



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 March 8, 2021

[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.]

#21-101 *People v. Strong*, S266606. (C091162; nonpublished opinion; Sacramento County Superior Court; 11F06729.) Petition for review after the Court of Appeal affirmed an order denying a post-judgment motion in a criminal matter. This case presents the following issue: Does a felony-murder special circumstance finding (Pen. Code, § 190.2, subd. (a)(17)) made before *People v. Banks* (2015) 61 Cal.4th 788 and *People v. Clark* (2016) 63 Cal.4th 522 preclude a defendant from making a prima facie showing of eligibility for relief under Penal Code section 1170.95?

#21-102 *People v. Aguirre*, S266762. (B296528; nonpublished opinion; Los Angeles County Superior Court; KA119165.) Petition for review after the Court of Appeal remanded in part and otherwise affirmed a judgment of conviction of criminal offenses. The court ordered briefing deferred pending decision in *People v. Henderson*, S265172 (#20-387), which presents the following issue: Does the Three Strikes law (Pen. Code, §§ 667, subd. (c)(6) & (7), 1170.12, subd. (a)(6) & (7)) require consecutive terms on multiple current violent or serious felony convictions, regardless of whether the offenses occurred on the same occasion or arose from the same set of operative facts?

#21-103 *People v. Alvarez*, S266446. (E072886; nonpublished opinion; Riverside County Superior Court; INF1501680.) Petition for review after the Court of Appeal modified sentence and otherwise affirmed judgments of conviction of criminal offenses. The court ordered briefing deferred pending decision in *People v. Lemcke*, S250108 (#18-136), which presents the following issue: Does instructing a jury with CALCRIM No. 315 that an eyewitness's level of certainty can be considered when evaluating the reliability of the identification violate a defendant's due process rights?

#21-104 *In re B.K., S265902.* (B307799; nonpublished opinion; Los Angeles County Superior Court; 20CCJP01221, 20CCJP01221A, 20CCJP01221B.) Petition for review after the Court of Appeal dismissed an appeal from orders in a juvenile dependency proceeding.

#21-105 *In re B.K., S266192.* (B307799; nonpublished opinion; Los Angeles County Superior Court; 20CCJP01221, 20CCJP01221A, 20CCJP01221B.) Petition for review after the Court of Appeal dismissed an appeal from orders in a juvenile dependency proceeding.

The court ordered briefing in the above two cases deferred pending decision in *In re A.R.*, S260928 (#20-120), which presents the following issues: (1) Does a parent in a juvenile dependency case have the right to challenge her counsel's failure to file a timely notice of appeal from an order terminating her parental rights under Welfare and Institutions Code section 366.26? (See *Welf. & Inst. Code*, § 317.5, subd. (a); *In re Kristin H.* (1996) 46 Cal.App.4th 1635 [ineffective assistance of counsel claim in dependency proceeding brought on a petition for writ of habeas corpus].) (2) If so, what are the proper procedures for raising such a claim?

#21-106 *People v. Campbell, S266943.* (B302318; nonpublished opinion; Los Angeles County Superior Court; MA067879.) Petition for review after the Court of Appeal affirmed a judgment of conviction of a criminal offense.

#21-107 *People v. Wall, S266875.* (D077358; nonpublished opinion; Imperial County Superior Court; JCF28293.) Petition for review after the Court of Appeal affirmed a judgment of conviction of a criminal offense.

The court ordered briefing in *Campbell* and *Wall* deferred pending decision in *People v. Raybon*, S256798 (#19-121), which presents the following issue: Did Proposition 64 [the "Adult Use of Marijuana Act"] decriminalize the possession of up to 28.5 grams of marijuana by adults 21 years of age or older who are in state prison [as well as those not in prison]?

#21-108 *People v. Carter, S266593.* (A159196; nonpublished opinion; Solano County Superior Court; VCR165496.) Petition for review after the Court of Appeal affirmed an order denying a post-judgment motion in a criminal matter.

#21-109 *People v. Diaz, S266984.* (C091310; nonpublished opinion; San Joaquin County Superior Court; STKCRFE19860000270, 38223.) Petition for review after the Court of Appeal affirmed an order denying a post-judgment motion in a criminal matter.

#21-110 *People v. Estrella, S266944.* (A160443; nonpublished opinion; Alameda County Superior Court; 176410, HC1764101.) Petition for review after the Court of Appeal affirmed an order denying a post-judgment motion in a criminal matter.

