



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

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Summary of Cases Accepted and Related Actions During Week of August 15, 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.]

#16-285 *In re Adcox*, S180912. Original proceeding. In this case, which is related to the automatic appeal in *People v. Adcox* (1988) 47 Cal.3d 207, the court issued an order to show why relief should not be granted because of juror misconduct.

#16-286 *Troester v. Starbucks Corp.*, S234969. (9th Circ. No. 14-55530; nonpublished order; Central District of California; 2:12-cv-07677-GAF-PJW.) 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: Does the federal Fair Labor Standard Act's *de minimis* doctrine, as stated in *Anderson v. Mt. Clemens Pottery Co.*, 328 U.S. 680, 692 (1946) and *Lindow v. United States*, 738 F.2d 1057, 1063 (9th Cir. 1984), apply to claims for unpaid wages under California Labor Code sections 510, 1194, and 1197?

#16-287 *People v. Acosta*, S235773. (B263849; 247 Cal.App.4th 1072; Ventura County Superior Court; 2012039886.) Petition for review after the Court of Appeal affirmed an order granting in part and denying in part a petition to recall sentence.

#16-288 *People v. Richards*, S235828. (B266479; nonpublished opinion; San Luis Obispo County Superior Court; 14C-00869.) Petition for review after the Court of Appeal affirmed an order denying a petition to recall sentence.

#16-289 *People v. Yarberry*, S235765. (B265663; nonpublished opinion; Los Angeles County Superior Court; KA104323.) Petition for review after the Court of Appeal affirmed an order denying a petition to recall sentence.

The court ordered briefing in *Acosta, Richards, and Yarberry* 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?

#16-290 *People v. McCutchan*, S235772. (G051920; nonpublished opinion; Orange County Superior Court; 14NF2366.) Petition for review after the Court of Appeal affirmed an order granting in part and denying in part a petition to recall sentence.

#16-291 *People v. Munoz*, S235776. (G051446; nonpublished opinion; Orange County Superior Court; 12NF1562.) Petition for review after the Court of Appeal affirmed an order denying a petition to recall sentence.

The court ordered briefing in *McCutchan* and *Munoz* deferred pending decision in *People v. Romanowski*, S231405 (#16-24), which present the following issue: Does Proposition 47 (“the Safe Neighborhoods and Schools Act”), which reclassifies as a misdemeanor any grand theft involving property valued at \$950 or less (Pen. Code, § 490.2), apply to theft of access card information in violation of Penal Code section 484e, subdivision (d)?

#16-292 *People v. Puls*, S235909. (E064118; nonpublished opinion; San Bernardino County Superior Court; FVI021475, FVI901984.) 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. 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?

#16-293 *People v. Shirley*, S235918. (B262383; nonpublished opinion; Los Angeles County Superior Court; TA047762.) 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. 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)?

#16-294 *People v. Simon*, S235879. (E062900; nonpublished opinion; San Bernardino County Superior Court; FVI1300530.) 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. 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?

DISPOSITIONS

The following cases were transferred with directions to issue an order to show cause why petitioner is not entitled to make a record of “mitigating evidence tied to his youth” (*People v. Franklin* (2016) 63 Cal.4th 261, 268-269, 283-284):

#14-21 *In re Alatraste*, S214652.

#14-22 *In re Bonilla*, S214960.

#14-45 *In re Heard*, S216772.

#15-98 *In re Gonzalez*, S226480.

#15-121 *In re Aguilar*, S226995.

The following cases were transferred for reconsideration in light of *People v. Franklin* (2016) 63 Cal.4th 261, 268-269, 283-284:

#14-36 *People v. Martin*, S216139.

#14-58 *People v. Solis*, S218757.

#14-85 *People v. Gonzalez*, S219167.

#14-113 *People v. Garrett*, S220271.

#14-119 *People v. Saetern*, S220790.

#14-132 *People v. Windfield*, S221327.

#14-145 *People v. Harris*, S222031.

#15-11 *People v. Moore*, S223330.

#15-23 *People v. Spivey*, S223755.

#15-40 *People v. Hernandez*, S224383.

#15-111 *People v. Fernandez*, S225570.

