239693. (H043055; nonpublished opinion; Monterey County Superior Court; SS121036A, SS121332A.) Petition for review after the Court of Appeal affirmed an order granting in part and denying in part a petition to recall sentence. The court ordered briefing 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?

#17-82 *People v. Sanchez, S239701.* (F071824; nonpublished opinion; Fresno County Superior Court; CF94521140.) Petition for review after the Court of Appeal affirmed a resentencing order in a criminal case. The court ordered briefing deferred pending decision in *People v. Arzate, S238032* (#17-32) and *People v. Padilla, S239454* (#17-34), which present issues as to the requirements under *Montgomery v. Louisiana* (2016) 577 U.S. ___, 136 S.Ct. 718, 193 L.Ed.2d 599, *Miller v. Alabama* (2012) 567 U.S. ___, 132 S.Ct. 2455, 183 L.Ed.2d 407, for imposing a sentence of life imprisonment without possibility of parole on a juvenile offender.

#17-83 *Wilson v. Cable News Network, Inc., S239686.* (B264944; 6 Cal.App.5th 822; Los Angeles County Superior Court; BC559720.) Petition for review after the Court of Appeal reversed an order granting a special motion to strike in a civil action.. The court ordered briefing deferred pending decision in *Park v. Board of Trustees of California State University, S229728* (#15-234), which presents the following issue: Does Code of Civil Procedure section 425.16 authorize a court to strike a cause of action in which the plaintiff challenges only *the validity of an action* taken by a public entity in an “official proceeding authorized by law” (subd. (e)) but does not seek relief against any participant in that proceeding based on his or her protected communications?

DISPOSITION

Review in the following case was dismissed at the joint request of the parties in light of the settlement of the matter:

#16-385 *Hayward v. Superior Court, S237174.*

STATUS

People v. Sivongxxay, S078895. The court directed the parties to file simultaneous letter briefs addressing the following issue: May any state-law error as to a special circumstance jury waiver (see *People v. Memro* (1985) 38 Cal.3d 658, 700-704) be found harmless based on an evaluation of the likelihood that, absent the error, defendant would have chosen not to waive a jury trial as to the special circumstance allegation? (Cf. *People v. Blackburn* (2015) 61 Cal.4th 1113, 1130-1137; *People v. Tran* (2015) 61 Cal.4th 1160, 1168-1170; *People v. Martinez* (2013) 57 Cal.4th 555; *People v. Superior Court (Zamudio)* (2000) 23 Cal.4th 183; *People v. Sanchez* (1995) 12 Cal.4th 1, 30-31; *People v. McClellan* (1993) 6 Cal.4th 367; *In re Alvernaz* (1992) 2 Cal.4th 924; *U.S. v. Williams* (7th Cir. 2009) 559 F.3d 607, 610-616; *Fortune v. U.S.* (D.C. 2013) 59 A.3d

949, 955-957; *State v. Little* (Minn. 2014) 851 N.W.2d 878, 883-886; *State v. Williams* (Or.Ct.App. 2005) 104 P.3d 1151, 1153; see 6 RT 903-905.)

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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.