

**SUPREME COURT MINUTES
WEDNESDAY, JUNE 15, 2022
SAN FRANCISCO, CALIFORNIA**

S139702**PEOPLE v. BRACAMONTES
(MANUEL)**

Rehearing denied

S273887**HIMES (MICHELLE);
BENJAMIN (MARCIA);
BENJAMIN (DANIEL);
RIERA (JOSE); CHASE
(DEBORAH); SCURRAH
(DIANE) v. SOMATICS, LLC;
MECTA CORPORATION**

Request for certification granted

The request to appear pro hac vice is granted.

Plaintiff's request to seal the unredacted version of Somatics' "Letter re: Certified Question per Rule of Court 8.548(e)", dated April 21, 2022, is granted as to pages 3, 5, 6, 8-10. (Cal. Rules of Court, rules 2.550(d), 8.46(d).) In ordering the sealing, this court makes the findings required by California Rules of Court, rules 2.550(d)-(e) and 8.46(d)(6). The clerk of this court is directed to file under seal pages 3, 5, 6, and 8-10 of the unredacted version of Somatics' "Letter re: Certified Question per Rule of Rule of Court 8.548(d)," dated April 21, 2022.

The request, made pursuant to California Rules of Court, rule 8.548, for this court to decide questions of California law presented in a matter pending in the United States Court of Appeals for the Ninth Circuit, is granted as certified by the Ninth Circuit.

For the purposes of briefing and oral argument, appellant Michelle Himes is deemed the petitioner in this court. (Cal. Rules of Court, rule 8.520(a)(6).)

Votes: Cantil-Sakauye, C. J., Corrigan, Liu, Kruger, Groban, Jenkins, and Guerrero, JJ.

S274147

D079451 Fourth Appellate District, Div. 1

**MEINHARDT (DAVID) v.
CITY OF SUNNYVALE
(SUNNYVALE
DEPARTMENT OF PUBLIC
SAFETY)**

Petition for review granted; issues limited

The petition for review is granted.

The issue to be briefed and argued is limited to the following: Did the Court of Appeal correctly

dismiss the appeal as untimely?

Pending review, the opinion of the Court of Appeal, which is currently published at 76 Cal.App.5th 43, may be cited, not only for its persuasive value, but also for the limited purpose of establishing the existence of a conflict in authority that would in turn allow trial courts to exercise discretion under *Auto Equity Sales, Inc. v. Superior Court* (1962) 57 Cal.2d 450, 456, to choose between sides of any such conflict. (See *Standing Order Exercising Authority Under California Rules of Court, Rule 8.1115(e)(3), Upon Grant of Review or Transfer of a Matter with an Underlying Published Court of Appeal Opinion*, Administrative Order 2021-04-21; Cal. Rules of Court, rule 8.1115(e)(3) and corresponding Comment, par. 2.)

Guerrero, J., was recused and did not participate.

Votes: Cantil-Sakauye, C. J., Corrigan, Liu, Kruger, Groban, and Jenkins, JJ.

S274017 C093077 Third Appellate District

**PEOPLE v. MARTINEZ
(CHRISTINA)**

Petition for review granted; briefing deferred

The petition for review is granted. Further action in this matter is deferred pending consideration and disposition of a related issue in *People v. Strong*, S266606 (see Cal. Rules of Court, rule 8.512(d)(2)), or pending further order of the court. Submission of additional briefing, pursuant to California Rules of Court, rule 8.520, is deferred pending further order of the court.

Votes: Cantil-Sakauye, C. J., Corrigan, Liu, Kruger, Groban, Jenkins, and Guerrero, JJ.

S274129 B307726 Second Appellate District, Div. 5

**PEOPLE v. DIAZ (MOISES
FERNANDO)**

Petition for review granted; briefing deferred

The petition for review is granted. Further action in this matter is deferred pending consideration and disposition of a related issue in *People v. Espinoza*, S269647 (see Cal. Rules of Court, rule 8.512(d)(2)), or pending further order of the court. Submission of additional briefing, pursuant to California Rules of Court, rule 8.520, is deferred pending further order of the court.

Votes: Cantil-Sakauye, C. J., Corrigan, Liu, Kruger, Groban, Jenkins, and Guerrero, JJ.

S274153 F077527 Fifth Appellate District

**PEOPLE v. SANCHEZ
(FRANCISCO)**

Petition for review granted; briefing deferred

The petition for review is granted. Further action in this matter is deferred pending consideration and disposition of a related issue in *In re Vaquera*, S258376 (see Cal. Rules of Court, rule 8.512(d)(2)), or pending further order of the court. Submission of additional briefing, pursuant to California Rules of Court, rule 8.520, is deferred pending further order of the court.

Votes: Cantil-Sakauye, C. J., Corrigan, Liu, Kruger, Groban, Jenkins, and Guerrero, JJ.

S274167 B303322 Second Appellate District, Div. 6 **PEOPLE v. OGURA (KARL KATSUMI)**

Petition for review granted; briefing deferred

The petition for review is granted. Further action in this matter is deferred pending finality of *People v. Padilla* (May 26, 2022, S263375) __ Cal.5th __ (see Cal. Rules of Court, rule 8.512(d)(2)), or pending further order of the court. Submission of additional briefing, pursuant to California Rules of Court, rule 8.520, is deferred pending further order of the court.

Votes: Cantil-Sakauye, C. J., Corrigan, Liu, Kruger, Groban, Jenkins, and Guerrero, JJ.

S274207 E077039 Fourth Appellate District, Div. 2 **PEOPLE v. MELLO (WILLIAM DOUGLAS)**

Petition for review granted; briefing deferred

The petition for review is granted. Further action in this matter is deferred pending consideration and disposition of a related issue in *People v. Strong*, S266606 (see Cal. Rules of Court, rule 8.512(d)(2)), or pending further order of the court. Submission of additional briefing, pursuant to California Rules of Court, rule 8.520, is deferred pending further order of the court.

Votes: Cantil-Sakauye, C. J., Corrigan, Liu, Kruger, Groban, Jenkins, and Guerrero, JJ.

S274237 E076512 Fourth Appellate District, Div. 2 **PEOPLE v. KETSOUVANNASANE (KHAMCHAN BRET)**

Petition for review granted; briefing deferred

The petition for review is granted. Further action in this matter is deferred pending consideration and disposition of a related issue in *People v. Strong*, S266606 (see Cal. Rules of Court, rule 8.512(d)(2)), or pending further order of the court. Submission of additional briefing, pursuant to California Rules of Court, rule 8.520, is deferred pending further order of the court.

Votes: Cantil-Sakauye, C. J., Corrigan, Liu, Kruger, Groban, Jenkins, and Guerrero, JJ.

S274324 F080555 Fifth Appellate District **PEOPLE v. GONZALEZ (ARMANDO JACOBO)**

Petition for review granted; briefing deferred

The petition for review is granted. Further action in this matter is deferred pending consideration and disposition of a related issue in *People v. Curiel*, S272238 (see Cal. Rules of Court, rule 8.512(d)(2)), or pending further order of the court. Submission of additional briefing, pursuant to California Rules of Court, rule 8.520, is deferred pending further order of the court.

Votes: Cantil-Sakauye, C. J., Corrigan, Liu, Kruger, Groban, Jenkins, and Guerrero, JJ.

S274350 C093651 Third Appellate District

**PEOPLE v. BARRAGAN
(VICTOR)**

Petition for review granted; briefing deferred

The petition for review is granted. Further action in this matter is deferred pending consideration and disposition of a related issue in *People v. Strong*, S266606 (see Cal. Rules of Court, rule 8.512(d)(2)), or pending further order of the court. Submission of additional briefing, pursuant to California Rules of Court, rule 8.520, is deferred pending further order of the court.

Cantil-Sakauye, C. J., was recused and did not participate.

Votes: Jenkins, A. C. J., Corrigan, Liu, Kruger, Groban, and Guerrero, JJ.

