

**SUPREME COURT MINUTES  
WEDNESDAY, OCTOBER 16, 2024  
SAN FRANCISCO, CALIFORNIA**

**S286264**      B326977 Second Appellate District, Div. 7      **LOS ANGELES COUNTY  
EMPLOYEES RETIREMENT  
ASSOCIATION v. COUNTY  
OF LOS ANGELES**

Petition for review granted

The applications to appear as counsel pro hac vice are granted. (Cal. Rules of Court, rule 9.40(a).)  
The petition for review is granted.

Pending review, the opinion of the Court of Appeal, which is currently published at 102 Cal.App.5th 1167, 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.)

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

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

**S286692**      D083230 Fourth Appellate District, Div. 1      **PEOPLE v. BRUNO  
(MICHAEL THOMAS)**

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. Rhodius*, S283169 (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: Guerrero, C. J., Corrigan, Liu, Kruger, Groban, Jenkins, and Evans, JJ.

**S286724** E081229/E082184 Fourth Appellate District, Div. 2      **PEOPLE v. SMITH III  
(WILLIE ROY)**

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. Patton*, S279670 (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: Guerrero, C. J., Corrigan, Liu, Kruger, Groban, Jenkins, and Evans, JJ.

**S286747**      D083438 Fourth Appellate District, Div. 1      **PEOPLE v. SANCHEZ (JOSE)**  
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. Rhodius*, S283169 (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: Guerrero, C. J., Corrigan, Liu, Kruger, Groban, Jenkins, and Evans, JJ.

**S286849**      F086469 Fifth Appellate District      **PEOPLE v. SEANIOR (EARL)**  
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. Rhodius*, S283169 (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: Guerrero, C. J., Corrigan, Liu, Kruger, Groban, Jenkins, and Evans, JJ.

**S286856**      E081737 Fourth Appellate District, Div. 2      **PEOPLE v. MARTINEZ  
(CARLOS)**

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. Mitchell*, S277314 (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: Guerrero, C. J., Corrigan, Liu, Kruger, Groban, Jenkins, and Evans, JJ.

**S286858**      B332327 Second Appellate District, Div. 1      **PEOPLE v. BANUELOS  
(EUSEBIO)**

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. Rhodius*, S283169 (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: Guerrero, C. J., Corrigan, Liu, Kruger, Groban, Jenkins, and Evans, JJ.

**S286894**      E081336 Fourth Appellate District, Div. 2      **PEOPLE v. FAVA (TROY DANTE)**

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. Emanuel*, S280551 (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: Guerrero, C. J., Corrigan, Liu, Kruger, Groban, Jenkins, and Evans, JJ.

**S286633**      B327887 Second Appellate District, Div. 8      **PEOPLE v. PAUL (JASON DANA)**

Petition for review granted; transferred to Court of Appeal, Second Appellate District, Division Eight

The petition for review is granted. The matter is transferred to the Court of Appeal, Second Appellate District, Division Eight, with directions to vacate its decision and reconsider the cause in light of *People v. Walker* (2024) 16 Cal.5th 1024. (Cal. Rules of Court, rule 8.528(d).)

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

**S286757**      F085805 Fifth Appellate District      **PEOPLE v. GONZALEZ (MISAEEL)**

Review granted on the court's own motion; transferred to Court of Appeal, Fifth Appellate District

At the request of the Court of Appeal, review is ordered on this court's own motion. The cause is transferred to the Court of Appeal, Fifth Appellate District, with directions to vacate its decision and to reconsider the cause as the Court sees fit. (Cal. Rules of Court, rule 8.528(d).)

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

**S276173**      B311291 Second Appellate District, Div. 6      **PEOPLE v. STILES (CHELSEA)**

Transferred to Court of Appeal, Second Appellate District, Division Six, after hold

The above-captioned matter is transferred to the Court of Appeal, Second Appellate District, Division Six, with directions to vacate its decision and reconsider the cause in light of *People v. Lynch* (2024) 16 Cal.5th 730. (Cal. Rules of Court, rule 8.528(d).)

