



**SUPREME COURT OF CALIFORNIA
ORAL ARGUMENT CALENDAR
SAN FRANCISCO SESSION
DECEMBER 7, 2022**

Pursuant to Administrative Order No. [2022-10-05 \(October 5, 2022\)](#), in November 2022 the Supreme Court resumed in-person oral argument in its San Francisco courtroom. Under this order, which supersedes Administrative Orders Nos. [2020-03-13 \(March 16, 2020\)](#), [2020-03-27 \(March 27, 2020\)](#), and [2020-08-19 \(August 19, 2020\)](#), counsel have the option to appear in person, or remotely via video. The public will continue to have access to argument via live-streaming on the judicial branch website: <https://supreme.courts.ca.gov/>.

The following cases are placed upon the calendar of the Supreme Court for hearing at its courtroom in the Ronald M. George State Office Complex, Earl Warren Building, 350 McAllister Street, Fourth Floor, San Francisco, California, on December 7, 2022.

WEDNESDAY, DECEMBER 7, 2022 — 9:00 A.M.

IN MEMORIAM – HON. JOHN A. ARGUELLES
Associate Justice, California Supreme Court (1987-1989)

9:30 A.M.

- (1) People v. McWilliams (Duvan Anthony), S268320
- (2) In re Cabrera (Miguel Angel) on Habeas Corpus, S271178

1:00 P.M.

- (3) Travis (Arnette) et al. v. Brand (Bill) et al. (Redondo Beach Waterfront, LLC, et al., Appellants), S268480
- (4) People v. Brown (Heather Rose), S257631

CANTIL-SAKAUYE

Chief Justice

If exhibits are to be transmitted to this court, counsel must apply to the court for permission. (See Cal. Rules of Court, rule 8.224(c).)

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The following case summaries are issued to inform the public about cases that the California Supreme Court has scheduled for oral argument and of their general subject matter. In most instances, the descriptions set out below are reproduced from the original news release issued when review in each of these matters was granted and are provided for the convenience of the public. The descriptions do not necessarily reflect the view of the court or define the specific issues that will be addressed by the court.

WEDNESDAY, DECEMBER 7, 2022 — 9:30 A.M.

(1) *People v. McWilliams (Duvan Anthony), S268320*

#21-324 *People v. McWilliams, S268320.* (H045525; nonpublished opinion; Santa Clara County Superior Court; C1754407.) Petition for review after the Court of Appeal affirmed a judgment of conviction of criminal offenses. This case presents the following issues: (1) Is the discovery of a parole or probation search condition an intervening circumstance that removes the taint of an illegal detention under the attenuation doctrine? (2) What constitutes purposeful and flagrant police misconduct under the attenuation doctrine analysis?

(2) *In re Cabrera (Miguel Angel) on Habeas Corpus, S271178*

#21-553 *In re Cabrera, S271178.* (C091962; nonpublished opinion; Siskiyou County Superior Court; MCYKCRBF20076242, SCCRHCCR20189121.) Petition for review after the Court of Appeal denied a petition for writ of habeas corpus. This case presents the following issue: Did the sentencing court err by finding petitioner's conviction for battery with serious bodily injury was a serious felony (Pen. Code, §§ 667, subd. (a)(1), 1192.7, subd. (c)(8)), despite the jury's failure to reach a verdict on the allegation that petitioner personally inflicted great bodily injury in committing that offense? (See *Apprendi v. New Jersey* (2000) 530 U.S. 466; *Blakely v. Washington* (2004) 542 U.S. 296; *Cunningham v. California* (2007) 549 U.S. 270.)

1:00 P.M.

(3) *Travis (Arnette) et al. v. Brand (Bill) et al. (Redondo Beach Waterfront, LLC, et al., Appellants), S268480*

#21-316 Travis v. Brand, S268480. (B298104, B301479; 62 Cal.App.5th 240; Los Angeles County Superior Court; BC665330.) Petition for review after the Court of Appeal affirmed in part and reversed in part the judgment in a civil action. This case presents the following issue: Must a prevailing defendant in an action under the Political Reform Act of 1974 (Gov. Code, § 81000 et seq.) show that the case was frivolous, unreasonable, or without foundation in order to recover attorney fees?

(4) *People v. Brown (Heather Rose), S257631*

#19-170 *People v. Brown*, S257631. (C085998; nonpublished opinion; Shasta County Superior Court; 15F2440.) Petition for review after the Court of Appeal affirmed a judgment of conviction of criminal offenses. The court limited review to the following issues: (1) Did the trial court err in instructing the jury on the elements of first degree murder by poison (see *People v. Steger* (1976) 16 Cal.3d 539, 544–546; *People v. Mattison* (1971) 4 Cal.3d 177, 183–184, 186)? (2) Was any such instructional error prejudicial?