



Supreme Court of California
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NEWS RELEASE

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FOR IMMEDIATE RELEASE

July 15, 2016

Summary of Cases Accepted and Related Actions During Week of July 11, 2016

[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.]

#16-236 *People v. Gonzalez*, S234377. (B255375; 246 Cal.App.4th 1358; Los Angeles County Superior Court; YA076269.) Petition for review after the Court of Appeal modified and affirmed a judgment of conviction of a criminal offense. The court limited review to 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?

#16-237 *In re Williams*, S156682. Original proceeding. In this case, which is related to the automatic appeal in *People v. Williams* (2013) 56 Cal.4th 630, the court issued an order to show cause why the relief prayed for in the petition for writ of habeas corpus should not be granted on the ground that the prosecutor exercised peremptory challenges against prospective jurors with racially discriminatory intent.

#16-238 *People v. Aguirre*, S235069. (F069804; nonpublished opinion; Fresno County Superior Court; 676121-7.) Petition for review after the Court of Appeal affirmed an order denying a petition to recall sentence.

#16-239 *People v. Ellis*, S234258. (H040933; nonpublished opinion; Monterey County Superior Court; SS041497.) Petition for review after the Court of Appeal affirmed an order denying a petition to recall sentence.

The court ordered briefing in *Aguirre* and *Ellis* 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)?

#16-240 *People v. Davis*, S234324. (A143916; 246 Cal.App.4th 127; Alameda County Superior Court; C173765.) 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 presents the following issue: Does the Safe Neighborhood and Schools Act [Proposition 47] (Gen. Elec. (Nov. 4, 2014)), which made specified crimes misdemeanors rather than felonies, apply retroactively to a defendant who was sentenced before the Act’s effective date but whose judgment was not final until after that date?

#16-241 *People v. Dool*, S234972. (E063843; nonpublished opinion; Riverside County Superior Court; RIF1304400.) Petition for review after the Court of Appeal reversed an order granting a petition to recall sentence.

#16-242 *People v. Oviedo*, S234967. (E063216; nonpublished opinion; Riverside County Superior Court; RIF1105870.) Petition for review after the Court of Appeal affirmed an order denying a petition to recall sentence.

The court ordered briefing in *Dool* and *Oviedo* deferred pending decision in *People v. Gonzales*, S231171 (#16-39), which presents the following issue: Was defendant entitled to resentencing under Penal Code section 1170.18 on his conviction for second degree burglary either on the ground that it met the definition of misdemeanor shoplifting (Pen. Code, § 459.5) or on the ground that section 1170.18 impliedly includes any second degree burglary involving property valued at \$950 or less?

#16-243 *In re E.N.*, S234928. (A145340; nonpublished opinion; Alameda County Superior Court; J186329.) Petition for review after the Court of Appeal affirmed orders in a juvenile wardship proceeding. The court ordered briefing deferred pending decision in *People v. Hall*, S227193 (#15-157), which presents the following issues: (1) Are probation conditions prohibiting defendant from: (a) “owning, possessing or having in his custody or control any handgun, rifle, shotgun or any firearm whatsoever or any weapon that can be concealed on his person”; and (b) “using or possessing or having in his custody or control any illegal drugs, narcotics, narcotics paraphernalia without a prescription,” unconstitutionally vague? (2) Is an explicit knowledge requirement constitutionally mandated?

#16-244 *People v. Ghoston*, S234970. (E063457; nonpublished opinion; San Bernardino County Superior Court; FVI016266.) Petition for review after the Court of Appeal affirmed an order granting in part and denying in part a petition to recall sentence.

#16-245 *People v. Johnston, S235041.* (C080099; 247 Cal.App.4th 252; Calaveras County Superior Court; F2763, F2825, 11F5155.) Petition for review after the Court of Appeal affirmed an order denying a petition to recall sentence.

The court ordered briefing in *Ghoston* and *Johnston* 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?

#16-246 *People v. Gleason, S234766.* (E063256; nonpublished opinion; Riverside County Superior Court; RIF1306276.) Petition for review after the Court of Appeal affirmed orders denying resentencing and denying a petition to recall sentence. The court ordered briefing deferred pending decision in *People v. Martinez*, S231826, which concerns whether a petition to recall sentence under Penal Code section 1170.18 can be used to request the trial court to reduce a prior felony conviction for transportation of a controlled substance to a misdemeanor in light of the 2013 amendment to Health and Safety Code section 11379, and *People v. Valenzuela*, S232900 (#16-97), which concerns whether a defendant is 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.

#16-247 *People v. Jones, S235004.* (C079442; nonpublished opinion; San Joaquin County Superior Court; SF127860A.) Petition for review after the Court of Appeal affirmed an order denying a petition to recall sentence.

#16-248 *People v. Jones, S235015.* (B266551; nonpublished opinion; Los Angeles County Superior Court; MA056827.) Petition for review after the Court of Appeal affirmed an order denying a petition to recall sentence.

#16-249 *People v. Mincks, S234409.* (E063345; nonpublished opinion; San Bernardino County Superior Court; FVA1201139.) Petition for review after the Court of Appeal affirmed orders granting and denying petitions to recall sentence.

The court ordered briefing in *Jones, Jones*, and *Mincks* 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?

#16-250 *People v. Mariscal*, S234057. (B262278; nonpublished opinion; Los Angeles County Superior Court; SA078033.) 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. Canizales*, S221958 (#14-134), which presents the following issue: Was the jury properly instructed on the “kill zone” theory of attempted murder?

#16-251 *People v. Oakley*, S234938. (C079774; nonpublished opinion; Sacramento County Superior Court; 08F09057, 11F08400.) Petition for review after the Court of Appeal affirmed orders granting and denying petitions 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 effected by Proposition 47?

DISPOSITIONS

The alternative writ previously issued in the following case was discharged, and the petition for writ of mandate was dismissed:

#16-197 *Ayers v. Commission on Judicial Performance*, S233333.

Review in the following case, which was granted and held for *Webb v. Special Electric Co.* (2016) 63 Cal.4th 167, was dismissed:

#15-07 *Gottschall v. Crane Co.*, S222887.

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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.