



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

June 21, 2019

Summary of Cases Accepted and Related Actions During Week of June 17, 2019

[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.]

#19-67 *People v. Barton, S255214.* (F076599; 32 Cal.App.5th 1088; Tuolumne County Superior Court; CRF46403.) Petition for review after the Court of Appeal dismissed an appeal from a judgment of conviction of criminal offenses. This case includes the following issue: Does a defendant's waiver of the right to appeal his or her sentence as part of a plea agreement preclude a future challenge to the stipulated sentence based on an ameliorative, retroactive change in the law?

#19-68 *Orchard Estate Homes, Inc. v. Orchard Homeowner Alliance, S255031.* (E068064; 32 Cal.App.5th 471; Riverside County Superior Court; PSC1700644.) Petition for review after the Court of Appeal affirmed the judgment in a civil action. This case presents issues relating to the requirements of Civil Code section 4275 for a petition to reduce the votes required to pass an amendment to a homeowners association's covenants, conditions, and restrictions.

#19-69 *In re C.F., S255731.* (A153933; nonpublished opinion; Sonoma County Superior Court; J39049.) 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 Ricardo P.*, S230923 (#16-41) and *People v. Trujillo*, S244650 (#17-335), which present issues concerning the imposition of an "electronics search condition" of probation if the devices subject to the condition had no relationship to the crime or crimes committed and use of the devices would not itself involve criminal conduct, but access to the devices might facilitate supervision of the probationer.

#19-70 *People v. Donely, S255756.* (D073715; nonpublished opinion; San Diego County Superior Court; SCD273714.) 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. Jimenez*, S249397 (#18-99), which presents the following issue: May a felony conviction for the unauthorized use of personal identifying information of another (Pen. Code, § 530.5, subd. (a)) be reclassified as a misdemeanor under Proposition 47 on the ground that the offense amounted to Penal Code section 459.5 shoplifting?

#19-71 *People v. Duggan*, S255200. (C079809; nonpublished opinion; Butte County Superior Court; CM041015.) 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. 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?

#19-72 *People v. Medina*, S255373. (B286117; 33 Cal.App.5th 146, mod. 34 Cal.App.5th 310a; Los Angeles County Superior Court; BA447301, BA447145.) Petitions for review after the Court of Appeal remanded in part and otherwise affirmed judgments of conviction of criminal offenses. The court ordered briefing 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?

#19-73 *People v. Novinger*, S255330. (C084518; nonpublished opinion; San Joaquin County Superior Court; LODCRFE20160015677, STKCRFEE20150006113.) Petition for review after the Court of Appeal modified and affirmed a judgment of conviction of criminal offenses. The court ordered briefing deferred pending decision in *People v. Aledamat*, S248105 (#18-87), which presents the following issue: Is error in instructing the jury on both a legally correct theory of guilt and a legally incorrect one harmless if an examination of the record permits a reviewing court to conclude beyond a reasonable doubt that the jury based its verdict on the valid theory, or is the error harmless only if the record affirmatively demonstrates that the jury actually rested its verdict on the legally correct theory?

DISPOSITION

Review in the following case was dismissed in light of *In re H.W.* (2019) 6 Cal.5th 1068:

#18-46 <i>People v. Shaw</i>, S246465.	(A148997; 18 Cal.App.5th 87; San Francisco County Superior Court; SCN224910)
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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.