S274405 G059643 Fourth Appellate District, Div. 3

**PEOPLE v. GUADARRAMA
(PROSPERO RAMIREZ)**

Petition for review granted; briefing deferred

The petition for review is granted. Further action in this matter is deferred pending consideration and disposition of a related issue in *People v. Curiel*, S272238 (see Cal. Rules of Court, rule 8.512(d)(2)), or pending further order of the court. Submission of additional briefing, pursuant to California Rules of Court, rule 8.520, is deferred pending further order of the court.

Votes: Cantil-Sakauye, C. J., Corrigan, Liu, Kruger, Groban, Jenkins, and Guerrero, JJ.

S274478 H048140 Sixth Appellate District

**PEOPLE v. TAYLOR
(JEFFERY DENNIS)**

Petition for review granted; briefing deferred

The petition for review is granted. Further action in this matter is deferred pending consideration and disposition of a related issue in *People v. Delgadillo*, S266305 (see Cal. Rules of Court, rule 8.512(d)(2)), or pending further order of the court. Submission of additional briefing, pursuant to California Rules of Court, rule 8.520, is deferred pending further order of the court.

Votes: Cantil-Sakauye, C. J., Corrigan, Liu, Kruger, Groban, Jenkins, and Guerrero, JJ.

S274509 H048932 Sixth Appellate District

**PEOPLE v. MILLER
(EDWARD)**

Petition for review granted; briefing deferred

The petition for review is granted. Further action in this matter is deferred pending consideration and disposition of a related issue in *People v. Strong*, S266606 (see Cal. Rules of Court, rule 8.512(d)(2)), or pending further order of the court. Submission of additional briefing, pursuant to California Rules of Court, rule 8.520, is deferred pending further order of the court.

Votes: Cantil-Sakauye, C. J., Corrigan, Liu, Kruger, Groban, Jenkins, and Guerrero, JJ.

S165998**PEOPLE v. TRAN (RONALD TRI)**

Submitted by order

The above-entitled matter, argued on May 25, 2022, is hereby order submitted.

S273785 C089974 Third Appellate District**FLORES (ANTHONY) ON H.C.**

Petition for review denied

The petition for review is denied.
Liu, J., is of the opinion the petition should be granted.
See Dissenting Statement by Justice Liu.

Dissenting Statement by Justice Liu

In 2016, California voters passed Proposition 57, one of “several measures aimed [at] reduc[ing] the prison population” as required by federal court order. (*In re Gadlin* (2020) 10 Cal.5th 915, 923.) The text of the measure said it would, among other purposes, “[p]rotect and enhance public safety,” “[s]ave money by reducing wasteful spending on prisons” and “[s]top the revolving door of crime by emphasizing rehabilitation, especially for juveniles.” (Voter Information Guide, Gen. Elec. (Nov. 8, 2016) text of Prop. 57, § 2, p. 141.) Consistent with these goals, Proposition 57 added article I, section 32 to the California Constitution. It states, in relevant part: “Any person convicted of a nonviolent felony offense and sentenced to state prison shall be eligible for parole consideration after completing the full term for his or her primary offense.” (*Id.*, § 32, subd. (a)(1)).

Proposition 57 directed the Department of Corrections and Rehabilitation (Department) to “adopt regulations in furtherance of” the guarantee of early parole consideration. (Cal. Const., art. I, § 32, subd. (b).) The Department issued regulations governing early parole consideration for persons serving a determinate sentence for a nonviolent felony offense. (Cal. Code Regs. tit. 15, §§ 2449.1-2449.7, 3490-3493.) For this subset of inmates, the regulations limit parole consideration to a paper review of “[i]nformation contained in the inmate’s central file and the inmate’s documented criminal history,” together with “[w]ritten statements submitted by the inmate, any victims . . . , and the [relevant] prosecuting agency or agencies.” (*Id.*, § 2449.4, subd. (b)(1) & (2).) Inmates are not entitled to an in-person hearing for the initial parole determination or the subsequent review of that decision. (*Id.*, §§ 2449.4, 2449.7.)

Petitioner Anthony Flores is one of many inmates who have been denied parole under the paper review process. In 2011, after fleeing an attempted traffic stop, Flores was convicted of three evasion and assault charges and sentenced to a term of 16 years and four months. In July 2016, Flores was referred to the Board of Parole Hearings (Board) for nonviolent offender parole review. An officer of the Board reviewed his files and issued a two-page decision denying parole.

The aggravating factors justifying the denial included the nature of Flores's commitment offenses, which demonstrated an "extremely high level of violence and recklessness," his prior criminal record, and three rules violations over approximately six years. The written order also acknowledged some mitigating circumstances, including the fact that his commitment offenses resulted in no physical injury to any victim and that he had completed some "positive programming" while in prison. Flores appealed this decision, arguing that his files did not adequately reflect the positive things he had done in prison. Another officer issued a one-page order upholding Flores's parole denial.

On a petition for writ of habeas corpus, Flores argued that the Department's failure to afford him an opportunity to appear personally before the officers considering his parole application violated the terms of Proposition 57 and the constitutional guarantee of due process of law. The superior court agreed, ordering the Department to provide Flores with an in-person parole hearing and also ordering it to "promulgate new regulations reflecting the right of Proposition 57 parole-eligible inmates to request and appear at a live hearing on parole suitability."

The Court of Appeal vacated the superior court's order. In rejecting Flores's due process claim, the panel relied on *In re Kavanaugh* (2021) 61 Cal.App.5th 320 (*Kavanaugh*), which had denied a similar claim. Since then, two other appellate courts, also relying on *Kavanaugh*, have rejected similar due process claims asserting the right to an in-person hearing. (*In re Bailey* (2022) 76 Cal.App.5th 837; *In re Ernst* (May, 5, 2022, F081386) [nonpub. opn.])

As explained below, I am doubtful that the denial of in-person parole hearings to eligible inmates comports with due process. Given the statewide importance of this issue, I would grant review. Although Flores has been paroled since filing his habeas corpus petition, thousands of Proposition 57-eligible inmates remain in prison. The fact that Flores has been released during the pendency of this matter, despite not having been afforded an in-person hearing, demonstrates that this is an issue capable of recurring yet evading review.

The due process analysis here requires consideration of four factors: " '(1) the private interest that will be affected by the official action, (2) the risk of an erroneous deprivation of such interest through the procedures used, and the probable value, if any, of additional or substitute procedural safeguards, (3) the dignitary interest in informing individuals of the nature, grounds and consequences of the action and in enabling them to present their side of the story before a responsible governmental official, and (4) the governmental interest, including the function involved and the fiscal and administrative burdens that the additional or substitute procedural requirement would entail.' " (*Kavanaugh, supra*, 61 Cal.App.5th at pp. 352-353, quoting *People v. Ramirez* (1979) 25 Cal.3d 260, 269 (*Ramirez*).)

1. As to the private interest, *Kavanaugh* said a Proposition 57-eligible inmate possesses a " 'mere anticipation or hope of freedom' " - an interest it described as less weighty than the " 'absolute liberty to which every citizen is entitled' " and less weighty than the " 'conditional liberty' " available to those already granted parole. (*Kavanaugh, supra*, 61 Cal.App.5th at p. 355.) But this description of a parole applicant's interest was derived from case law that precedes Proposition

57. (See *Kavanaugh*, at pp. 354-355, citing *In re J.G.* (2008) 159 Cal.App.4th 1056, 1064, *In re Sturm* (1974) 11 Cal.3d 258, 266 (*Sturm*), and *Greenholtz v. Nebraska Penal Inmates* (1979) 442 U.S. 1, 10.) As the trial court here recognized, Proposition 57 “[p]lainly . . . created a state constitutional right to early parole consideration for inmates currently serving a prison sentence for nonviolent felonies.” This right lends gravity to the applicant’s interest. (See *Wolff v. McDonnell* (1974) 418 U.S. 539, 557 [“the State having created [a state law right], the prisoner’s interest has real substance and is sufficiently embraced [by the due process guarantee] to insure that the state-created right is not arbitrarily abrogated”].)

