



Supreme Court of California
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NEWS RELEASE

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FOR IMMEDIATE RELEASE

November 30, 2018

Summary of Cases Accepted and Related Actions During Week of November 26, 2018

[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.]

#18-163 *People v. Rodriguez*, S251706. (F073594; 26 Cal.App.5th 890; Kings County Superior Court; 12CM7070.) Petition for review after the Court of Appeal reversed a judgment of conviction of criminal offenses. This case presents the following issue: Did the prosecutor improperly vouch for the testifying correctional officers by arguing in rebuttal that they had no reason to lie, would not place their careers at risk by lying, and would not subject themselves to possible prosecution for perjury?

#18-164 *People v. Johnson*, S252022. (A151706; nonpublished opinion; Marin County Superior Court; SC108820A.) 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. Franco*, S233963 (#16-218), which presents the following issue: For the purpose of the distinction between felony and misdemeanor forgery, is the value of an uncashed forged check the face value (or stated value) of the check or only the intrinsic value of the paper it is printed on?

DISPOSITIONS

Review in the following cases was dismissed in light of *In re C.B.* (2018) 6 Cal.5th 118:

#16-393 <i>In re T.M.</i>, S237775.	(A146216; nonpublished opinion; Contra Costa County Superior Court; J1400711)
#16-400 <i>In re J.E.</i>, S237790.	(A146105; nonpublished opinion; Contra Costa County Superior Court; J1100644)
#16-432 <i>In re D.A.</i>, S238126.	(A146298; nonpublished opinion; Contra Costa County Superior Court; J1001268)
#16-433 <i>In re T.H.</i>, S238139.	(A146129; nonpublished opinion; Contra Costa County Superior Court; J1301357)

#17-45 <i>In re D.H.</i> , S239147.	(A146126; nonpublished opinion; Contra Costa County Superior Court; J14-00673)
#17-133 <i>In re V.F.</i> , S240433.	(A147760; nonpublished opinion; Contra Costa County Superior Court; J0602308)
#17-148 <i>In re Daniel T.</i> , S240884.	(A146352; nonpublished opinion; Contra Costa County Superior Court; J1301134)
#17-188 <i>In re C.W.</i> , S241826.	(A146299; nonpublished opinion; Contra Costa County Superior Court; J1000532)
#17-189 <i>In re J.H.</i> , S241835.	(A145620; nonpublished opinion; Contra Costa County Superior Court; J1201630)
#17-190 <i>In re T.H.</i> , S241546.	(A145862; nonpublished opinion; Contra Costa County Superior Court; J1400799.
#17-206 <i>In re S.B.</i> , S242177.	(A145488; nonpublished opinion; Contra Costa County Superior Court; J1301068)
#17-216 <i>In re Eric F.</i> , S242280.	(A146121; nonpublished opinion; Contra Costa County Superior Court; J1400583)
#17-217 <i>In re T.T.</i> , S242258.	(A146294; nonpublished opinion; Contra Costa County Superior Court; J1400722)
#17-268 <i>In re F.P.</i> , S243356.	(G053275; nonpublished opinion; Orange County Superior Court; DL040527-006)
#17-323 <i>People v. Harris</i> , S244792.	(D070711; 15 Cal.App.5th 47; San Diego County Superior Court; SCD249624)
#17-324 <i>People v. Pastenes</i> , S244791.	(D070929; nonpublished opinion; San Diego County Superior Court; SCS264552)
#17-325 <i>People v. Phillips</i> , S244788.	(D070927; nonpublished opinion; San Diego County Superior Court; SCD239358, SCD246245)

STATUS

#18-51 *Stewart v. San Luis Ambulance, Inc.*, S246255. The court directed the parties to file supplemental briefing addressing the following question: What effect, if any, does Proposition 11, the Emergency Ambulance Employee Safety and Preparedness Act (Lab. Code, § 880 et seq.) have on the resolution of the questions presented and on whether this court should decide the questions of California law presented in a matter pending in the Ninth Circuit Court of Appeals (see Cal. Rules of Court, rule 8.548(a))?

#18-160 *People v. Lopez*, S250829. The court directed the parties to brief the following issues in addition to the issues stated in the order granting review filed on November 20, 2018. In briefing these additional issues, the parties are to assume, solely for the sake of argument and without prejudice to any contrary argument, that Penal Code section 459.5, subdivision (b), prohibits the prosecution from charging both shoplifting and theft of the same property under any circumstances. (1) Did defendant forfeit the argument under Penal Code section 459.5 by failing to object to the prosecution's charging both

shoplifting and theft? (2) If defendant had objected, what should the trial court's ruling have been? Might it have ordered the prosecution to choose between a shoplifting charge and a theft charge? If so, and given the potential difficulty in proving the intent required for shoplifting, might the prosecution have chosen to charge only petty theft with a prior? In that event, would defendant have been prejudiced by the failure to object? (3) Was petty theft with a prior a lesser included offense of shoplifting under the accusatory pleading test? If so, could the trial court have instructed the jury on shoplifting as the charged offense and on petty theft as a lesser included offense? (See *People v. Reed* (2006) 38 Cal.4th 1224, 1227-1231.) If not, and assuming defendant had objected to charging both crimes, could the prosecution have moved to amend the charging document to make the theft charge a lesser included offense of shoplifting under the accusatory pleading test? If that had occurred, could the trial court have instructed on shoplifting as the charged offense and on petty theft as a lesser included offense? In that event, would defendant have been prejudiced by the failure to object?

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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.