



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

June 16, 2017

Summary of Cases Accepted and Related Actions During Week of June 12, 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.]

#17-178 *De La Torre v. CashCall, S241434.* (9th Cir. No. 14-17571; 854 F.3d 1082; Northern District of California; No. 3:08-cv-03174-MEJ.) Request under California Rules of Court, rule 8.548, that this court decide a question of California law presented in a matter pending in the United States Court of Appeals for the Ninth Circuit. The question presented is: Can the interest rate on consumer loans of \$2,500 or more governed by California Finance Code section 22303 render the loans unconscionable under section 22302?

#17-179 *Dr. Leevil, LLC v. Westake Healthcare Center, S241324.* (B266931; 9 Cal.App.5th 450; Ventura County Superior Court; 56-2015-00465793-CU-UD-VTA.) Petition for review after the Court of Appeal affirmed the judgment in a civil action. The court limited review to the following issue: Does Code of Civil Procedure section 1161a require a purchaser of real property at a foreclosure sale to perfect title before serving a three -day notice to quit on the occupant of the property?

#17-180 *K.J. v. Los Angeles Unified School Dist., S241057.* (B269864; nonpublished opinion; Los Angeles County Superior Court; BC505356.P) Petition for review after the Court of Appeal dismissed an appeal from an order in a civil action. This case presents the following issue: Does the Court of Appeal lack jurisdiction over an appeal from an order imposing sanctions on an attorney if the notice of appeal is brought in the name of the client rather than in the name of the attorney?

#17-181 *McClain v. Sav-On-Drugs, S241471.* (B265011; p Cal.App.5th 684, mod. 10 Cal.App.5th 749d; Los Angeles County Superior Court; BC325272, BC327216.) Petition for review after the Court of Appeal affirmed the judgment in a civil action. This case includes the following issue: Can a purchaser of products allegedly exempt from sales

tax but for which the retailer collected sales tax reimbursement bring an action to compel the retailer to seek a sales tax refund from the State Board of Equalization and remit the proceeds to purchasers?

#17-182 *People v. Abrams, S241237.* (F072560; nonpublished opinion; Fresno County Superior Court; F09906199.) Petition for review after the Court of Appeal affirmed an order denying a petition to recall sentence.

#17-183 *In re J.R., S241246.* (H043051; nonpublished opinion; Santa Clara County Superior Court; JV40959.) Petition for review after the Court of Appeal affirmed orders in a juvenile wardship proceeding.

#17-184 *People v. Pineda, S241394.* (G052804; nonpublished opinion; Orange County Superior Court; 14NF5034.) Petition for review after the Court of Appeal affirmed a judgment of conviction of criminal offenses.

#17-185 *People v. Rios, S241680.* (H043450; nonpublished opinion; Monterey County Superior Court; SS141968.) Petition for review after the Court of Appeal affirmed an order denying a petition to recall sentence.

#17-186 *People v. Van Orden, S241574.* (E066432; 9 Cal.App.5th 1277; San Bernardino County Superior Court; FVI010754.) Petition for review after the Court of Appeal reversed an order denying a petition to recall sentence.

#17-187 *People v. Vaughn, S241069.* (E065589; nonpublished opinion; Riverside County Superior Court; RIF101615, SWF002036, RIF109875, RIF75287.) Petition for review after the Court of Appeal affirmed an order denying a petition to recall sentence.

The court ordered briefing in *Abrams, J.R., Pineda, Rios, Van Orden, and Vaughn* 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?

#17-188 *In re C.W., S241826.* (A146299; nonpublished opinion; Contra Costa County Superior Court; J1000532.) Petition for review after the Court of Appeal affirmed an order granting a petition to recall sentence.

#17-189 *In re J.H., S241835.* (A145620; nonpublished opinion; Contra Costa County Superior Court; J1201630.) Petition for review after the Court of Appeal affirmed an order granting a petition to recall sentence.

#17-190 *In re T.H., S241546.* (A145862; nonpublished opinion; Contra Costa County Superior Court; J1400799. Petition for review after the Court of Appeal affirmed an order granting a petition to recall sentence.

The court ordered briefing in *C.W., J.H., and T.H.* 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?

#17-191 *People v. Condon, S241582.* (E066077; nonpublished opinion; San Bernardino County Superior Court; FWV802123.) Petition for review after the Court of Appeal affirmed an order denying a petition to recall sentence.

#17-192 *People v. Ibarra, S241834.* (C080231; nonpublished opinion; Sacramento County Superior Court; 12F00954.) Petition for review after the Court of Appeal affirmed a judgment of conviction of a criminal offense.

The court ordered briefing in *Condon* and *Ibarra* 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?

#17-193 *People v. Escobar, S241137.* (B259309; nonpublished opinion; Los Angeles County Superior Court; TA127185.) Petition for review after the Court of Appeal remanded for resentencing and otherwise affirmed judgments of conviction of criminal offenses.

#17-194 *People v. Miranda, S240998.* (B266817; nonpublished opinion; Los Angeles County Superior Court; KA107796.) Petition for review after the Court of Appeal affirmed judgments of conviction of criminal offenses.

The court ordered briefing in *Escobar* and *Miranda* deferred pending decision in *People v. Canizales*, S221958 (#14-134), which presents the following issue: Was the jury properly instructed on the “kill zone” theory of attempted murder?

#17-195 *People v. Guillen*, S241058. (G052022; nonpublished opinion; Orange County Superior Court; 14WF1099.) 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).

#17-196 *People v. Hwang*, S241778. (G052412; nonpublished opinion; Orange County Superior Court; 07NF2407.) 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. Martinez*, S231826 (#16-88), which presents the following issue: Could defendant use a petition for recall of sentence under Penal Code section 1170.18 to request the trial court to reduce his prior felony conviction for transportation of a controlled substance to a misdemeanor in light of the amendment to Health and Safety Code section 11379?

#17-197 *People v. Lopez*, S241207. (B266011; nonpublished opinion; Los Angeles County Superior Court; MA016657.) Petition for review after the Court of Appeal affirmed an order denying a petition to recall sentence.

#17-198 *People v. Mueck*, S241553. (C078223; nonpublished opinion; Tehama County Superior Court; NCR81726.) Petition for review after the Court of Appeal affirmed an order denying a petition to recall sentence.

The court ordered briefing in *Lopez* and *Mueck* 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)?

DISPOSITIONS

Review in the following case was dismissed as improvidently granted:

#17-96 *Moalem v. Gerard*, S239434.

#

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.