#21-111 *People v. Gaines, S266888.* (A158339; nonpublished opinion; Contra Costa County Superior Court; 50811190.) Petition for review after the Court of Appeal affirmed an order denying a post-judgment motion in a criminal matter.

#21-112 *People v. Hall, S266389.* (B297868; nonpublished opinion; Los Angeles County Superior Court; A452611.) Petition for review after the Court of Appeal affirmed an order denying a post-judgment motion in a criminal matter.

#21-113 *People v. Laureano, S266494.* (B301328; nonpublished opinion; Los Angeles County Superior Court; BA145099.) Petition for review after the Court of Appeal affirmed an order denying a post-judgment motion in a criminal matter.

#21-114 *People v. Serrato, S266863.* (B305470; nonpublished opinion; Los Angeles County Superior Court; GA008060.) Petition for review after the Court of Appeal affirmed an order denying a post-judgment motion in a criminal matter.

The court ordered briefing in *Carter, Diaz, Estrella, Gaines, Hall, Laureano, and Serrato* deferred pending decision in *People v. Lewis, S260598* (#20-78), which presents the following issues: (1) May superior courts consider the record of conviction in determining whether a defendant has made a prima facie showing of eligibility for relief under Penal Code section 1170.95? (2) When does the right to appointed counsel arise under Penal Code section 1170.95, subdivision (c)?

#21-115 *People v. Chavez, S266798.* (B304105; nonpublished opinion; Los Angeles County Superior Court; VA117603.) Petition for review after the Court of Appeal affirmed an order denying a post-judgment motion in a criminal matter.

#21-116 *People v. Franco, S266349.* (H047797; nonpublished opinion; Monterey County Superior Court; SS062690.) Petition for review after the Court of Appeal affirmed an order denying a post-judgment motion in a criminal matter.

#21-117 *People v. Harris, S266430.* (B299340; nonpublished opinion; Los Angeles County Superior Court; TA076883.) Petition for review after the Court of Appeal reversed in part and affirmed in part an order denying a post-judgment motion in a criminal matter.

The court ordered briefing in *Chavez, Franco, and Harris* deferred pending decision in *People v. Lopez, S258175* (#19-172), which presents the following issues: (1) Does

Senate Bill No. 1437 (Stats. 2018, ch. 1015) apply to attempted murder liability under the natural and probable consequences doctrine? (2) 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) 570 U.S. 99 and *People v. Chiu* (2014) 59 Cal.4th 155?

#21-118 *People v. Davalos*, S266678. (B304384; nonpublished opinion; Los Angeles County Superior Court; BA110432.) Petition for review after the Court of Appeal affirmed an order denying a post-judgment motion in a criminal matter.

#21-119 *People v. Miller*, S266447. (B297558; nonpublished opinion; Los Angeles County Superior Court; BA226937.) Petition for review after the Court of Appeal affirmed an order denying a post-judgment motion in a criminal matter.

#21-120 *People v. Parra*, S266727. (B299312; nonpublished opinion; Los Angeles County Superior Court; VA114995.) Petition for review after the Court of Appeal reversed an order denying a post-judgment motion in a criminal matter.

The court ordered briefing in *Davalos*, *Miller*, and *Parra* deferred pending decision in *People v. Strong*, S266606 (#21-101), which presents the following issue: Does a felony-murder special circumstance finding (Pen. Code, § 190.2, subd. (a)(17)) made before *People v. Banks* (2015) 61 Cal.4th 788 and *People v. Clark* (2016) 63 Cal.4th 522 preclude a defendant from making a prima facie showing of eligibility for relief under Penal Code section 1170.95?

#21-121 *People v. Humphrey*, S266647. (C091069; nonpublished opinion; Sacramento County Superior Court; 02F02888.) Petition for review after the Court of Appeal affirmed an order denying a post-judgment motion in a criminal matter. The court ordered briefing deferred pending decision in *People v. Lewis*, S260598 (#20-78), which presents the following issues: (1) May superior courts consider the record of conviction in determining whether a defendant has made a prima facie showing of eligibility for relief under Penal Code section 1170.95? (2) When does the right to appointed counsel arise under Penal Code section 1170.95, subdivision (c)? and pending decision in *People v. Delgadillo*, S266305 (#21-72), which presents the following issues: (1) What procedures must appointed counsel and the Courts of Appeal follow when counsel determines that an appeal from an order denying postconviction relief lacks arguable merit? (2) Are defendants entitled to notice of these procedures?

