



Supreme Court of California  
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**NEWS RELEASE**

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**FOR IMMEDIATE RELEASE**

August 16, 2019

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## Summary of Cases Accepted and Related Actions During Week of August 12, 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.]*

**#19-104 *Shalabi v. City of Fontana*, S256665.** (E069671; 35 Cal.App.5th 639; San Bernardino County Superior Court; CIVDS1314694.) Petition for review after the Court of Appeal reversed the judgment in a civil action. The court limited review to the following issue: Code of Civil Procedure section 12 provides: “The time in which any act provided by law is to be done is computed by excluding the first day, and including the last, unless the last day is a holiday, and then it is also excluded.” In cases where the statute of limitations is tolled, is the first day after tolling ends included or excluded in calculating whether an action is timely filed? (See *Ganahl v. Soher* (1884) 2 Cal.Unrep. 415.)

**#19-105 *People v. Cawkwell*, S256113.** (D074157; 34 Cal.App.5th 1048; San Diego County Superior Court; SCN358730.) Petition for review after the Court of Appeal affirmed a judgment of conviction of criminal offenses.

**#19-106 *People v. Cravens*, S256790.** (C086134; nonpublished opinion; Shasta County Superior Court; 17F2783.) Petition for review after the Court of Appeal conditionally reversed a judgment of conviction of a criminal offense.

**#19-107 *People v. Magallon*, S256647.** (E069524; nonpublished opinion; Riverside County Superior Court; RIF1602770.) Petition for review after the Court of Appeal conditional reversed a judgment of conviction of criminal offenses.

**#19-108 *People v. McDaniels*, S256060.** (D073692; nonpublished opinion; San Diego County Superior Court; SCD264069.) Petition for review after the Court of Appeal affirmed a judgment of conviction of a criminal offense.

**#19-109 *People v. Meeks, S256825.*** (B289806; nonpublished opinion; Los Angeles County Superior Court; BA455087.) Petition for review after the Court of Appeal conditional reversed a judgment of conviction of a criminal offense.

The court ordered briefing in *Cawkwell, Cravens, Magallon, McDaniels, and Meeks* deferred pending decision in *People v. Frahs, S252220* (#18-175), which presents the following issues: (1) Does Penal Code section 1001.36 apply retroactively to all cases in which the judgment is not yet final? (2) Did the Court of Appeal err by remanding for a determination of defendant's eligibility under Penal Code section 1001.36?

**#19-110 *In re C.S., S256098.*** (B290330; nonpublished opinion; San Luis Obispo County Superior Court; 18JV-00064A.) Petition for review after the Court of Appeal affirmed orders in a juvenile wardship proceeding.

**#19-111 *In re Eric B., S256810.*** (A153524, A154186; nonpublished opinion; Contra Costa County Superior Court; J1701017.) Petition for review after the Court of Appeal affirmed orders in a juvenile wardship proceeding.

**#19-112 *People v. Pascual, S256070.*** (D074100; nonpublished opinion; San Diego County Superior Court; SCN377996.) Petition for review after the Court of Appeal affirmed in part and reversed in part a judgment of conviction of criminal offenses.

**#19-113 *In re Richard V., S256720.*** (A155535; nonpublished opinion; Contra Costa County Superior Court; J1800711.) Petition for review after the Court of Appeal affirmed orders in a juvenile wardship proceeding.

**#19-114 *People v. Statiras, S256158.*** (D073891; nonpublished opinion; San Diego County Superior Court; SCD275960.) Petition for review after the Court of Appeal affirmed a judgment of conviction of a criminal offense.

The court ordered briefing deferred in *C.S., Eric B., Pascual, Richard V., and Statiras* 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.

**#19-115 *People v. Covarrubias, S256360.*** (E069051; nonpublished opinion; Riverside County Superior Court; RIF1604466.) Petition for review after the Court of Appeal remanded for resentencing and otherwise affirmed a judgment of conviction of criminal offenses.

**#19-116 *People v. Escalera, S256300.*** (G055492; nonpublished opinion; Orange County Superior Court; 15CF1354.) Petition for review after the Court of Appeal affirmed a judgment of conviction of a criminal offense.

The court ordered briefing in *Covarrubias* and *Escalera* 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?

**#19-117 *People v. O'Neal, S256584.*** (B289422; nonpublished opinion; Los Angeles County Superior Court; YA063443.) Petition for review after the Court of Appeal affirmed the judgment upon resentencing after a 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?

## STATUS

**#17-278 *Frlekin v. Apple, Inc., S243805.*** The court restated the question in this case as follows: Is time spent on the employer's premises waiting for, and undergoing, required exit searches of packages, bags, or personal technology devices voluntarily brought to work purely for personal convenience by employees compensable as "hours worked" within the meaning of California Industrial Welfare Commission Wage Order No. 7? The parties are permitted to file supplemental briefs.

**#18-19 *Facebook, Inc. v. Superior Court, S245203.*** The court took judicial notice of the underlying preliminary hearing transcript of September 29, 2016 and related exhibits. As to the parties, the court unsealed the April 21, 2017 declaration and related exhibits, which in turn quote from and present copies of public social media posts and conditionally confidential probation reports. As to all others, the passages of the declaration and related exhibits that quote from and present copies of the public social media posts are unsealed; but the passages of the declaration and related exhibits that quote from and present copies of the probation reports are and remain sealed. The court directed the parties to brief (A) whether the underlying subpoena is supported by good cause, and (B) whether the trial court's denial of the motion to quash the subpoena should be vacated and the matter remanded to the Court of Appeal with directions to remand to the trial court for further proceedings regarding the motion to quash. The parties are also

free to discuss what other disposition might be appropriate. In addressing the good cause question, the parties were specifically directed to consider, among any other relevant good cause factors: (i) whether in light of the preliminary hearing transcript and related exhibits, and the above-referenced declaration and exhibits, defendant's subpoena seeking all of Jeffrey Renteria's private messages and restricted social media communications is supported by a "plausible justification" to acquire those documents; (ii) whether the request for all of Renteria's Facebook communications from inception of his account to March 16, 2017, is overbroad; (iii) whether, under these circumstances, defendant made adequate efforts to locate and subpoena Renteria (or others) directly and attempt to acquire the communications from him (or them) instead of resorting in the first instance to Facebook; and (iv) whether, under these circumstances, Renteria's privacy or constitutional rights would be impaired or violated by enforcement of the underlying subpoena, or a subpoena served on him.

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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.*