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

**S277436** F083359 Fifth Appellate District

**PEOPLE v. REYNOSO (RIGO  
HECTOR)**

Transferred to Court of Appeal, Fifth Appellate District, after hold

The above-captioned matter is transferred to the Court of Appeal, Fifth Appellate District, with directions to vacate its decision and reconsider the cause in light of *People v. Lynch* (2024) 16 Cal.5th 730. (Cal. Rules of Court, rule 8.528(d).)

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

**S277463** A160769 First Appellate District, Div. 5

**PEOPLE v. WHYTE (LARRY)**

Transferred to Court of Appeal, First Appellate District, Division Five, after hold

The above-captioned matter is transferred to the Court of Appeal, First Appellate District, Division Five, with directions to vacate its decision and reconsider the cause in light of *People v. Lynch* (2024) 16 Cal.5th 730. (Cal. Rules of Court, rule 8.528(d).)

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

**S277475** C094172 Third Appellate District

**PEOPLE v. JARAMILLO  
(JAMES PEDRO)**

Transferred to Court of Appeal, Third Appellate District, after hold

The above-captioned matter is transferred to the Court of Appeal, Third Appellate District, with directions to vacate its decision and reconsider the cause in light of *People v. Lynch* (2024) 16 Cal.5th 730. (Cal. Rules of Court, rule 8.528(d).)

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

**S277702** H046931 Sixth Appellate District

**PEOPLE v. STEWARD  
(AARON LAMONT)**

Transferred to Court of Appeal, Sixth Appellate District, after hold

The above-captioned matter is transferred to the Court of Appeal, Sixth Appellate District, with directions to vacate its decision and reconsider the cause in light of *People v. Lynch* (2024) 16 Cal.5th 730. (Cal. Rules of Court, rule 8.528(d).)

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

**S277871**      G059723 Fourth Appellate District, Div. 3      **PEOPLE v. DIAZ, SR.,  
(MARIO ALBERTO)**

Transferred to Court of Appeal, Fourth Appellate District, Division Three, after hold

The above-captioned matter is transferred to the Court of Appeal, Fourth Appellate District, Division Three, with directions to vacate its decision and reconsider the cause in light of *People v. Lynch* (2024) 16 Cal.5th 730. (Cal. Rules of Court, rule 8.528(d).)

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

**S278427**      E077878 Fourth Appellate District, Div. 2      **PEOPLE v. BARNES  
(ANTHONY TYRONE)**

Transferred to Court of Appeal, Fourth Appellate District, Division Two, after hold

The above-captioned matter is transferred to the Court of Appeal, Fourth Appellate District, Division Two, with directions to vacate its decision and reconsider the cause in light of *People v. Lynch* (2024) 16 Cal.5th 730. (Cal. Rules of Court, rule 8.528(d).)

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

**S278459**      B316538 Second Appellate District, Div. 8      **PEOPLE v. CUMMINGS  
(CARL CORNELIUS)**

Transferred to Court of Appeal, Second Appellate District, Division Eight, after hold

The above-captioned matter is transferred to the Court of Appeal, Second Appellate District, Division Eight, with directions to vacate its decision and reconsider the cause in light of *People v. Lynch* (2024) 16 Cal.5th 730. (Cal. Rules of Court, rule 8.528(d).)

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

**S278513**      F083245 Fifth Appellate District      **PEOPLE v. GARCIA  
(EMMANUEL)**

Transferred to Court of Appeal, Fifth Appellate District, after hold

The above-captioned matter is transferred to the Court of Appeal, Fifth Appellate District, with directions to vacate its decision and reconsider the cause in light of *People v. Lynch* (2024) 16 Cal.5th 730. (Cal. Rules of Court, rule 8.528(d).)