Specifically, a parole applicant possesses not only a subjectively held hope for release, but also the justified expectation that release will be granted upon the satisfaction of enumerated criteria. As the high court has explained, a state may “create[] a constitutionally protected liberty interest” if state law employs “mandatory language” stating that parole “ ‘shall’ ” be granted once certain findings are made. (*Board of Pardons v. Allen* (1987) 482 U.S. 369, 374.) In these circumstances, individuals have an “ ‘expectation of parole’ ” protected by due process. (*Id.* at p. 373.) California law employs such mandatory language. The Department’s regulations state that a “hearing officer shall approve release” if he or she “finds the inmate does not pose a current, unreasonable risk of violence or a current, unreasonable risk of significant criminal activity.” (Cal. Code Regs. tit. 15, § 2449.4, subd. (f); see Pen. Code, § 3041, subd. (b)(1)) [the Board “shall grant parole to an inmate unless it determines that the gravity of the current convicted offense or offenses, or the timing and gravity of current or past convicted offense or offenses, is such that the consideration of the public safety requires a more lengthy period of incarceration for this individual”].)

Our cases have long held that where state law makes an inmate eligible for parole consideration, the inmate “not only has a right to apply for parole, but is entitled to have his application ‘duly considered.’ ” (*Sturm, supra*, 11 Cal.3d at p. 268, citing *In re Prewitt* (1972) 8 Cal.3d 470, *In re Minnis* (1972) 7 Cal.3d 639, and *In re Schoengarth* (1967) 66 Cal.2d 295.) The “right to due consideration of parole applications” includes a right to “be free from an arbitrary parole decision, to secure information necessary to prepare for interviews with the [parole authorities], and to something more than mere pro forma consideration.” (*Sturm*, at p. 268; see also *In re Rosenkrantz* (2002) 29 Cal.4th 616, 655 [“our past decisions also make clear that the requirement of procedural due process embodied in the California Constitution (Cal. Const., art. I, § 7, subd. (a)) places some limitations upon the broad discretionary authority of the Board”].) We have found due process violations when procedures have failed to satisfy these basic guarantees. (See *In re Lawrence* (2008) 44 Cal.4th 1181, 1227 (*Lawrence*) [petitioner’s due process rights were violated by the Governor’s reliance upon the immutable circumstances of her commitment offense in reversing the parole board’s decision to grant parole]; *Sturm*, at p. 272 [finding due process violation when parole authorities failed to provide a definitive written statement of reasons for a parole denial].)

2. The court in *Kavanaugh* also did not give appropriate weight to the second due process consideration: “the risk of an erroneous deprivation of such interest through the procedures used.” (*Ramirez, supra*, 25 Cal.3d at p. 269.) Of course, the opportunity to submit written

statements goes some way toward “minimiz[ing] the risk of an arbitrary or capricious parole denial.” (*Kavanaugh, supra*, 61 Cal.App.5th at p. 356.) But, as *Kavanaugh* acknowledged, in-person hearings “ ‘may be useful in resolving conflicting information and in the introduction of subjective factors into the decision making process that might otherwise not be considered.’ ” (*Id.* at pp. 357-358.) Indeed, we have emphasized the inherent subjectivity of the parole determination and have recognized that “disadvantages . . . may follow from an inmate’s decision not to testify at a parole hearing or otherwise cooperate in the development of current information” (*In re Shaputis* (2011) 53 Cal.4th 192, 219, 220.) The categorical deprivation of an in-person hearing would likely work the same or even greater disadvantages to inmates like Flores.

The Department’s own data on inmates eligible for early parole consideration under Proposition 57 show that whereas 4,419 of 27,415 determinately sentenced inmates (16 percent) who received paper review have been granted parole, 512 of 1,855 indeterminately sentenced inmates (28 percent) who received a hearing have been granted parole. (Dept. of Corrections and Rehabilitation, Three-Judge Quarterly Update (Mar. 15, 2022) <<https://www.cdcr.ca.gov/3-judge-court-update/>> [as of June 15, 2022].) This is despite the Department’s representations that, when it comes to assessing “public safety,” “indeterminately sentenced nonviolent offenders are treated differently given the increased length of potential incarceration and the severity of their criminal histories” - factors “requiring greater scrutiny in parole consideration proceedings . . . as compared to determinately sentenced nonviolent offenders.” (*In re Bailey, supra*, 76 Cal.App.5th at p. 856.)

Moreover, in reviewing parole determinations, we have considered the applicant’s ability to “consistently, repeatedly, and articulately . . . express[] deep remorse for her crime as reflected in a decade’s worth of psychological assessments and transcripts of suitability hearings that were before the Board.” (*Lawrence, supra*, 44 Cal.4th at pp. 1222-1223, italics added.) If the applicant has no opportunity to appear before the Board, the accuracy of the Board’s determination and courts’ ability to review it may be compromised.

The experience of parole authorities in other jurisdictions confirms the importance of in-person hearings. A former member of the Rhode Island Parole Board described the importance of in-person interviews this way: “It was not unusual for me to have a tentative opinion in mind - based on my review of the copious records - when the inmate entered the hearing room and then shift my position based on the in-person interview. . . . An inmate who had what appeared to be slim chances of getting my vote for parole would overwhelm me with her insight and sincerity, so much so that I changed my mind.” (Reamer, *On The Parole Board: Reflections on Crime, Punishment, Redemption, and Justice* (2017) p. 62.) Similarly, one of the first members of the Florida Parole Commission has described how “[p]ersonal contact between the prisoner and members of the releasing agency is essential to a good parole decision.” “[F]rom experience I know that there is a great deal one can find out about a person’s attitude towards his fellow man through a conscientiously conducted interview.” (Bridges, *The Personal Interview* in *Reappraising Crime Treatment: 1953 Yearbook of the National Probation and Parole Association* (Matlin edit., 1953) p. 34, some capitalization omitted.) A 2015 survey of 40 states’ parole authorities found “ ‘near unanimity’ ” in the belief that boards should be required to evaluate an

inmate's demeanor during the parole hearing. (Bronnimann, *Remorse in Parole Hearings: An Elusive Concept with Concrete Consequences* (2020) 85 Mo. L.Rev. 321, 337.)

3. As to the third due process consideration - the dignitary interest of parole applicants - *Kavanaugh* said the opportunity to submit written statements sufficiently “promote the dignitary values of the persons seeking parole release.” (*Kavanaugh, supra*, 61 Cal.App.5th at p. 359.) But this consideration requires us to examine not only whether the opportunity to be heard has been provided, but also to “ ‘ensure that the method of interaction itself is fair.’ ” (*Ramirez, supra*, 25 Cal.3d at p. 268.) Accordingly, we have held that due process is violated when a patient-inmate is not given an opportunity to respond orally in proceedings that determine whether he or she will be committed to a rehabilitation facility or prison. (*Id.* at p. 275.) In that context, we said that “ ‘[o]nly through [oral] participation can the individual gain a meaningful understanding of what is happening to her, and why it is happening. Moreover, providing the opportunity to react to register concern, dissatisfaction, and even frustration and despair is the best method to promote the feeling that, notwithstanding the substantive result, one has been treated humanely and with dignity by one's government.’ ” (*Ibid.*)

Flores's own words illustrate the point. In seeking review of his parole denial, he said: “I just feel the Board should have let me be able to sit down in front of you when you guys are talking about the things I did in the past, so I can defend and explain myself. And just get to see face to face and know a little about me as a person.” He further stated: “I just wish I could have been there for this Hearing. So you guys could know what I am still going through in prison and take the time to know a little about me and my life” instead of “just reading what a person wrote down about me.”

4. As to the fourth due process consideration - the government interest - *Kavanaugh* said the “weighty fiscal and administrative burdens that in-person parole hearings would impose” outweigh any “potential benefits” to Proposition 57-eligible inmates. (*Kavanaugh, supra*, 61 Cal.App.5th at p. 358.) In *Kavanaugh*, the Attorney General said “it would cost the Board tens of millions of dollars annually to conduct in-person parole hearings for all eligible determinately sentenced nonviolent prisoners.” (*Id.* at p. 357.) But even if accurate, this singular focus on the fiscal cost of providing hearings misses two additional considerations.

