



Supreme Court of California
350 McAllister Street, San Francisco, CA 94102-4797
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NEWS RELEASE

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

FOR IMMEDIATE RELEASE

April 14, 2017

Summary of Cases Accepted and Related Actions During Week of April 10, 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.]

#17-115 *Cal Fire Local 2881 v. California Public Employees' Retirement System, S239958.* (A142793; 7 Cal.App.5th 115; Alameda County Superior Court; RG12661622.) Petition for review after the Court of Appeal affirmed the judgment in an action for writ of administrative mandate. This case presents the following issues: (1) Was the option to purchase additional service credits pursuant to Government Code section 20909 (known as "airtime service credits") a vested pension benefit of public employees enrolled in CalPERS? (2) If so, did the Legislature's withdrawal of this right through the enactment of the Public Employees' Pension Reform Act of 2013 (PEPRA) (Gov. Code, §§ 7522.46, 20909, subd. (g)), violate the contracts clauses of the federal and state Constitutions?

#17-116 *In re Cook, S240153.* (G050907; 7 Cal.App.5th 393; San Bernardino County Superior Court; WHCSS1400290.) Petition for review after the Court of Appeal granted relief on a petition for writ of habeas corpus. This case presents the following issue: Does habeas corpus jurisdiction exist for a petitioner seeking a post-sentencing hearing to make a record of "mitigating evidence tied to his youth" (*People v. Franklin* (2016) 63 Cal.4th 261, 276) after the conviction is final?

#17-117 *People v. Rodriguez, S239713.* (F065807; nonpublished opinion; Stanislaus County Superior Court; 1085319, 1085636.) Petition for review after the Court of Appeal affirmed a judgment of conviction of criminal offenses. The court limited review to the following issues: (1) Was the accomplice testimony in this case sufficiently corroborated? (See *People v. Romero & Self* (2015) 62 Cal.4th 1, 36.) (2) Is defendant's constitutional challenge to his 50 years to life sentence moot when, unlike in *People v. Franklin* (2016) 63 Cal.4th 261, his case was not remanded to the trial court to determine if he was provided an adequate opportunity to make a record of information that will be

relevant to the Board of Parole Hearings as it fulfills its statutory obligations under Penal Code sections 3051 and 4801?

#17-118 *People v. Allison, S240485.* (H043417; nonpublished opinion; Santa Cruz County Superior Court; F23073.) 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. 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?

#17-119 *People v. Dean, S239560.* (B258927; nonpublished opinion; Los Angeles County Superior Court; KA105038.) 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 *People v. Gutierrez*, S224724 (15-73), and *People v. Enriquez*, S240249 (#17-84), which present the following issue: Did the Court of Appeal err in upholding the trial court’s denial of defendants’ *Batson/Wheeler* motions?

#17-120 *In re Edwin P., S240004.* (G052488; **nonpub. opn.**; Orange County Superior Court; DL044119.) Petition for review after the Court of Appeal affirmed orders in a juvenile wardship proceedings.

#17-121 *People v. Lepe, S240423.* (F071320; nonpublished opinion; Merced County Superior Court; CRM030085.) Petition for review after the Court of Appeal affirmed an order denying a petition to recall sentence.

#17-122 *People v. Ochoa, S240285.* (B265361; nonpublished opinion; Los Angeles County Superior Court; GA095685.) Petition for review after the Court of Appeal affirmed an order denying a petition to recall sentence.

The court ordered briefing in *Edwin P., Lepe,* and *Ochoa* 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)?

#17-123 *People v. Hammonds, S240312.* (B268411; nonpublished opinion; Los Angeles County Superior Court; BA115920.) 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. Estrada*, S232114 (#16-104), which concerns whether a trial court may rely on the facts of counts dismissed under a plea agreement to find the defendant ineligible for resentencing under the provisions of Proposition 36, and *People v. Frierson*, S236728 (#16-362), which concerns the standard of proof for such a finding of ineligibility for resentencing.

#17-124 *People v. Harmon*, S240324. (B269971; nonpublished opinion; Los Angeles County Superior Court; BA093310.) Petition for review after the Court of Appeal affirmed an order denying a petition to recall sentence.