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

**S278603**      C095199 Third Appellate District      **PEOPLE v. SMITH (JOSE CARL)**

Transferred to Court of Appeal, Third Appellate District, after hold

The above-captioned matter is transferred to the Court of Appeal, Third Appellate District, with directions to vacate its decision and reconsider the cause in light of *People v. Lynch* (2024) 16 Cal.5th 730. (Cal. Rules of Court, rule 8.528(d).)

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

**S278977**      F082991 Fifth Appellate District      **PEOPLE v. MARTINEZ (YOVANI DEJESUS)**

Transferred to Court of Appeal, Fifth Appellate District, after hold

The above-captioned matter is transferred to the Court of Appeal, Fifth Appellate District, with directions to vacate its decision and reconsider the cause in light of *People v. Lynch* (2024) 16 Cal.5th 730. (Cal. Rules of Court, rule 8.528(d).)

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

**S279263**      H049398 Sixth Appellate District      **PEOPLE v. RODRIGUEZ (ARTURO MURGUIA)**

Transferred to Court of Appeal, Sixth Appellate District, after hold

The above-captioned matter is transferred to the Court of Appeal, Sixth Appellate District, with directions to vacate its decision and reconsider the cause in light of *People v. Lynch* (2024) 16 Cal.5th 730. (Cal. Rules of Court, rule 8.528(d).)

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

**S279280**      B315223 Second Appellate District, Div. 2      **PEOPLE v. TAMARIZ (URIEL)**

Transferred to Court of Appeal, Second Appellate District, Division Two, after hold

The above-captioned matter is transferred to the Court of Appeal, Second Appellate District, Division Two, with directions to vacate its decision and reconsider the cause in light of *People v. Lynch* (2024) 16 Cal.5th 730. (Cal. Rules of Court, rule 8.528(d).)

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

**S279683** B316819 Second Appellate District, Div. 8 **PEOPLE v. COLE (GERALD)**  
Transferred to Court of Appeal, Second Appellate District, Division Eight, after hold

The above-captioned matter is transferred to the Court of Appeal, Second Appellate District, Division Eight, with directions to vacate its decision and reconsider the cause in light of *People v. Lynch* (2024) 16 Cal.5th 730. (Cal. Rules of Court, rule 8.528(d).)

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

**S286210**

**BROWN (ANTHONY) ON  
CLEMENCY**

Letter sent to Governor with the recommendation required by article V, section 8 of the California Constitution for the Governor to grant clemency

October 16, 2024

The Honorable Gavin Newsom  
Governor, State of California  
State Capitol Building  
Sacramento, CA 95814

Re: Anthony Brown

Legal Affairs File No.: GO No. 10-20-00356  
Case Number: S286210  
Executive Clemency Number: 1251

Dear Governor Newsom:

On the application of Anthony Brown for pardon, the court, with at least four judges concurring, hereby makes the recommendation required by Article V, section 8 of the California Constitution for the Governor to grant a pardon.

Sincerely,

PATRICIA GUERRERO  
Chief Justice of California

**S285938** B320813 Second Appellate District, Div. 5**STOFFEL (SEAN) v. THE  
REGENTS OF THE  
UNIVERSITY OF  
CALIFORNIA**

The petition for review is denied.

The requests for an order directing publication of the opinion are denied.

Liu and Groban, JJ., are of the opinion the petition should be granted.

**S286155** G062098 Fourth Appellate District, Div. 3**PEOPLE v. DOAIFI (AFIFF  
KEVIN)**

The petition for review is denied.

(See Concurring Statement by Evans, J., joined by Liu, J.)

Concurring Statement by Justice Evans

Twenty-three-year-old defendant Kevin Afiff Doaifi was convicted of second degree murder after a tragic accident. Doaifi, traveling at an excessive speed adjacent to a residential neighborhood late at night, collided with another driver attempting to make a turn from the opposite direction of a six-lane thoroughfare. Doaifi was not impaired, nor was there evidence that he was swerving or weaving through traffic or running stop signs or traffic lights. The evidence suggested that no cars were in front of Doaifi until the victim made an unprotected left turn. Immediately before the accident, Doaifi was traveling 99 miles per hour in a 45-mile-per-hour zone. In the three years prior to this incident, he had received traffic citations for speeding on five separate occasions resulting in two courses of online traffic school. In one of the prior incidents, Doaifi had been driving 109 miles per hour in a 65-mile-per-hour zone. During traffic court proceedings arising from this prior incident, Doaifi admitted that speeding was “dangerous.”

