



Supreme Court of California
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NEWS RELEASE

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FOR IMMEDIATE RELEASE

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Summary of Cases Accepted and Related Actions During Week of July 19, 2021

[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.]

#21-371 *People v. Edwards*, S269118. (F079443; nonpublished opinion; Fresno County Superior Court; F07909043.) Petition for review after the Court of Appeal affirmed an order denying a post-judgment motion in a criminal matter. The court ordered briefing deferred pending decision in *People v. Lewis*, S260598 (#20-78), which presents the following issues: (1) May superior courts consider the record of conviction in determining whether a defendant has made a prima facie showing of eligibility for relief under Penal Code section 1170.95? (2) When does the right to appointed counsel arise under Penal Code section 1170.95, subdivision (c)?

#21-372 *People v. Fortman*, S269228. (B034567; 64 Cal.App.5th 217; Los Angeles County Superior Court; 319016, 319060.) Petition for review after the Court of Appeal reversed an order denying a post-judgment motion in a criminal matter. The court ordered briefing deferred pending decision in *People v. Duke*, S265309 (#21-01), which presents the following issue: Can the People meet their burden of establishing a petitioner's ineligibility for resentencing under Penal Code section 1170.95, subdivision (d)(3) by presenting substantial evidence of the petitioner's liability for murder under Penal Code sections 188 and 189 as amended by Senate Bill No. 1437 (Stats. 2018, ch. 1015), or must the People prove every element of liability for murder under the amended statutes beyond a reasonable doubt?

#21-373 *People v. Kim*, S269031. (G059338; nonpublished opinion; Orange County Superior Court; 08NF1399.) Petition for review after the Court of Appeal affirmed an order denying a post-judgment motion in a criminal matter.

#21-374 *People v. Shaw*, S269297. (B306212; nonpublished opinion; Los Angeles County Superior Court; MA054450.) Petition for review after the Court of Appeal affirmed an order denying a post-judgment motion in a criminal matter.

The court ordered briefing in *Kim* and *Shaw* deferred pending decision in *People v. Lopez*, S258175 (#19-172), which presents the following issues: (1) Does Senate Bill No. 1437 (Stats. 2018, ch. 1015) apply to attempted murder liability under the natural and probable consequences doctrine? (2) In order to convict an aider and abettor of attempted willful, deliberate and premeditated murder under the natural and probable consequences doctrine, must a premeditated attempt to murder have been a natural and probable consequence of the target offense? In other words, should *People v. Favor* (2012) 54 Cal.4th 868 be reconsidered in light of *Alleyne v. United States* (2013) 570 U.S. 99 and *People v. Chiu* (2014) 59 Cal.4th 155? and pending decision in *People v. Lewis*, S260598 (#20-78), which presents the following issues: (1) May superior courts consider the record of conviction in determining whether a defendant has made a prima facie showing of eligibility for relief under Penal Code section 1170.95? (2) When does the right to appointed counsel arise under Penal Code section 1170.95, subdivision (c)?

#21-375 *People v. Lemons*, S269342. (C082451; nonpublished opinion; Sacramento County Superior Court; 15F00649.) Petition for review after the Court of Appeal affirmed a judgment of conviction of criminal offenses. The court ordered briefing deferred pending decision in *In re Vaquera*, S258376 (#19-195), which presents the following issues: (1) Did the Court of Appeal err by disagreeing with *People v. Jimenez* (2019) 35 Cal.App.5th 373 and endorsing as mandatory the sentencing practice prohibited in that case? (2) Is the Court of Appeal's decision incorrect under *People v. Mancebo* (2002) 27 Cal.4th 735? (3) Did the Court of Appeal err by failing to address petitioner's claims as to the issues of waiver and estoppel?

#21-376 *People v. Nunez*, S268993. (E071815; nonpublished opinion; San Bernardino County Superior Court; FWV17003089, FWV17003091.) Petitions for review after the Court of Appeal affirmed in part and reversed in part judgments of conviction of criminal offenses. The court ordered briefing deferred pending decision in *People v. Tirado*, S257658 (#19-174), which presents the following issue: Can the trial court impose an enhancement under Penal Code section 12022.53, subdivision (b), for personal use of a firearm, or under section 12022.53, subdivision (c), for personal and intentional discharge of a firearm, as part of its authority under section 1385 and subdivision (h) of section 12022.53 to strike an enhancement under subdivision (d) for personal and intentional discharge of a firearm resulting in death or great bodily injury, even if the lesser enhancements were not charged in the information or indictment and were not submitted to the jury?

#21-377 *People v. Pao*, S269320. (C093267; nonpublished opinion; Sacramento County Superior Court; 05F03254.) Petition for review after the Court of Appeal dismissed an appeal from an order denying a post-judgment motion in a criminal matter. The court ordered briefing deferred pending decision in *People v. Delgadillo*, S266305 (#21-72), which presents the following issues: (1) What procedures must appointed counsel and the Courts of Appeal follow when counsel determines that an appeal from an order denying postconviction relief lacks arguable merit? (2) Are defendants entitled to notice of these procedures?

#21-378 *People v. Pierson*, S269434. (E074662; nonpublished opinion; Riverside County Superior Court; RIF101528.) Petition for review after the Court of Appeal affirmed an order denying a post-judgment motion in a criminal matter. The court ordered briefing deferred pending decision in *People v. Strong*, S266606 (#21-101), which presents the following issue: Does a felony-murder special circumstance finding (Pen. Code, § 190.2, subd. (a)(17)) made before *People v. Banks* (2015) 61 Cal.4th 788 and *People v. Clark* (2016) 63 Cal.4th 522 preclude a defendant from making a prima facie showing of eligibility for relief under Penal Code section 1170.95?

DISPOSITION

Review in the following case, which had been granted and held for *People v. Lewis*, S260598 (#20-78), and *People v. Lopez*, S258175 (#19-172), was dismissed at the request of the petitioner:

#20-327 <i>People v. Sanchez</i>, S264515.	(B300319; nonpublished opinion; Los Angeles County Superior Court; BA272661)
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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.