The first is the savings that might come from the release of individuals who otherwise would have been denied parole. Proposition 57 expanded access to parole consideration in order to “[s]ave money by reducing wasteful spending on prisons.” (Voter Information Guide, Gen. Elec., *supra*, text of Prop. 57, § 2, p. 141.) The initiative was enacted in response to a federal court order finding that prison overcrowding had burdened the Department's systems and was the “primary cause of the unconstitutional denial of adequate medical and mental health care to California's prisoners.” (*Coleman v. Schwarzenegger* (E.D.Cal. 2009) 922 F.Supp.2d 882, 920.) Since then, the annual cost of housing an inmate in California prisons has more than doubled, to \$106,131 per inmate. (Legislative Analyst's Office, How much does it cost to incarcerate an inmate? (Jan. 2022) <https://lao.ca.gov/policyareas/cj/6_cj_inmatecost> [as of June 15, 2022].) An accurate assessment of the fiscal impact of providing in-person parole hearings must account for both costs

and savings.

Second, when considering government interests under the due process analysis, we have not confined the analysis to money alone. (*Ramirez, supra*, 25 Cal.3d at p. 269 [describing the relevant government interest as “including the function involved and the fiscal and administrative burdens” to the state].) Besides saving money, Proposition 57 aims to “[s]top the revolving door of crime by emphasizing rehabilitation, especially for juveniles.” (Voter Information Guide, Gen. Elec., *supra*, text of Prop. 57, § 2, p. 141.) As the high court has said in the context of parole revocation hearings, “[t]he parolee is not the only one who has a stake in his conditional liberty. Society has a stake in whatever may be the chance of restoring him to normal and useful life within the law.” (*Morrissey v. Brewer* (1972) 408 U.S. 471, 484.) Likewise, accurate parole determinations may reduce the number of incarcerated persons and increase the number who can build useful and productive lives outside of prison. This is part and parcel of the government interest here.

In a future case, this court may decide to address the issue presented in this petition. In the meantime, the Legislature may wish to consider ways to increase the accuracy and reliability of Proposition 57 parole determinations. The Legislature is well positioned to assess the fiscal impact of greater procedural protections, and it may consider a range of options (not just one-size-fits-all policies) for handling the significant number and variety of applications filed by Proposition 57-eligible inmates.

LIU, J.

S273820 B309288 Second Appellate District, Div. 2

**CRENSHAW SUBWAY
COALITION v. CITY OF LOS
ANGELES (HAAS BHCP
PROPERTY OWNER, LLC)**

Petition for review denied; CA opinion decertified

The petition for review is denied.

The request for an order directing full publication of the opinion is denied.

The request for an order directing depublication of the opinion is granted.

The Reporter of Decisions is directed not to publish in the Official Appellate Reports the opinion in the above-entitled appeal filed March 3, 2022, which appears at 75 Cal.App.5th 917. (Cal. Const., art. VI, section 14; Cal. Rules of Court, rule 8.1125(c)(1).)

S273912 C087504 Third Appellate District

**PEOPLE v. STINSON
(ANTUAN JERMALE)**

Petitions for review denied

S273948 B305801 Second Appellate District, Div. 8

Petition for review denied

**HEKMAT (CYRUS) v.
MIDFIRST BANK**

S273977 G059520 Fourth Appellate District, Div. 3

Petition for review denied

**CARTER (JENNIFER &
CURTIS), MARRIAGE OF**

S273980 B306918 Second Appellate District, Div. 1

The request for judicial notice filed by Jacqueline Chui on May 9, 2022, is denied as to Exhibits A and B and granted as to Exhibit C. The request for judicial notice filed by Jacqueline Chui on May 25, 2022, is denied. The request for judicial notice filed by Christine Chui on May 20, 2022, is denied.

The petitions for review are denied.

**CHUI (BENJAMIN TZE-MAN)
v. CHUI (CHRISTINE); CHUI
(MICHAEL); CHAO (ESTHER
SHOU MAY CHUI)**

S273988 C091960 Third Appellate District

Petition for review denied

PEOPLE v. INIGUEZ (JOSE)

S273994 A156282/A156320 First Appellate District, Div. 3

Petitions for review denied

**PEOPLE v. MOSBY
(GABRIEL)**

S274001 B318859 Second Appellate District, Div. 2

Petition for review denied

**ROSE (ANTHONY P.) ON
H.C.**

S274005 E075458 Fourth Appellate District, Div. 2

Petition for review denied

**PEOPLE v. ROBINSON
(NEHEMIAH)**

S274011 A164703 First Appellate District, Div. 1

The petition for review is denied without prejudice to any relief to which petitioner might be entitled after this court decides *Camacho v. Superior Court*, S273391.

**MITCHELL (SIDNEY) ON
H.C.**

- S274014** A161067 First Appellate District, Div. 2 **PEOPLE v. OWEN (GABRIEL LEE)**
Petition for review denied
- S274015** A156387 First Appellate District, Div. 2 **PEOPLE v. PHILLIPS (MICHAEL J.)**
Petition for review denied
- S274027** B308633 Second Appellate District, Div. 2 **PEOPLE v. ST. AMIE (HERMAN)**
Petitions for review denied
- S274031** A163992/A163996 First Appellate District, Div. 3 **HERNANDEZ-VALENZUELA (OSMIN) v. S.C. (PEOPLE)**
Petition for review denied
Liu, J., is of the opinion the petition should be granted.
Cantil-Sakauye, C. J., and Corrigan, J., were recused and did not participate.
- S274054** B306960 Second Appellate District, Div. 4 **PEOPLE v. TAYLOR III (JOE ALFRED)**
Petition for review denied
- S274077** B309814 Second Appellate District, Div. 3 **RISKIN (ADRIAN) v. DOWNTOWN LOS ANGELES PROPERTY OWNERS ASSOCIATION**
Petition for review & depublication request(s) denied
- S274095** B319186 Second Appellate District, Div. 3 **DION (CHRISTOPHER) v. S.C. (POMERANCE)**
Petition for review denied
- S274104** E074335 Fourth Appellate District, Div. 2 **PEOPLE v. STEWART (TRAEVON DENAE)**
Petition for review denied

S274116 B319076 Second Appellate District, Div. 2
Petition for review denied

LEE (JANICE) v. S.C. (LEE)

S274137 G059322 Fourth Appellate District, Div. 3
Petition for review denied
Cantil-Sakauye, C. J., and Corrigan, J., were recused and did not participate.

PEOPLE v. BRECEDA (JOHN RAMON)

S274144 G060039 Fourth Appellate District, Div. 3
Petition for review denied

**CALANTROPIO (MICHAEL)
v. DEVCON CONSTRUCTION
INCORPORATED**

S274145 B307108 Second Appellate District, Div. 3
Petition for review denied

PEOPLE v. JONES (RONALD)

S274148 G061243 Fourth Appellate District, Div. 3
Petition for review denied

**THOMAS (DENISE) v. S.C.
(BURNEY)**

S274150 B309076 Second Appellate District, Div. 5
Petition for review denied

PEOPLE v. SLOAN (MELVIN)

S274157 B307717 Second Appellate District, Div. 6
Petition for review & publication request(s) denied

PEOPLE v. RUIZ (FRANK)

