



Supreme Court of California
350 McAllister Street, San Francisco, CA 94102-4797
www.courts.ca.gov/supremecourt

NEWS RELEASE

Contact: [Cathal Conneely](mailto:Cathal.Conneely@courts.ca.gov), 415-865-7740

FOR IMMEDIATE RELEASE

November 23, 2016

Summary of Cases Accepted and Related Actions During Week of November 21, 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.]

#16-405 *In re H.W.*, S237415. (C079926; 2 Cal.App.5th 937; Sacramento County Superior Court; JV137101.) Petition for review after the Court of Appeal affirmed orders in a juvenile wardship proceedings. This case presents the following issue: Did the Court of Appeal err in holding that a pair of pliers, which the defendant used to remove an anti-theft device from a pair of blue jeans in a department store, qualified as a burglary tool within the meaning of Penal Code section 466?

#16-406 *Borisoff v. Pullman Group*, S237730. (B259675; nonpublished opinion; Los Angeles County Superior Court; BC454901.) Petition for review after the Court of Appeal reversed the judgment in a civil action. The court ordered briefing deferred pending decision in *Sheppard, Mullin, Richter & Hampton, LLP v. J-M Manufacturing Co., Inc.*, S232946. (#16-130), which presents the following issues: (1) May a court rely on non-legislative expressions of public policy to overturn an arbitration award on illegality grounds? (2) Can a sophisticated consumer of legal services, represented by counsel, give its informed consent to an advance waiver of conflicts of interest? (3) Does a conflict of interest that undisputedly caused no damage to the client and did not affect the value or quality of an attorney's work automatically (i) require the attorney to disgorge all previously paid fees, and (ii) preclude the attorney from recovering the reasonable value of the unpaid work?

#16-407 *People v. Fisher*, S237902. (E064023; nonpublished opinion; Riverside County Superior Court; RIF1403733.) Petition for review after the Court of Appeal reversed an order in a criminal case. The court ordered briefing 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?

#16-408 *People v. Garcia*, S237562. (F069668; nonpublished opinion; Kern County Superior Court; SC065625A.) 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)?

#16-409 *People v. Huberty*, S237914. (D069103; nonpublished opinion; San Diego County Superior Court; SCD255367.) Petition for review after the Court of Appeal reversed 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?

#16-410 *Marin Assn. of Public Employees v. Marin County Employees’ Retirement Assn.*, S237460. (A139610; 2 Cal.App.5th 674; Main County Superior Court; CIV1300318.) Petition for review after the Court of Appeal affirmed the judgment in an action for writ of administrative mandate. The court ordered briefing deferred pending the decision of the Court of Appeal, First Appellate District, Division Four, in *Alameda County Deputy Sheriff’s Assn. v. Alameda County Employees’ Retirement Assn.*, A141913[, or further order of the court].

#16-411 *People v. Newman*, S237491. (B266704; 2 Cal.App.5th 718; Los Angeles County Superior Court; NA047807.) 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. Frierson*, S236728 (#16-362), which presents the following issue: What is the standard of proof for a finding of ineligibility for resentencing under Proposition 36?

#16-412 *People v. Varner*, S237679. (E063389; 3 Cal.App.5th 360; San Bernardino County Superior Court; FVII402682.) 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. Romanowski*, S231405 (#16-24), which presents 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)?

#

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.