#17-125 *People v. Perez*, S240519. (F070534; nonpublished opinion; Kern County Superior Court; SC065759A.) Petition for review after the Court of Appeal affirmed an order denying a petition to recall sentence.

The court ordered briefing in *Harmon* and *Perez* 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)?

#17-126 *In re J.R.*, S240385. (A147835; nonpublished opinion; San Mateo County Superior Court; 84914.) Petition for review after the Court of Appeal affirmed in part and reversed in part orders in a juvenile wardship proceeding.

#17-127 *In re Q.R.*, S240222. (H043075; 7 Cal.App.5th 1231; Santa Clara County Superior Court; JV41136.) Petition for review after the Court of Appeal affirmed orders in a juvenile wardship proceeding.

#17-128 *People v. Trujillo*, S240503. (D070215; nonpublished opinion; San Diego County Superior Court; SCD262041.) Petition for review after the Court of Appeal affirmed a judgment of conviction of a criminal offense.

The court ordered briefing in *J.R.*, *Q.R.*, and *Trujillo* 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?

#17-129 *People v. Johnson, S240509.* (F071140; 8 Cal.App.5th 111; Fresno County Superior Court; F14901527.) Petition for review after the Court of Appeal affirmed an order granting a petition to recall sentence.

#17-130 *People v. Perea, S240426.* (B271624; nonpublished opinion; Los Angeles County Superior Court; KA071979.) Petition for review after the Court of Appeal affirmed an order granting a petition to recall sentence.

The court ordered briefing in *Johnson* and *Perea* 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?

#17-131 *People v. Superior Court (Cook), S240363.* (B267726; nonpublished opinion; Los Angeles County Superior Court ; 6TR01907.) Petition for review after the Court of Appeal denied a petition for writ of mandate. The court ordered briefing deferred pending decision in *Hopkins v. Superior Court*, S237734 (#16-397), which presents the following issue: Can a trial court grant pretrial diversion under Penal Code section 1001.80 on a charge of driving under the influence despite the ban on diversion in Vehicle Code section 23640?

#17-132 *People v. Tran, S239554.* (G051907; nonpublished opinion; Orange County Superior Court; 14CF2804.) 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 concerns the application of Proposition 47 (“the Safe Neighborhoods and Schools Act”) to a defendant who was sentenced before the Act’s effective date but whose judgment was not final until after that date , and *People v. Page*, S230793 (#16-28), which concerns whether Proposition 47 applies to the offense of unlawful taking or driving a vehicle (Veh. Code, § 10851).

#17-133 *In re V.F., S240433.* (A147760; nonpublished opinion; Contra Costa County Superior Court; J0602308.) Petition for review after the Court of Appeal affirmed orders in a juvenile wardship proceeding. The court ordered briefing deferred pending decision in *In re C.B.*, S237801 (#16-384), and *In re C.H.*, S237762 (#16-395), which present the following issues: Did the trial court err by refusing to order the expungement of juvenile’s DNA record after his qualifying felony conviction was reduced to a misdemeanor under Proposition 47 (Pen. Code § 1170.18)? Does the retention of juvenile’s DNA sample violate equal protection because a person who committed the same offense after Proposition 47 was enacted would be under no obligation to provide a DNA sample?

DISPOSITIONS

Review in the following cases, which were granted and held for *People v. Macabeo* (2016) 1 Cal.5th 1206, was dismissed:

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| <i>#15-132 People v. Williams, S226857.</i> | <i>#15-202 People v. Smith, S229387.</i> |
| <i>#15-143 People v. Lavelle, S227074.</i> | <i>#16-171 People v. Almanza, S233704.</i> |
| <i>#15-144 People v. Spencer, S227523.</i> | <i>#16-299 People v. Espino, S235540.</i> |
| <i>#15-200 People v. Carson, S229816.</i> | <i>#16-316 People v. Kahn, S235762.</i> |
| <i>#15-201 People v. Lopez, S229117.</i> | |

The following case was transferred for reconsideration in light of *People v. Macabeo* (2016) 1 Cal.5th 1206:

- #16-315 In re D.W., S235745.*

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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.