#21-122 *People v. Lathan*, S266705. (B299515; nonpublished opinion; Los Angeles County Superior Court; BA045268.) Petition for review after the Court of Appeal

affirmed an order denying a post-judgment motion in a criminal matter. The court ordered briefing deferred pending decision in *People v. Lewis*, S260598 (#20-78), which presents the following issues: (1) May superior courts consider the record of conviction in determining whether a defendant has made a prima facie showing of eligibility for relief under Penal Code section 1170.95? (2) When does the right to appointed counsel arise under Penal Code section 1170.95, subdivision (c)? and pending decision in *People v. Lopez*, S258175 (#19-172), which presents the following issues: (1) Does Senate Bill No. 1437 (Stats. 2018, ch. 1015) apply to attempted murder liability under the natural and probable consequences doctrine? (2) 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) 570 U.S. 99 and *People v. Chiu* (2014) 59 Cal.4th 155?

#21-123 *People v. Rodriguez*, S266652. (B303099; 58 Cal.App.5th 227; Los Angeles County Superior Court; KA071098.) Petition for review after the Court of Appeal reversed an order denying a post-judgment motion in a criminal matter.

#21-124 *People v. Villegas*, S266616. (B300146; nonpublished opinion; Los Angeles County Superior Court; GA032022.) Petition for review after the Court of Appeal affirmed an order denying a post-judgment motion in a criminal matter.

The court ordered briefing in *Rodriguez* and *Villegas* deferred pending decision in *People v. Duke*, S265309 (#21-01), which presents the following issue: Can the People meet their burden of establishing a petitioner's ineligibility for resentencing under Penal Code section 1170.95, subdivision (d)(3) by presenting substantial evidence of the petitioner's liability for murder under Penal Code sections 188 and 189 as amended by Senate Bill No. 1437 (Stats. 2018, ch. 1015), or must the People prove every element of liability for murder under the amended statutes beyond a reasonable doubt?

#21-125 *People v. Salas*, S266966. (B301365; nonpublished opinion; Ventura County Superior Court; 2008006111.) Petition for review after the Court of Appeal affirmed an order granting in part and denying in part a post-judgment motion in a criminal matter. The court ordered briefing deferred pending decision in *People v. Lopez*, S258175 (#19-172), which presents the following issues: (1) Does Senate Bill No. 1437 (Stats. 2018, ch. 1015) apply to attempted murder liability under the natural and probable consequences doctrine? (2) 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) 570 U.S. 99 and

People v. Chiu (2014) 59 Cal.4th 155? and pending decision in *People v. Tirado*, S257658 (#19-174), which presents the following issue: Can the trial court impose an enhancement under Penal Code section 12022.53, subdivision (b), for personal use of a firearm, or under section 12022.53, subdivision (c), for personal and intentional discharge of a firearm, as part of its authority under section 1385 and subdivision (h) of section 12022.53 to strike an enhancement under subdivision (d) for personal and intentional discharge of a firearm resulting in death or great bodily injury, even if the lesser enhancements were not charged in the information or indictment and were not submitted to the jury?

#21-126 *People v. Thompson*, S266517. (C090225; nonpublished opinion; San Joaquin County Superior Court; STKCRCNV19980016794, SP062695C.) Petition for review after the Court of Appeal affirmed an order denying a post-judgment motion in a criminal matter.

#21-127 *People v. Webb*, S266614. (C089453; nonpublished opinion; San Joaquin County Superior Court; STKCRCNV199816793.) Petition for review after the Court of Appeal affirmed an order denying a post-judgment motion in a criminal matter.

The court ordered briefing in *Thompson* and *Webb* deferred pending decision in *People v. Lewis*, S260598 (#20-78), which presents the following issues: (1) May superior courts consider the record of conviction in determining whether a defendant has made a prima facie showing of eligibility for relief under Penal Code section 1170.95? (2) When does the right to appointed counsel arise under Penal Code section 1170.95, subdivision (c)? and pending decision in *People v. Strong*, S266606 (#21-101), which presents the following issue: Does a felony-murder special circumstance finding (Pen. Code, § 190.2, subd. (a)(17)) made before *People v. Banks* (2015) 61 Cal.4th 788 and *People v. Clark* (2016) 63 Cal.4th 522 preclude a defendant from making a prima facie showing of eligibility for relief under Penal Code section 1170.95?

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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.