The resolution of this case does not turn on whether Doaifi was subjectively aware that speeding was wrong, or that speeding was dangerous. But to warrant application of second degree murder liability, our cases require satisfaction of an objective component. Specifically, “the defendant’s act must not merely be dangerous to life in some vague or speculative sense; it must “ ‘ ‘involve[] a high degree of probability that it will result in death.’ ’ ” (*People v. Reyes* (2023) 14 Cal.5th 981, 989 (*Reyes*)). The Court of Appeal below, however, never directly answered whether this requirement was satisfied. Because the objective component of implied murder liability is particularly important to the application of murder liability in vehicular homicide cases, I write separately to urge the lower courts to specifically analyze this factor when assessing implied malice in these circumstances.

Over 40 years ago, in the seminal case *People v. Watson* (1981) 30 Cal.3d 290 (*Watson*), this Court held that under the low standard applicable to preliminary hearings, there was sufficient evidence to hold a drunk driver to answer for second degree murder on a theory of implied malice. (*Id.* at pp. 300-301.)<sup>(1)</sup> Late at night and in the early morning hours on the day of the homicides,



Watson had consumed a large amount of alcohol at a bar. Later analysis revealed that Watson's blood alcohol level content one hour after the collision was .23 percent. (*Id.* at p. 294.) Prior to the collision at issue, Watson had narrowly avoided *another* collision by slamming on his breaks and skidding to a halt in the middle of an intersection. (*Id.* at p. 293.) Immediately prior to the fatal collision, expert testimony indicated that Watson had been traveling 84 miles per hour in a 35-mile-per-hour zone. (*Id.* at pp. 293-294.) As a result of the impact, a mother and her six-year-old daughter were ejected from their vehicle and killed. (*Id.* at p. 293.)

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<sup>(1)</sup> Such cases, vehicular homicides charged under a theory of second degree murder, have come to be known as “*Watson* murders.” (*People v. Lagunas* (2023) 97 Cal.App.5th 996, 1006.)

In characterizing the legal standard under which to assess the sufficiency of the evidence in support of implied malice murder, the Court described two different formulations. Under one variation, “[w]e have said that second degree murder based on implied malice has been committed when a person does ‘ ‘ ‘an act, *the natural consequences of which are dangerous to life*, which act was deliberately performed by a person who knows that his conduct endangers the life of another and who acts with conscious disregard for life.’ ” ’ ” (*Watson, supra*, 30 Cal.3d at p. 300, italics added.) Or, “[p]hrased in a different way, malice may be implied when defendant does an act *with a high probability that it will result in death* and does it with a base antisocial motive and with a wanton disregard for human life.” (*Ibid.*, italics added.)

Three decades later, concurring in *People v. Cravens* (2012) 53 Cal.4th 500 (*Cravens*), Justice Liu traced the origins of these competing standards. (*Id.* at pp. 512-513.) One derived from Justice Traynor's concurring opinion in *People v. Thomas* (1953) 41 Cal.2d 470 (*Thomas*), which articulated that implied malice is shown when “the defendant for a base, antisocial motive and with wanton disregard for human life, does an act that involves a high degree of probability that it will result in death.” (*Id.* at p. 480 (conc. opn. of Traynor, J.)) The second line derives from *People v. Phillips* (1966) 64 Cal.2d 574 (*Phillips*), overruled on another ground in *People v. Flood* (1998) 18 Cal.4th 470, 490, fn. 12, which described implied malice murder as a “ ‘killing [which] proximately resulted from an act, the natural consequences of which are dangerous to life, which act was deliberately performed by a person who knows that his conduct endangers the life of another and who acts with conscious disregard for life.’ ” (*Phillips, supra*, 64 Cal.2d at p. 587.)