S274163 B309273 Second Appellate District, Div. 8
Petition for review denied

**PEOPLE v. EDWARDS
(JONATHAN MAURICE)**

S274164 E074782 Fourth Appellate District, Div. 2
Petition for review denied

**PEOPLE v. HEMSLEY
(DAVID JEFFERY)**

S274178 B303314 Second Appellate District, Div. 7

Petition for review denied

**SWIFTAIR, LLC v.
SOUTHWEST AIRLINES CO.**

S274184 A158275 First Appellate District, Div. 2

Petition for review & depublication request(s) denied

**LEE (LARRY) v.
AMAZON.COM, INC.**

S274195 B319432 Second Appellate District, Div. 7

Petition for review denied

**TAVERNITI (JOYCE A.
BONELLI) v. S.C.
(TAVERNITI)**

S274204 G060317 Fourth Appellate District, Div. 3

Petition for review denied

**HANG (TRAN THI THU) v.
NGUYEN (QUYNH MAI)**

S274215 B313732 Second Appellate District, Div. 2

Petition for review denied

**PEOPLE v. DRAKE (OLTON
VERNELL)**

S274222 C087528 Third Appellate District

Petition for review & publication request(s) denied

**CLIFFORD (RYAN) v. ALPHA
EPSILON PI FRATERNITY,
INC.**

S274229 B317228 Second Appellate District, Div. 7

Petition for review denied

**PEOPLE v. LOPEZ (JOSE
ANTONIO)**

S274231 A158498 First Appellate District, Div. 3

Petition for review denied

**PEOPLE v. BRANKS (ADAM
DOUGLAS)**

S274241 A158467 First Appellate District, Div. 1

**STATE FARM MUTUAL
AUTOMOBILE INSURANCE
COMPANY v. ROBINSON
(CORA)**

Petition for review denied

S274242 A157722 First Appellate District, Div. 2

**CP V WALNUT, LLC v.
FREMONT UNIFIED
SCHOOL DISTRICT**

Petition for review denied

S274245 B309738/B311629 Second Appellate District, Div. 6 **PEOPLE v. SIOTECO**

(JONATHAN)

Petition for review denied

S274261 E073368 Fourth Appellate District, Div. 2

**PEOPLE v. KENNEMER
(MICHAEL JOHN)**

Petition for review denied

S274266 F081020 Fifth Appellate District

**PEOPLE v. LOPEZ (SOPHIA
ROSE)**

Petition for review denied

S274272 A154417 First Appellate District, Div. 1

PEOPLE v. LOPEZ (DANIEL)

Petition for review denied

S274274 H044691 Sixth Appellate District

PEOPLE v. HARRIS (JOVAN)

Petition for review denied

S274283 F080101 Fifth Appellate District

**PEOPLE v. SCHOWACHERT
(JOHN-PAUL FRANK)**

Petition for review denied

S274284 F081574 Fifth Appellate District

Petition for review denied

**SCHOWACHERT
(JOHN-PAUL FRANK) ON
H.C.**

S274285 A160672 First Appellate District, Div. 4

Petition for review denied

**PEOPLE v. COCHRAN
(BRANDON DARVILLE)**

S274286 B309112 Second Appellate District, Div. 4

Petition for review denied

**PEOPLE v. GRAJEDA
(DANIEL G.)**

S274288 A162309 First Appellate District, Div. 4

Petition for review denied

**COCHRAN (BRANDON
DARVILLE) ON H.C.**

S274314 G061245 Fourth Appellate District, Div. 3

Petition for review denied

**COLOMBO (RALPH) v.
KINKLE, RODIGER &
SPRIGGS**

S274315 C092775 Third Appellate District

Petition for review denied

PEOPLE v. NGUYEN (DAI)

S274316 C092457 Third Appellate District

The petition for review is denied without prejudice to any relief to which defendant might be entitled after this court decides *People v. Kopp*, S257844.

**PEOPLE v. BATISTE
(LAWRENCE)**

S274318 B252187 Second Appellate District, Div. 4

Petition for review denied

**PEOPLE v. ADAMS (LEO
LLOYD)**

S274319 A164251 First Appellate District, Div. 2

Petition for review denied

**PEOPLE v. RODRIGUEZ
(RICHARD ANTHONY)**

S274323 G059642 Fourth Appellate District, Div. 3

Petition for review denied

**PEOPLE v. MABROK
(AHMAD KHALIAH)**

S274325 B314912 Second Appellate District, Div. 1

Petition for review denied

**PEOPLE v. VARGAS
(OSCAR)**

S274328 H048030 Sixth Appellate District

Petition for review denied

Liu, J., is of the opinion the petition should be granted.

**PEOPLE v. FONSECA (JUAN
CARLOS)**

S274331 C093250 Third Appellate District

Petition for review denied

**PEOPLE v.
DENNISBELLAIRS (JOSHUA
LOUIS)**

S274339 B301524 Second Appellate District, Div. 1

Petition for review denied

**OPTIONAL CAPITAL, INC. v.
DAS CORPORATION**

S274342 C093887 Third Appellate District

The request for judicial notice, filed May 2, 2022, is granted.
The petition for review and application for stay are denied.

IN RE A.C.

S274349 B308605 Second Appellate District, Div. 8

Petition for review denied

**PEOPLE v. BRUMFIELD
(ANTHONY RAY)**

S274355 G059629 Fourth Appellate District, Div. 3

Petition for review denied

PEOPLE v. SUN (HONGLI)

S274357 A158466 First Appellate District, Div. 5

PEOPLE v. CRAIG (LYNARD ADAM)

The petition for review is denied without prejudice to any relief to which defendant might be entitled after this court decides *People v. Kopp*, S257844.

S274359 F078884 Fifth Appellate District

PEOPLE v. BROWN (DAVID WAYNE)

Petition for review denied

S274377 C090997 Third Appellate District

PEOPLE v. ISELI (BRANDEN WILLIE)

Petition for review denied

S274394 F084137 Fifth Appellate District

CRAIG (TIMOTHY) ON H.C.

Petition for review denied

S274400 E077655 Fourth Appellate District, Div. 2

PEOPLE v. MAJOR (SHANE ALLEN)

Petition for review denied

S274403 B315832 Second Appellate District, Div. 6

PEOPLE v. MONROY (ROBERT)

Petition for review denied

S274409 B307409 Second Appellate District, Div. 6

PEOPLE v. ARANGO, JR., (ADRIAN ARTURO)

Petition for review denied

S274410 F081064 Fifth Appellate District

BIVENS (JERRY LEE) ON H.C.

Petition for review denied

S274411 F068714/F069260 Fifth Appellate District

PEOPLE v. MEDRANO (XAVIER YSAURO)

Petitions for review denied

S274418 B318933 Second Appellate District, Div. 4

Petition for review denied

**BAPTISTE (KENNETH E.) ON
H.C.**

S274432 B295816 Second Appellate District, Div. 8

The petition for review is denied without prejudice to any relief to which defendant might be entitled after this court decides *People v. Kopp*, S257844.

**PEOPLE v. JORDAN (RALPH
M.)**

S274444 B301744 Second Appellate District, Div. 8

Petition for review denied

**PEOPLE v. RUBIO (JOSE
HIPOLITO)**

S274446 F082122 Fifth Appellate District

Petition for review denied

**PEOPLE v. CARSON
(DERRICK)**

S274449 F081998 Fifth Appellate District

Petition for review denied

PEOPLE v. NUNEZ, JR., (JOE)

S274450 B308502 Second Appellate District, Div. 1

Petition for review denied

Cantil-Sakaue, C. J., and Corrigan, J., were recused and did not participate.

