



Supreme Court of California
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NEWS RELEASE

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FOR IMMEDIATE RELEASE

May 19, 2017

Summary of Cases Accepted and Related Actions During Week of May 15, 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.]

#17-162 *People v. Cervantes, S241323.* (A140464; 9 Cal.App.5th 569, mod. 10 Cal.App.5th 749a; Solano County Superior Court; FCR281334.) Petition for review after the Court of Appeal affirmed in part and reversed in part a judgment of conviction of criminal offenses. This case presents the following issue: Are juvenile offenders convicted in adult court before the effective date of Proposition 57 entitled to a fitness hearing in juvenile court before sentencing? (See also *People v. Superior Court (Lara)*, S241231.)

#17-163 *Flo & Eddie, Inc. v. Pandora Media, Inc., S240649.* (9th Cir. No. 15-55287; 851 F.3d 950; Central District of California; No. 2:14-cv-07648-PSG-RZ.) 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. Under section 980(a)(2) of the California Civil Code, do copyright owners of pre-1972 sound recordings that were sold to the public before 1982 possess an exclusive right of public performance? 2. If not, does California’s common law of property or tort otherwise grant copyright owners of pre-1972 sound recordings an exclusive right of public performance?”

#17-164 *Samara v. Matar, S240918.* (B265752; 8 Cal.App.5th 796; Los Angeles County Superior Court; EC056720.) Petition for review after the Court of Appeal reversed the judgment in a civil action. This case includes the following issue: When a trial court grants a summary judgment motion on two alternative grounds, and the Court of Appeal affirms the judgment on only one ground and expressly declines to address the second, does the affirmed judgment have preclusive effect as to the second ground?

#17-165 *People v. Superior Court (Lara)*, S241231. (E067296; 9 Cal.App.5th 753; Riverside County Superior Court; RIF1601012.) Petition for review after the Court of Appeal denied a petition for peremptory writ of mandate. This case presents the following issue: Are the provisions of Proposition 57 that eliminated the direct filing of certain juvenile cases in adult court applicable to cases already filed? (See also *People v. Cervantes*, S241323.)

#17-166 *Atascadero Glass, Inc. v. David A. Bush, Inc.*, S240818. (F071426; nonpublished opinion; Tulare County Superior Court; VCU254015.) Petition for review after the Court of Appeal affirmed in part and reversed in part the judgment in a civil action. The court ordered briefing deferred pending decision in *United Riggers & Erectors, Inc. v. Coast Iron & Steel Co.*, S231549 (#16-83), which presents the following issue: May a contractor withhold retention payments when there is a good faith dispute of any kind between the contractor and a subcontractor, or only when the dispute relates to the retention itself?

#17-167 *People v. Baughman*, S241275. (F071518; nonpublished opinion; Stanislaus County Superior Court; 1463111.) Petition for review after the Court of Appeal affirmed an order denying a petition to recall sentence.

#17-168 *People v. Cruder*, S241262. (F072625; nonpublished opinion; Fresno County Superior Court; F13903072.) Petition for review after the Court of Appeal affirmed an order denying a petition to recall sentence.

#17-169 *People v. Flores*, S241173. (D070125; nonpublished opinion; San Diego County Superior Court; SCE355998.) Petition for review after the Court of Appeal affirmed a judgment of conviction of a criminal offense.

The court ordered briefing in *Baughman*, *Cruder*, and *Flores* 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?

#17-170 *People v. Cotton*, S241253. (C081289; nonpublished opinion; Sacramento County Superior Court; 09F03566.) Petition for review after the Court of Appeal affirmed in part and reversed in part an order denying a petition to recall sentence. The court ordered briefing deferred pending decision in *Caretto v. Superior Court*, S235419 #16-268, which presents the following issue: What is the value of an unused stolen debit card for the purpose of distinguishing between misdemeanor and felony receiving stolen property in violation of Penal Code section 496, subdivision (a)?

#17-171 *People v. Geray, S241248.* (H043338; nonpublished opinion; Santa Clara County Superior Court; CC814931.) 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?

#17-172 *People v. Haro, S241204.* (B268143; nonpublished opinion; Los Angeles County Superior Court; KA056067.) 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.

DISPOSITION

The following case was transferred for reconsideration in light of *People v. Merritt* (2017) 2 Cal.5th 819:

#16-398 *People v. Castro, S237117.*

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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.