#15-114 *People v. Scott*, S226155.

#15-122 *People v. Prescott*, S226553.

#15-161 *People v. Ricardez*, S227659.

#15-203 *People v. Diaz*, S229543.

#15-204 *People v. Jones*, S228554.

#15-227 *People v. Lara*, S229924.

#16-10 *People v. Garcia*, S230616.

#16-53 *People v. Dokins*, S231052.

#16-54 *People v. Jimenez*, S231740.

#16-70 *People v. Moore*, S231734.

#16-119 *People v. Alonzo*, S232877.

The following cases were transferred for reconsideration in light of *People v. Franklin* (2016) 63 Cal.4th 261, 283-284:

#14-144 *People v. Canon*, 222473.

#15-85 *People v. McCloud*, S225454.

#15-97 *People v. Agoun*, S226151.

#15-99 *People v. King*, S225783.

#15-112 *People v. Guzman*, S226494.

#15-113 *People v. Jordan*, S225848.

#15-169 *People v. Garcia*, S227938.

#15-205 *People v. Nava*, S228596.

#15-214 *People v. Hargis*, S229557.

#15-222 *People v. Virto*, S228964.

#15-226 *People v. Castaneda*, S229288.

#16-11 *People v. Ruiz*, S230325.

#16-12 *People v. Weisner*, S230011.

#16-69 *People v. Barbarin*, S231457.

#16-72 *People v. Soto*, S231012.

#16-143 *People v. Snell*, S232846.

#16-217 *People v. Sanchez*, S233774.

The following case was transferred for reconsideration in light of *People v. Franklin* (2016) 63 Cal.4th 261, 269, and *People v. Sanchez* (2016) 63 Cal.4th 665:

#14-49 *People v. Espinoza*, S216994.

The following case was transferred for reconsideration in light of *People v. Franklin* (2016) 63 Cal.4th 261, 269, as to defendant Rodriguez, and in light of *People v. Franklin* (2016) 63 Cal.4th 261, 269, and *People v. Romero & Self* (2015) 62 Cal.4th 1, 31-37, as to defendant Barajas:

#15-87 *People v. Rodriguez*, S225231.

The following case was transferred for reconsideration in light of *People v. Franklin* (2016) 63 Cal.4th 261, 269, and *People v. Banks* (2015) 61 Cal.4th 788 as to defendant Nash:

#15-181 *People v. Nash*, S228198.

Review in the following case was dismissed without prejudice to any relief to which defendant might be entitled to under *People v. Franklin* (2016) 63 Cal.4th 261, 283-284:

#14-53 *People v. Superior Court (Flores)*, S217404.

Review in the following case was dismissed in light of *People v. Franklin* (2016) 63 Cal.4th 261, 279:

#15-228 *People v. Rigmaden*, S229940.

The following case was transferred for reconsideration in light of the enactment of Statutes 2015, chapter 505 (Sen. Bill No. 327 (2015-2016 Reg. Sess.)):

#15-67 *Gerard v. Orange Coast Memorial Medical Center*, S225205.

Review in the following case, which was granted and held for *Winn v. Pioneer Medical Group* (2016) 63 Cal.4th 148, was dismissed:

#16-117 *Renwick v. Sutter Medical Foundation*, S232289.**STATUS**

#15-46 *People v. Contreras*, S224564. In this case, in which briefing was previously deferred pending decision in *People v. Franklin* (2016) 63 Cal.4th 261 (S217699), *In re Alariste*, S214652 (#14-21), and *In re Bonilla*, S214960 (#14-22), the court directed the parties to brief the following issue: Is a total sentence of 50 years to life or 58 years to

life the functional equivalent of life without the possibility of parole for juvenile offenders?

In the following cases, in which briefing was previously deferred pending decision in *In re Alatraste*, S214652 (#14-21), and *In re Bonilla*, S214960 (#14-22), the court ordered briefing deferred pending decision in *People v. Contreras*, S224564 (#15-46), which presents the following issue: Is a total sentence of 50 years to life or 58 years to life the functional equivalent of life without the possibility of parole for a juvenile offender?

#16-71 People v. Ortega, S230917.

#16-170 People v. Adams, S233099.

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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.