**PEOPLE v. HALL (ELIJAH
KAREEM SHABAZZ)**

S274456 C088844 Third Appellate District

Petition for review denied

**PEOPLE v. EMAIRI
(DERRICK)**

S274460

Petition for writ of error coram vobis denied

**HAYES II (ELWOOD DUANE)
v. COURT OF APPEAL,
THIRD APPELLATE
DISTRICT (PEOPLE)**

S274470 C093566 Third Appellate District

Petition for review denied

**PEOPLE v. COLLINS
(LOVALLE DAMON)**

S274474 B301374 Second Appellate District, Div. 4

Petition for review denied

**SOUTHWEST REGIONAL
COUNCIL OF CARPENTERS
v. CITY OF LOS ANGELES
(THE ICON AT PANORAMA,
LLC)**

S274485 C093045 Third Appellate District

Petition for review denied

**PEOPLE v. GONZALEZ
(JOSUE)**

S274496 A163787 First Appellate District, Div. 4

Petition for review denied

**PEOPLE v. DANIELSON
(GARY STEPHEN)**

S274497 F078653 Fifth Appellate District

Petition for review denied

**PEOPLE v. STEPHENS
(ROBERT LEE)**

S274504

Petition for writ of certiorari denied

**MALIK (BEY KHALI) v.
COUNTY OF LOS ANGELES**

S274507 F084240 Fifth Appellate District

Petition for review & application for stay denied

**GONZALEZ (ANGEL) v. S.C.
(PEOPLE)**

S274508 B304185 Second Appellate District, Div. 4

Petition for review denied

**PEOPLE v. MATTHEWS
(KENNETH)**

S274510 F080512 Fifth Appellate District

Petition for review denied

**PEOPLE v. CAMPBELL
(ROLAND BERNARD)**

S274512 A158271/A159457 First Appellate District, Div. 5

Petition for review denied

**PEOPLE v. BURGOS
(NORMANDIE SANTOS)**

S274521 F080726 Fifth Appellate District

Petition for review denied

**PEOPLE v. VILLANUEVA
(ARMANDO)**

S274524 E074847 Fourth Appellate District, Div. 2

Petition for review denied

**PEOPLE v. DARRINGTON,
JR., (KEWETHA LAVORY)**

S274536 E076647 Fourth Appellate District, Div. 2

Petition for review denied

**PEOPLE v. RUNNELS
(JASON HOWARD)**

S274538 C087771 Third Appellate District

Petition for review denied

**PEOPLE v. GAMBOA
(RALPH HUERTA)**

S274540 B319162 Second Appellate District, Div. 6

Petition for review denied

**TOMASZEWSKI (JENNIFER)
v. S.C. (CITY OF SANTA
BARBARA)**

S274541 B319399 Second Appellate District, Div. 2

Petition for review denied

**DIGNITY COMMUNITY
CARE v. S.C.
(ZOLNIERKIEWICZ)**

S274558 A164699 First Appellate District, Div. 3

Petition for review denied

**AZAR (NAIFEH) v. S.C.
(AZAR)**

S274564 F080572 Fifth Appellate District

Petition for review denied

**PEOPLE v. ROBERSON
(ANDREW)**

S274565 C093775 Third Appellate District

Petition for review denied

**PEOPLE v. GONZALEZ
(ARMANDO ARIAS)**

S274711 F083569 Fifth Appellate District

Petition for review & application for stay denied

**MUNSON (CHRISTOPHER
MICHAEL) v. S.C. (PEOPLE)**

S266598

Petition for writ of habeas corpus denied

**PRECIADO (SAUL BRUCE)
ON H.C.**

S271981

Petition for writ of habeas corpus denied

LEIBEL (BLAKE) ON H.C.

S272445

The petition for writ of habeas corpus is denied as moot and without prejudice to petitioner filing a new petition challenging his current conditions of confinement in San Luis Obispo County Superior Court. This court recognizes that the reported number of active COVID-19 cases at the California Men's Colony has increased moderately since May 31, 2022, when petitioner alerted the court to his change of address. (Evid. Code, § 452, subds. (c), (h); Cal. Dept. of Corrections and Rehabilitation, Population COVID-19 Tracking

<<https://www.cdcr.ca.gov/covid19/population-status-tracking/>> [as of June 15, 2021].)

If such a petition is filed, the superior court is hereby reminded that, as set forth in prior orders of this court, it is to engage all available procedural tools to ensure the timely and fair resolution of the issues that may be presented. (See *Marshall v. Superior Court*, S263043, Supreme Ct. Mins., July 15, 2020, p. 908; *National Association of Criminal Defense Lawyers v. Newsom*, S261827, Supreme Ct. Mins., May 4, 2020, pp. 592-593.)

**BLACKWELL (RODNEY
KARL) ON H.C.**

S272478

Petition for writ of habeas corpus denied

SMITH (DAVID) ON H.C.

S272497

Petition for writ of habeas corpus denied

**ZURITA (ALFREDO
EMILIANO) ON H.C.**

S272544

Petition for writ of habeas corpus denied

**MORENO (PAUL ANTHONY)
ON H.C.**

S272548

Petition for writ of habeas corpus denied

**KING (JESSE STEPHEN) ON
H.C.**

S272549

Petition for writ of habeas corpus denied

**HASHEMI (SEYED BEHZAD)
ON H.C.**

S272582

Petition for writ of habeas corpus denied

**QUESADA (STEVEN A.) ON
H.C.**

S272591

Petition for writ of habeas corpus denied

**PALOMINO (JOSHUA
DANIELLE) ON H.C.**

S272592

Petition for writ of habeas corpus denied

**HAWKINS (MICHAEL DALE)
ON H.C.**

S272604

Petition for writ of habeas corpus denied

**HOWARD (HARRY LLOYD)
ON H.C.**

S272613**STEVENS (DEAN MICHAEL)
ON H.C.**

The petition for writ of habeas corpus is denied. (See *In re Clark* (1993) 5 Cal.4th 750, 767-769 [courts will not entertain habeas corpus claims that are successive].)

S272738**MARTINEZ (CARLOS) ON
H.C.**

Petition for writ of habeas corpus denied

S272798**VELEZ (HERMAN MARK
ANTHONY) ON H.C.**

Petition for writ of habeas corpus denied

S272900**WAHID (SAMIR M.) ON H.C.**

Petition for writ of habeas corpus denied

S272901**HERNANDEZ (ANGEL
HERNAN) ON H.C.**

Petition for writ of habeas corpus denied

S272903**MONTEZ (ANTHONY) ON
H.C.**

Petition for writ of habeas corpus denied

S272907**JENKINS, JR., (ROBERT
LEE) ON H.C.**

Petition for writ of habeas corpus denied

S272909**JONES (DANTE D.) ON H.C.**

The petition for writ of habeas corpus is denied. (See *In re Robbins* (1998) 18 Cal.4th 770, 780 [courts will not entertain habeas corpus claims that are untimely]; *In re Clark* (1993) 5 Cal.4th 750, 767-769 [courts will not entertain habeas corpus claims that are successive].)

S272922**LAWAG (GLENN CORDOVA)
ON H.C.**

Petition for writ of habeas corpus denied

S272940**LaFLAMME (DON) ON H.C.**

The petition for writ of habeas corpus is denied. (See *In re Dexter* (1979) 25 Cal.3d 921, 925-926 [a habeas corpus petitioner must exhaust available administrative remedies].)

S272959**CARLOS (HENRY) ON H.C.**

Petition for writ of habeas corpus denied

S272964**HAKIM (XAVIER) ON H.C.**

The petition for writ of habeas corpus is denied. (See *In re Robbins* (1998) 18 Cal.4th 770, 780 [courts will not entertain habeas corpus claims that are untimely].)

S272965**JOHNSON III (HALL
LYCURGUS) ON H.C.**

The petition for writ of habeas corpus is denied. (See *In re Robbins* (1998) 18 Cal.4th 770, 780 [courts will not entertain habeas corpus claims that are untimely]; *In re Clark* (1993) 5 Cal.4th 750, 767-769 [courts will not entertain habeas corpus claims that are successive].)

S272980**RANDLE (KAMORRIE) ON
H.C.**

Petition for writ of habeas corpus denied

S272981**VALDEZ, JR., (TITO DAVID)
ON H.C.**

Petition for writ of habeas corpus denied

S272992**FALCON (DAVID A.) ON H.C.**

Petition for writ of habeas corpus denied

S273000**STEVENS (MARIO
RODERICK) ON H.C.**

Petition for writ of habeas corpus denied

S273006**NGUYEN (KIET) ON H.C.**

Petition for writ of habeas corpus denied

S273009**URRUTIA (DIEGO G.) ON
H.C.**

The petition for writ of habeas corpus is denied. (See *In re Waltreus* (1965) 62 Cal.2d 218, 225 [courts will not entertain habeas corpus claims that were rejected on appeal].)

S273028**CALLANDRET (TIMOTHY
LOVE) ON H.C.**

The petition for writ of habeas corpus is denied. (See *In re Miller* (1941) 17 Cal.2d 734, 735 [courts will not entertain habeas corpus claims that are repetitive].)

