



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 November 28, 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.]*

**#16-413 *People v. Bartlett*, S237166.** (E064371; nonpublished opinion; San Bernardino County Superior Court; FVI021087.) Petition for review after the Court of Appeal affirmed an order denying a petition to recall sentence.

**#16-414 *People v. Lugo*, S237993.** (H042388; nonpublished opinion; Santa Clara County Superior Court ; 147427.) Petition for review after the Court of Appeal affirmed an order denying a petition to recall sentence.

**#16-415 *People v. Moreno*, S237998.** (F071149; nonpublished opinion; Tulare County Superior Court; VCF298279.) Petition for review after the Court of Appeal affirmed an order denying a petition to recall sentence.

**#16-416 *People v. Pifer*, S237940.** (E064119; nonpublished opinion; San Bernardino County Superior Court; FVI022671.) Petition for review after the Court of Appeal affirmed an order denying a petition to recall sentence.

**#16-417 *People v. Saucedo*, S237975.** (F071531; 3 Cal.App.5th 635; Kings County Superior Court; 05CM4286.) Petition for review after the Court of Appeal affirmed an order denying a petition to recall sentence.

The court ordered briefing in *Bartlett*, *Lugo*, *Moreno*, *Pifer*, and *Saucedo* 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?

**#16-418 *People v. Berg*, S237997.** (B264001; nonpublished opinion; Los Angeles County Superior Court; LA019703.) 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)?

**#16-419 *In re D.W.*, S238034.** (A147225; nonpublished opinion; Humboldt County Superior Court; JV150219.) Petition for review after the Court of Appeal affirmed orders in a juvenile wardship proceeding. The court ordered briefing deferred pending decision in *People v. Hall*, S227193 (#15-157), which presents the following issues: (1) Are probation conditions prohibiting defendant from: (a) “owning, possessing or having in his custody or control any handgun, rifle, shotgun or any firearm whatsoever or any weapon that can be concealed on his person”; and (b) “using or possessing or having in his custody or control any illegal drugs, narcotics, narcotics paraphernalia without a prescription,” unconstitutionally vague? (2) Is an explicit knowledge requirement constitutionally mandated?

**#16-420 *People v. Dunn*, S237991.** (F069714; nonpublished opinion; Madera County Superior Court; MCR047886.) Petition for review after the Court of Appeal affirmed a judgment of conviction of a criminal offense.

**#16-421 *People v. Isaia*, S237778.** (G051739; nonpublished opinion; Orange County Superior Court; 14NF1892.) Petition for review after the Court of Appeal reversed an order denying a post-conviction motion for resentencing.

The court ordered briefing in *Dunn* and *Isaia* 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?

**#16-422 *LTL Commercial, LLC v. Hammer IRP TLT Associates, LLC*, S237689.** (B262176, B263715; nonpublished opinion; Los Angeles County Superior Court; BC500790.) Petition for review after the Court of Appeal affirmed the judgment in a civil action. The court ordered briefing deferred pending decision in *Mountain Air*

*Enterprises, LLC v. Sundowner Towers, LLC*, S223536 (#15-25), which includes the following issues: (1) Does the assertion of an agreement as an affirmative defense implicate the attorney fee provision in that agreement? (2) Does the term “action” or “proceeding” in Civil Code section 1717 and in attorney fee provisions encompass the assertion of an affirmative defense?

**#16-423 *People v. Ploss*, S238063.** (E065125; nonpublished opinion; Riverside County Superior Court; RIF10000876.) Petition for review after the Court of Appeal affirmed an order denying a petition to recall sentence.

**#16-424 *People v. Poles*, S237683.** (F070868; nonpublished opinion; Tulare County Superior Court; VCF267795B.) Petition for review after the Court of Appeal affirmed an order denying a petition to recall sentence.

**#16-425 *People v. Smith*, S237943.** (C079842; nonpublished opinion; San Joaquin County Superior Court; SF080321B.) Petition for review after the Court of Appeal affirmed an order denying a petition to recall sentence.

**#16-426 *People v. Suniga*, S237989.** (F071326; nonpublished opinion; Tulare County Superior Court; VCF261041.) Petition for review after the Court of Appeal affirmed an order denying a petition to recall sentence.

The court ordered briefing in *Ploss*, *Poles*, *Smith*, and *Suniga* 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)?

## STATUS

**#14-77 *People v. Friday*, S218288.**

**#14-79 *People v. Klatt*, S218755.**

The court ordered further action in *Friday* and *Klatt*, in which review was previously granted, deferred pending decision in *People v. Garcia*, S218197 (#14-78), which presents the following issue: Are the conditions of probation mandated by Penal Code section 1203.067, subdivision (b), for persons convicted of specified felony sex offenses — including waiver of the privilege against self-incrimination, required participation in polygraph examinations, and waiver of the psychotherapist–patient privilege — constitutional?

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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.*