We have repeatedly indicated that these alternative formulations are equivalent. (*Cravens, supra*, 53 Cal.4th at p. 512 (conc. opn. of Liu, J.); see also *People v. Nieto Benitez* (1992) 4 Cal.4th 91, 104; *People v. Knoller* (2007) 41 Cal.4th 139, 152 [“these two definitions of implied malice in essence articulate[] the same standard”].) However, Justice Liu wrote separately based on his concern that the different phrasing of the standard “matters in a close case.” (*Cravens, supra*, 53 Cal.4th at p. 514 (conc. opn. of Liu, J.))

In *Reyes*, writing for a unanimous court, Justice Liu returned to the objective component of implied malice murder, reaffirming that the Thomas standard (“a high degree of probability that it will result in death” [*Thomas, supra*, 41 Cal.2d at p. 480 (conc. opn. of Traynor, J.)]) was controlling. Reyes was convicted of second degree murder following a homicide committed by a fellow member of Santa Ana’s F-Troop gang. Reyes was one of several members or affiliates of F-Troop who were present when the killing occurred, although the evidence showed he was not the shooter. (*Reyes, supra*, 14 Cal.5th at p. 984.) Reyes, then 15 years old, was in a park with a group of older boys and young men between the ages of 16 and 21. (*Id.* at p. 985.) All of them were gang members. (*Ibid.*) One of the young men, Francisco Lopez, showed the group that he was carrying a firearm. (*Ibid.*) Reyes and his group, on bicycles, proceeded to an area on the edge of territory belonging to a rival gang. (*Ibid.*) After a brief verbal exchange with riders in a car, the group on bicycles chased the group in the vehicle. Reyes’s group and the car came together at an intersection and Lopez shot the driver in the head, killing him. (*Ibid.*)

Reyes challenged the validity of his conviction on the basis that the jury had been instructed on the since-abolished natural and probable consequences doctrine. (See Senate Bill No. 1437 (2017-2018 Reg. Sess.) (Senate Bill 1437); Stats. 2018, ch. 1015, § 2.) The trial court rejected Reyes’s petition for resentencing under Senate Bill 1437, concluding that Reyes was guilty beyond a reasonable doubt of second degree murder under an implied malice theory. (*Reyes, supra*, 14 Cal.5th at p. 987.)

In reversing the trial court’s finding, this Court took issue with the trial court’s application of the *Phillips* formulation of the objective component of implied malice murder, namely its conclusion that “the natural and probable consequences” (*Phillips, supra*, 64 Cal.2d at p. 587) of Reyes’s act of traveling to rival gang territory with several other gang members, one of whom he knew was armed, and chasing and confronting another group, was “dangerous to human life.” (*Reyes, supra*, 14 Cal.5th at p. 987.) The Reyes opinion explained that “[t]o suffice for implied malice murder, the defendant’s act must not merely be dangerous to life in some vague or speculative sense; it must ‘ “involve[] a high degree of probability that it will result in death.” ’ ” (*Reyes, supra*, 14 Cal.5th at p. 989.) It found the evidence insufficient to establish implied malice murder. (*Ibid.*)

In March 2024, the Judicial Council modified CALCRIM 520 to comply with the clarification provided in *Reyes*. Implied malice murder now requires that a defendant (1) intentionally engaged in an act; (2) the natural and probable consequences of that act<sup>(2)</sup> involved a high degree of probability that it would result in death; (3) at the time the person acted, they knew the act entailed that danger; and (4) the person acted with conscious disregard for life. (CALCRIM No. 520; see also Judicial Council of Cal. Crim. Jury Instns. (2024) Bench Notes to CALCRIM No. 520, p. 251.)

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<sup>(2)</sup> “A *natural and probable consequence* is one that a reasonable person would know is likely to happen if nothing unusual intervenes.” (CALCRIM No. 520.)