S273153**KING (JESSE STEPHEN) ON
H.C.**

Petition for writ of habeas corpus denied

S273155**BAILEY (KERVIN L.) ON
H.C.**

Petition for writ of habeas corpus denied

S273162**DENNIS (JOEY) ON H.C.**

Petition for writ of habeas corpus denied

S273213**HOLMES (ARTHUR) ON H.C.**

The petition for writ of habeas corpus is denied. (See *In re Robbins* (1998) 18 Cal.4th 770, 780 [courts will not entertain habeas corpus claims that are untimely]; *People v. Duvall* (1995) 9 Cal.4th 464, 474 [a petition for writ of habeas corpus must include copies of reasonably available documentary evidence]; *In re Swain* (1949) 34 Cal.2d 300, 304 [a petition for writ of habeas corpus must allege sufficient facts with particularity].)

S273259**RAMIREZ (ARMANDO G.)
ON H.C.**

Petition for writ of habeas corpus denied

S273265**PARTHEMORE (IRA DON)
ON H.C.**

Petition for writ of habeas corpus denied

S273329

Petition for writ of habeas corpus denied

**JOHNSON (ADRIAN DAVID)
ON H.C.**

S273359

Petition for writ of habeas corpus denied

**TAPLIN (GARRETT E.) ON
H.C.**

S273367

Petition for writ of habeas corpus denied

**NOFFSINGER (JAMES D.) ON
H.C.**

S273382

Petition for writ of habeas corpus denied

**BROWN (DURRELL
ANTOINE) ON H.C.**

S273393

Petition for writ of habeas corpus denied

HODGE (JASON) ON H.C.

S273435

Petition for writ of habeas corpus denied

**BOSTON (JOSEPH HAYDEN)
ON H.C.**

S273441

Petition for writ of habeas corpus denied

RODRIGUEZ (JUAN) ON H.C.

S273463

Petition for writ of habeas corpus denied

**LEWIS (BRIAN DION) ON
H.C.**

S273703

Petition for writ of habeas corpus denied

**ABDEL-MALAK (ABANOOB)
ON H.C.**

S273704**MORENO (PAUL ANTHONY)
ON H.C.**

Petition for writ of habeas corpus denied

S273724**GIUSTI (DAVID C.) ON H.C.**The petition for writ of habeas corpus is denied. (See *In re Clark* (1993) 5 Cal.4th 750, 767-769 [courts will not entertain habeas corpus claims that are successive].)**S273778****LEON (JOSEPH R.) ON H.C.**

Petition for writ of habeas corpus denied

S273831**STEVENS (DEAN MICHAEL)
ON H.C.**The petition for writ of habeas corpus is denied. (See *In re Dexter* (1979) 25 Cal.3d 921, 925-926 [a habeas corpus petitioner must exhaust available administrative remedies].)**S273956****STEVENS (DEAN MICHAEL)
ON H.C.**The petition for writ of habeas corpus is denied. (See *In re Clark* (1993) 5 Cal.4th 750, 767-769 [courts will not entertain habeas corpus claims that are successive]; *In re Miller* (1941) 17 Cal.2d 734, 735 [courts will not entertain habeas corpus claims that are repetitive].)**S273960****GIUSTI (DAVID C.) ON H.C.**The petition for writ of habeas corpus is denied. (See *In re Clark* (1993) 5 Cal.4th 750, 767-769 [courts will not entertain habeas corpus claims that are successive]; *In re Miller* (1941) 17 Cal.2d 734, 735 [courts will not entertain habeas corpus claims that are repetitive].)**S274175****MARTINEZ (CARLOS) ON
H.C.**

Petition for writ of habeas corpus denied

S274179**CURL (ROBERT ZANE) ON
H.C.**The petition for writ of habeas corpus is denied. (See *In re Robbins* (1998) 18 Cal.4th 770, 780 [courts will not entertain habeas corpus claims that are untimely].)

S274277**HODGE (JASON) ON H.C.**

The petition for writ of habeas corpus is denied. (See *In re Miller* (1941) 17 Cal.2d 734, 735 [courts will not entertain habeas corpus claims that are repetitive].)

S274426**SANTANA (NOELI) ON H.C.**

Petition for writ of habeas corpus denied

S274428**PRECIADO (SAUL BRUCE)
ON H.C.**

Petition for writ of habeas corpus denied

S274437**NICHOLSON, JR., (JOHNNY
ALEX) ON H.C.**

Petition for writ of habeas corpus denied

S274533**DERDERIAN (RICHARD) ON
H.C.**

Petition for writ of habeas corpus denied

S274552**JONES (CEDRICK
DELANEY) ON H.C.**

Petition for writ of habeas corpus denied

S274657**ROJAS (ROBERT EUGENE)
ON H.C.**

The petition for writ of habeas corpus is denied. (See *People v. Duvall* (1995) 9 Cal.4th 464, 474 [a petition for writ of habeas corpus must include copies of reasonably available documentary evidence]; *In re Dexter* (1979) 25 Cal.3d 921, 925-926 [a habeas corpus petitioner must exhaust available administrative remedies]; *In re Swain* (1949) 34 Cal.2d 300, 304 [a petition for writ of habeas corpus must allege sufficient facts with particularity].)

S274764**BOSTON (JOSEPH HAYDEN)
ON H.C.**

The petition for writ of habeas corpus is denied. (See *In re Clark* (1993) 5 Cal.4th 750, 767-769 [courts will not entertain habeas corpus claims that are successive].)

S274808

Petition for writ of habeas corpus denied

SIMS (EMILY) ON H.C.**S274811**

Petition for writ of habeas corpus denied

**RAMOS (ESPERANZA) ON
H.C.****S273436** B312657 Second Appellate District, Div. 1
Publication request denied (case closed)**IN RE SAMUEL L.****S273442** D079606 Fourth Appellate District, Div. 1
Publication request denied (case closed)**IN RE A.G.****S273594** F082709 Fifth Appellate District

Publication request denied (case closed)

**TORRES (EDDIE ARMANDO)
v. CITY OF VISALIA (J
BEAST, LP)****S273667** G060098 Fourth Appellate District, Div. 3

Publication request denied (case closed)

**ELIAS (DAVID) v. JENSEN
(SUZANNE)****S273675** F082268 Fifth Appellate District
Publication requests denied (case closed)**H. (M.) v. H. (C.)****S273679** B289209 Second Appellate District, Div. 6

Publication request denied (case closed)

**DIGNITY HEALTH v.
MOUNTS (TROY I.)****S273878** A157293 First Appellate District, Div. 3

Publication requests denied (case closed)

**GALLETTA (GIANNA) v. FCA
US LLC**

S273985 H046420 Sixth Appellate District

**DENIKE (TIMOTHY) v.
MATHEW ENTERPRISE,
INC.**

The requests for an order directing depublication of the opinion in the above-entitled appeal are denied. The court declines to review this matter on its own motion. The matter is now final.

S274232 A164257 First Appellate District, Div. 3

**PEOPLE v. FLORES
(GUSTAVO MEDINA)**

The request for an order directing depublication of the opinion in the above-entitled appeal is denied. The court declines to review this matter on its own motion. The matter is now final.

See Concurring Statement by Justice Liu.

Concurring Statement by Justice Liu

In *Apprendi v. New Jersey* (2000) 530 U.S. 466, the high court held that any fact except a prior conviction “that increases the penalty for a crime beyond the prescribed statutory maximum must be submitted to a jury, and proved beyond a reasonable doubt.” (*Id.* at p. 490.) The sentencing court in this case imposed an upper term sentence for one of defendant Gustavo Medina Flores’s offenses based on its own finding of aggravating circumstances. The Court of Appeal held this error harmless under the standard we announced in *People v. Sandoval* (2007) 41 Cal.4th 825 (*Sandoval*): “[I]f a reviewing court concludes, beyond a reasonable doubt, that the jury, applying the beyond a reasonable doubt standard, unquestionably would have found true at least a single aggravating circumstance, the Sixth Amendment error properly may be found harmless.” (*Id.* at p. 839.)

