



Supreme Court of California
350 McAllister Street, San Francisco, CA 94102-4797
www.courts.ca.gov/supremecourt

NEWS RELEASE

Contact: [Cathal Conneely](mailto:Cathal.Conneely@courts.ca.gov), 415-865-7740

FOR IMMEDIATE RELEASE

March 16, 2018

Summary of Cases Accepted and Related Actions During Week of March 12, 2018

[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.]

#18-42 *Wishnev v. Northwestern Mutual Life Ins. Co.*, S246541. (9th Cir. No. 16-16037; 880 F.3d 493; Northern District of California; No. 15-cv-03797-EMC.) Request under California Rules of Court rule 8.548, that this court decide questions of California law presented in a matter pending in the United States Court of Appeals for the Ninth Circuit. The questions presented are: “1. Are the lenders identified in Article XV of the California Constitution (Cal. Const., art. XV, § 1) as being exempt from the restrictions otherwise imposed by that article, nevertheless subject to the requirement in section 1916-2 of the California Civil Code that a lender may not compound interest ‘unless an agreement to that effect is clearly expressed in writing and signed by the party to be charged therewith?’ 2. Does an agreement meet the requirement of section 1916-2 if it is comprised of: (a) an application for insurance signed by the borrower, and (b) a policy of insurance containing an agreement for compound interest that is subsequently attached to the application, thus constituting the entire contract between the parties pursuant to section 10113 of the California Insurance Code?”

#18-43 *People v. Bueno*, S246361. (B277399; nonpublished opinion; Los Angeles County Superior Court; MA062308.) 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. Ruiz*, S235556 (#16-312), which presents the following issue: May a trial court properly impose a criminal laboratory analysis fee (Health & Saf. Code, § 11372.5, subd. (a)) and a drug program fee (Health & Saf. Code, § 11372.7, subd. (a)) based on a defendant’s conviction for conspiracy to commit certain drug offenses?

#18-44 *People v. Martinez-Carreon*, S246037. (A141670, A141679; nonpublished opinion; Marin County Superior Court; SC173762B, SC173762C.) Petition for review after the Court of Appeal affirmed in part and conditionally reversed in part judgments 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) 570 U.S. 99 and *People v. Chiu* (2014) 59 Cal.4th 155?

#18-45 *People v. McCurdy*, S246914. (A149471, A151358; nonpublished opinion; Napa County Superior Court; CR157198). Petition for review after the Court of Appeal affirmed an order denying 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?

#18-46 *People v. Shaw*, S246465. (A148997; 18 Cal.App.5th 87; San Francisco County Superior Court; SCN224910.) Petition for review after the Court of Appeal affirmed in part and reversed in part a judgment of conviction of criminal offenses. The court ordered briefing deferred pending decision in *In re H.W.*, S237415 (#16-405), which presents the following issue: Did the Court of Appeal err in holding that a pair of pliers, which the defendant used to remove an anti-theft device from a pair of blue jeans in a department store, qualified as a burglary tool within the meaning of Penal Code section 466?

#18-47 *People v. Tabron*, S245912. (A144079; nonpublished opinion; Alameda County Superior Court; C172865A, C172865C, C172865D.) Petition for review after the Court of Appeal affirmed judgments of conviction of criminal offenses. The court ordered briefing deferred pending decision in *People v. Gonzalez*, S234377 (#16-236), which presents the following issue: Was the trial court's failure to instruct on murder with malice aforethought, lesser included offenses of murder with malice aforethought, and defenses to murder with malice aforethought rendered harmless by the jury's finding of a felony murder special circumstance?

DISPOSITIONS

#08-140 *In re Davis*, S116750. Original proceeding. The court transferred this matter to the Superior Court of California, County of Los Angeles.

The following cases were transferred for reconsideration in light of *People v. Page* (2017) 3 Cal.5th 1175:

#16-73 <i>People v. Egger, S231996</i>	(B262757; nonpublished opinion; Los Angeles County Superior Court; YA090390)
#16-164 <i>People v. Mendoza, S233575</i>	(H042293; nonpublished opinion; Santa Clara County Superior Court; EE014970)
#16-185 <i>People v. Gomez, S233849</i>	(E062867; nonpublished opinion; San Bernardino County Superior Court; FSB1402290)
#16-403 <i>People v. Walker, S237664</i>	(E064513; nonpublished opinion; San Bernardino County Superior Court; FVI08775)
#17-276 <i>People v. Lacy, S243465</i>	(C082357; nonpublished opinion; Yolo County Superior Court; CRF160240)
#17-306 <i>People v. Nguyen, S243794</i>	(D071630; nonpublished opinion; San Diego County Superior Court; SCD267778)
#17-321 <i>People v. Shary, S244494</i>	(B280571; nonpublished opinion; Los Angeles County Superior Court; MA068221)
#17-350 <i>People v. Perez, S245462</i>	(E066390; nonpublished opinion; Riverside County Superior Court; INF1500899)

Review in the following cases was dismissed in light of *People v. Page* (2017) 3 Cal.5th 1175:

#17-140 <i>People v. Moreno, S240754</i>	(G051550; nonpublished opinion; Orange County Superior Court; 05NF4135)
#17-186 <i>People v. Van Orden, S241574</i>	(E066432; 9 Cal.App.5th 1277; San Bernardino County Superior Court; FVI010754)
#17-290 <i>People v. Ortiz, S243931</i>	(H042850; nonpublished opinion; Santa Cruz County Superior Court; F25811, F26673)

The following case was transferred for reconsideration in light of *Tri-Fanucchi Farms v. Agricultural Labor Relations Bd.* (2017) 3 Cal.5th 1161:

#17-303 <i>Arnaudo Brothers v. Agricultural Labor Relations Bd., S244322</i>	(F072420; 14 Cal.App.5th 22)
---	------------------------------

#

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.