Doaifi was convicted of second degree murder after a jury trial. The prosecution introduced evidence of Doaifi's prior citations of speeding and referral to online traffic school, his statements during the proceedings in one of these incidents evincing a subjective awareness that speeding was "dangerous," and his excessive speeding on the night in question.

The Court of Appeal's decision did not cite the objective component of the implied malice standard as articulated in *Reyes*, or the current version of CALCRIM No. 520. Instead, it cited the *Phillips* formulation, stating that "[m]alice is implied when an unlawful killing results from a willful act, *the natural and probable consequences of which are dangerous to human life*, performed with conscious disregard for that danger.'" The opinion also relied on the prior version of CALCRIM No. 520, without acknowledging that it had been superseded.

Doaifi argues our review is necessary because *Reyes* does not permit a conviction for implied malice murder based on the circumstances of his case, which he characterizes as murder liability based on "excessive speed alone."

As a class, *Watson* murders are unique. Not only do the defendants in such cases lack an *intent* to kill, but they can often claim an opposing intent: an affirmative desire not to harm anyone. Unsurprisingly, it is not uncommon for *Watson* murder defendants, as in this case, to have no prior criminal history of violence. Absent an intent to harm anyone, *Watson* murder cases turn on the defendant's subjective awareness of the objective risks that their grossly reckless behavior poses. However, in some cases, it may be difficult to characterize a *Watson* murder defendant's conduct as demonstrating a "high probability that it will result in death." (*Watson, supra*, 30 Cal.3d at p. 300.) For instance, as Chief Justice Bird noted in her *Watson* dissent, the mere fact of driving while intoxicated is not alone an act with a high probability that it will result in death: "[d]eath or injury is not the probable result of driving while under the influence of alcohol. 'Thousands, perhaps hundreds of thousands, of Californians each week reach home without accident despite their driving intoxicated.'" (*Watson, supra*, 30 Cal.3d at p. 305 (dis. opn. of Bird, C. J.))<sup>(3)</sup> The same can be said of speeding.

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<sup>(3)</sup> According to data compiled over the last 40 years published by the California Department of Motor Vehicles, the rate of vehicle fatalities involving alcohol and drugs is only roughly one percent of the total number of convictions under Vehicle Code section 23152. (Rees et al., DUI Summary Statistics: 1980-2020 (Nov. 2023) Dept. of Motor Vehicles <<https://www.dmv.ca.gov/portal/dmv-research-reports/research-development-data-dashboards/dui-management-information-system-dashboards/dui-summary-statistics/>> [as of Oct. 16, 2024]; all Internet citations in this opinion are archived by year, docket number and case name at <<http://www.courts.ca.gov/38324.htm>>.) However, because a large number of intoxicated drivers are neither arrested nor convicted, it is safe to assume that driving while intoxicated results in fatal injury in far less than one percent of cases.

Because the underlying violations of the Vehicle Code that underpin most *Watson* murder cases are unfortunately commonplace, *Watson* murder cases often present the sort of “close case[s]” (*Cravens, supra*, 53 Cal.4th at p. 514 (conc. opn. of Liu, J.)) in which the choice of phrasing of the implied malice standard (now resolved by *Reyes* in favor of the “ ‘ “high degree of probability that it will result in death” ’ ” [*Reyes, supra*, 14 Cal.5th at p. 989]) may make a significant difference.<sup>(4)</sup> In other words, as a general matter, it is relatively easy to surmise that a defendant’s act is dangerous to life “in some vague or speculative sense.” (*Reyes, supra*, 14 Cal.5th at p. 989.) But to differentiate between gross vehicular manslaughter and second degree murder, more is required.

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<sup>(4)</sup> For the same reason, the *Watson* murder doctrine has been subject to substantial academic criticism for its overapplication. (See Freestone, *Elementary My Dear Watson: The Evolution to Strict Liability Murder Thirty Years After People v. Watson* (2011) 33 Whittier L.Rev. 243, 243 & fn.5 [noting that scholars have “consistently voiced opposition” to the expansion of *Watson* murder liability].)