Our holding in *Sandoval* was based on our interpretation of the language of the determinate sentencing law as it existed at the time. At that point, the law instructed in relevant part that when a statute specifies three possible terms of imprisonment, “the court shall order imposition of the middle term, unless there are circumstances in aggravation.” (Pen. Code, former § 1170, subd. (b).) Because of that language, we reasoned in *People v. Black* (2007) 41 Cal.4th 799 (*Black*) - issued the same day as *Sandoval* - that “the existence of a single aggravating circumstance is legally sufficient to make the defendant eligible for the upper term.” (*Black*, at p. 813.) On that basis, we held that findings of additional aggravating circumstances by the sentencing court do not increase the penalty for the defendant’s offense and therefore do not violate *Apprendi*. (*Black*, at p. 813.) Accordingly, we determined in *Sandoval* that if “a single aggravating circumstance” would unquestionably have been found by the jury, any further finding of aggravating circumstances by the sentencing court is harmless. (*Sandoval, supra*, 41 Cal.4th at p. 839.)

Effective January 1, 2022, Senate Bill No. 567 (2021-2022 Reg. Sess.) altered the language on which *Black* and *Sandoval* relied. The determinate sentencing law now says that a sentence higher than the middle term may be imposed “only when there are circumstances in aggravation of the crime *that justify the imposition of a term of imprisonment exceeding the middle term.*”

(Pen. Code, § 1170, subd. (b)(2), italics added.) As a result of this change, it may no longer be true that “the existence of a single aggravating circumstance is legally sufficient to make the defendant eligible for the upper term.” (*Black, supra*, 41 Cal.4th at p. 813.) Instead, it appears a defendant is subject to an upper term sentence only if the aggravating circumstances are sufficient to “justify the imposition” of that term under all of the circumstances, which may include evidence both in aggravation and in mitigation. (Pen. Code, § 1170, subd. (b)(2); *id.*, subd. (b)(4).)

It is unclear how *Apprendi* applies to the determinate sentencing law after this recent amendment. That question has prompted a split of authority in the Courts of Appeal. (Compare *People v. Flores* (2022) 75 Cal.App.5th 495, 500-501 with *People v. Lopez* (2022) 78 Cal.App.5th 459, 467, fn. 11.) In an appropriate case, I suggest revisiting our decisions in *Black* and *Sandoval* in light of the changes to the determinate sentencing law.

LIU, J.

S274305 B313169 Second Appellate District, Div. 4 **IN RE S.R.**
Publication request denied (case closed)

S274004 H049329 Sixth Appellate District **PEOPLE v. JIMENEZ
(IGNACIO)**

The time for granting or denying review in the above-entitled matter is hereby extended to July 22, 2022.

S274181 A162977 First Appellate District, Div. 3 **KOWALCZYK (GERALD
JOHN) ON H.C.**

The time for granting or denying review in the above-entitled matter is hereby extended to July 19, 2022.

S274187 A162960 First Appellate District, Div. 3 **TACORDA (JOSEPH OROLA)
ON H.C.**

The time for granting or denying review in the above-entitled matter is hereby extended to July 19, 2022.

S274254 B305671 Second Appellate District, Div. 5 **PEOPLE v. BUCHANAN
(MIKELL)**

The time for granting or denying review in the above-entitled matter is hereby extended to July 22, 2022.

S208429**PEOPLE v. FOWLER
(RICKIE LEE)**

Extension of time granted

Upon application of appellant, an extension of time in which to serve and file the appellant's reply brief is granted to August 9, 2022. After that date, only four further extensions totaling about 245 additional days are contemplated.

An application to file an overlength brief must be served and filed no later than 60 days before the anticipated filing date. (See Cal. Rules of Court, rule 8.631(d)(1)(A)(ii) & (B)(ii).)

S214649**PEOPLE v. WADE
(ANTHONY DARNELL)**

Extension of time granted

Based upon counsel Glen Niemy's representation that the appellant's reply brief is anticipated to be filed by August 12, 2022, an extension of time in which to serve and file that brief is granted to August 12, 2022. After that date, no further extension is contemplated.

S239963**PEOPLE v. MEZA
(HERACLIO)**

Extension of time granted

On application of appellant, it is ordered that the time to serve and file appellant's opening brief is extended to August 15, 2022.

S269785**GARCIA (ROBERT
TRISTAN) ON H.C.**

Extension of time granted

On application of respondent and good cause appearing, it is ordered that the time to serve and file the informal response is extended to July 11, 2022.

S270673**LITTLEFIELD (RONALD
JAMES) ON H.C.**

Extension of time granted

On application of petitioner and good cause appearing, it is ordered that the time to serve and file the reply to informal response is extended to June 23, 2022.

S271057 E076007 Fourth Appellate District, Div. 2**PEOPLE v. PRUDHOLME
(RICKY)**

Extension of time granted

On application of respondent and good cause appearing, it is ordered that the time to serve and file the answer brief on the merits is extended to July 20, 2022. No further extensions are contemplated.

S272850 B310024 Second Appellate District, Div. 3**WHEELER (EMILY) v.
APPELLATE DIVISION
(PEOPLE)**

Extension of time granted

On application of petitioner and good cause appearing, it is ordered that the time to serve and file the opening brief on the merits is extended to July 1, 2022.

S273964**BLACH (RODNEY) ON H.C.**

Extension of time granted

On application of petitioner and good cause appearing, it is ordered that the time to serve and file the reply to informal response is extended to June 27, 2022.

S203514**PEOPLE v. HUGHES
(MICHAEL)**

Order filed

The order appointing Joseph Schlesinger, in his capacity as Executive Director of the California Appellate Project in San Francisco, as interim appellate counsel of record for appellant Michael Hughes, filed March 11, 2020, is hereby vacated.

Upon request of appellant for appointment of counsel, Debra S. Sabah Press is hereby appointed to represent appellant Michael Hughes for the direct appeal in the above automatic appeal now pending in this court.

Executive Director Joseph Schlesinger is hereby directed to deliver to Debra S. Sabah Press, within 30 days from the filing of this order, all appellate work product, trial files, and all other appellate materials that he has obtained from the condemned inmate, Michael Hughes, or from his trial counsel or paralegals, or from any other source.

S225017**PEOPLE v. KING (COREY LYNN)**

Motion to file document under seal denied

Appellant's "Second Application to File Appellant's Opening Brief Under Seal," filed on February 17, 2022, is denied. The Clerk is directed to reject the redacted and unredacted appellant's opening briefs received on February 17, 2022. This denial is without prejudice to a renewed application pursuant to California Rules of Court, rule 8.46(d), to seal any specific portions of Claim I of appellant's opening brief that reference "personal information contained within expert reports and other documents that are prepared as part of mental competency hearings," consistent with Penal Code section 1369.5. (Stats. 2019, ch. 251, § 2.)

S270798

B305790 Second Appellate District, Div. 2

LAW FINANCE GROUP, LLC v. KEY (SARAH PLOTT)

Order filed

The application for relief from default filed on June 6, 2022, by Michael Tenebaum, is hereby granted.

On application of Michael Tenebaum and good cause appearing, it is ordered that the time to serve and file the amicus curiae brief is extended to June 22, 2022.

S271054

D076318 Fourth Appellate District, Div. 1

TURNER (DEBRA) v. VICTORIA (LAURIE ANNE)

Order filed

On application of appellant for permission to file an overlength reply brief is granted.

S274442

Petition denied

(accusation)

ACCUSATION OF HONSE**S273836**

Remanded to State Bar

ACCUSATION OF BISHARA

The court directs the State Bar Office of Chief Trial Counsel to reopen and reconsider the complaint brought by MIRIAM BISHARA against Rodney Mesriani, Case No. 21-O-06365, in light of the evidentiary record, her right to revoke a waiver of claims under the federal Age Discrimination in Employment Act within seven days of execution of a waiver agreement (29 U.S.C. §626(f)(1)(G)), the standards for violations of California Rules of Professional Conduct, rule 1.2(a) and 1.4(a)(2), and the standards for further action by the State Bar as set forth in rules 2401 and 2604 of the Rules of Procedure of the State Bar.

S252756**DeAGUILERA ON
DISCIPLINE**

Request for rehearing of State Bar discipline denied – JAMES DeAGUILERA

Petitioner's petition for rehearing, writ of supersedeas and request for stay shall be treated as a petition for rehearing under California Rules of Court, rule 9.18(a). The petition for rehearing is denied. The effective date of disbarment under the amended order filed by this court on May 18, 2022, remains June 17, 2022.