It is for this reason that *Reyes*’s refinement of the objective component of implied malice is important in *Watson* murder cases. To be sure, in vehicular homicide cases, murder liability may be the appropriate sentence. And this is true even assuming a defendant’s credible desire not to harm anyone. Such defendants can be said (subjectively) to exhibit a “a base, anti-social motive and [] wanton disregard for human life” (*Thomas, supra*, 41 Cal.2d at p. 480 (con. opn. of Traynor, J.)) precisely because they are knowingly engaged in an activity that is (objectively) *highly likely to cause death*. (*Reyes, supra*, 14 Cal.5th at p. 989.)

Cases such as this one, however, present difficult questions on that score. Speeding is unquestionably dangerous, reckless speeding even more so. But speeding itself, even at a high rate of speed, does not automatically equate to a “ ‘ “high degree of probability that it will result in death.” ’ ” (*Reyes, supra*, 14 Cal.5th at p. 989.) Rather, an objective analysis of the risk of speeding must account for a myriad of factors. Speeding on a highway differs from speeding in a residential neighborhood; traveling 100 miles per hour in a 45-mile-per-hour zone is not the same as doing so in a 70-mile-per-hour zone. Other factors such as the time of day, visibility, traffic volume, weather, and road conditions can all be relevant. Expert testimony on traffic fatalities may be needed to objectively establish a “high degree of probability” of causing death that adequately accounts for various risk factors.

The court below did little to consider the conditions in which Doaifi was speeding on the night in question, and it provided no analysis demonstrating that death was the highly probable, or even most probable, result.<sup>(5)</sup> It cited our unadorned statement in *Watson* that excessive speed is “an act presenting a great risk of harm or death.” (*Watson, supra*, 30 Cal.3d at p. 301.) But this statement was made in the context of a great amount of other evidence: the defendant in *Watson* was extremely intoxicated, driving erratically, and had almost collided with another car moments

before the killing. (*Id.* at pp. 293-294.)

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<sup>(5)</sup> In his initial Court of Appeal briefing, Doaifi did not cite *Reyes*. However, he did argue that implied malice is only present when a “defendant does an act with a *high probability* that it will result in death and does it with a base antisocial motive and with a wanton disregard for human life.” (Italics added; see *People v. Washington* (1965) 62 Cal. 2d 777, 782.) *Reyes*, which had issued almost a year before the case was argued, was controlling authority. Five days after the case was argued and submitted, however, Doaifi’s counsel requested to file supplemental briefing articulating the impact of *Reyes* (based on the then-recent change to CALCRIM No. 520, which had occurred one month prior to argument and of which counsel discovered only after argument). The Court of Appeal denied this request as untimely. It also denied a petition for rehearing that argued that it had failed to apply *Reyes* and had applied in the incorrect version of CALCRIM No. 520.

Equally important, the law has been clarified since *Watson*. It is impermissible to equate a speculative “risk” to human life with an act demonstrating a “ ‘ ‘high degree of probability that death will result.’ ’ ” (*Reyes, supra*, 14 Cal.5th at p. 989.) The potential confusion between these two competing formulations is precisely what prompted our recent clarification of the standard in *Reyes*. (*Ibid.*) To place the standard in context, a gang member traveling with other gang members (one of whom is armed) to rival territory, and ultimately engaging in a pursuit and confrontation, can certainly be characterized as an act presenting a *risk* of harm or death. (*Ibid.*) But many other non-fatal outcomes are possible, and even likely. Thus, the conduct in *Reyes* was, as a matter of law, insufficient to support murder liability. (*Ibid.*)

It is unclear whether the court or the jury below concluded that Doaifi’s conduct constituted an act with a “ ‘ ‘high degree of probability that it would result in death.’ ’ ” (*Reyes, supra*, 14 Cal.5th at p. 989.) However, it is premature for this court to address the issue now. The application of *Reyes* in the *Watson* murder context is a relatively new legal issue, and the change in jury instruction is of even more recent vintage. Other Courts of Appeal have affirmatively recognized *Reyes* as the controlling standard. (*People v. Superior Court (Chagolla)* (2024) 102 Cal.App.5th 499, 515 [citing *Reyes* and affirming trial court’s decision to set aside *Watson* murder charge for insufficient evidence under Pen. Code § 995]; *id.* at p. 522 (conc. opn. of Do, J.) [writing separately to highlight that “[i]mplied malice murder cannot be based on a death that is anything less than highly probable.”].) Furthermore, the Court of Appeal’s failure to address the *Reyes* standard is, at least in part, attributable to Doaifi’s counsel’s failure to brief the issue in a timely manner. However, if future cases fail to apply, or misapply, the *Reyes* standard in this context, review by this Court may be warranted.

EVANS, J.

I Concur:

LIU, J.

**S286157** G064147 Fourth Appellate District, Div. 3

Petition for review denied

**DOAIFI (AFIFF KEVIN) ON H.C.**

**S286173** G062646 Fourth Appellate District, Div. 3

Petition for review denied; CA opinion decertified

**TALLEY AMUSEMENTS, INC. v. THE 32ND DISTRICT AGRICULTURAL ASSOCIATION**

The petition for review is denied.

On the court's own motion, the Reporter of Decisions is directed not to publish in the Official Appellate Reports the opinion in the above-entitled appeal filed June 18, 2024, which appears at 102 Cal.App.5th 901. (Cal. Const., art. VI, section 14; Cal. Rules of Court, rule 8.1125(c)(2).)

**S286274** D084470 Fourth Appellate District, Div. 1

Petition for review denied

**CUEVA (FRANCISCO) v. S.C. (CUEVA)**

**S286278** B330395 Second Appellate District, Div. 1

The request for judicial notice is granted.  
The petition for review is denied.

**RAMOS (MARY) v. OROS (BRETT M.)**

**S286288** D081500 Fourth Appellate District, Div. 1

Petition for review & publication request(s) denied

**SOUTHWEST VOTER REGISTRATION EDUCATION PROJECT v. RAMONA UNIFIED SCHOOL DISTRICT**

**S286289** F087790 Fifth Appellate District

Petition for review denied  
Guerrero, C. J., was recused and did not participate.

**GOMES (CHRISTY CAMARA) v. S.C. (STATE OF CALIFORNIA)**

**S286296** C101487 Third Appellate District

Petition for review denied

**HOLMAN (RYAN) v. S.C.  
(COUNTY OF BUTTE)**

**S286362** C099727 Third Appellate District

Petition for review denied

**PEOPLE v. BOYD (KARL  
JOSEPH)**

**S286380** B325803 Second Appellate District, Div. 7

Petition for review denied

**VALENCIA, JR., (MIGUEL) v.  
MENDOZA (ARMANDO)**

**S286409** F086511 Fifth Appellate District

Petition for review denied

**PEOPLE v. FLORES  
(ENRIQUE)**

**S286439** H051944 Sixth Appellate District

Petition for review denied

**IN RE S.A.**

**S286440** D084471 Fourth Appellate District, Div. 1

Petition for review & application for stay denied

**LOPEZ (ARTHUR) v. S.C.**

**S286446** F085569 Fifth Appellate District

Petition for review denied

**PEOPLE v. MALDONADO  
(NICHOLAUS)**

**S286452**

Petition for writ of mandate/prohibition denied

**GRACIANO (LOUIS) v.  
COURT OF APPEAL,  
SECOND APPELLATE  
DISTRICT (GOLDRIGIN  
VILLA HOA)**

**S286467** B332970 Second Appellate District, Div. 2

Petition for review denied

**PEOPLE v. JARAMILLO  
(VINICIO MARCELO)**

**S286477** B327879 Second Appellate District, Div. 2

Petition for review denied

**PEOPLE v. MILLER  
(ANTHONY JOSEPH)**

**S286530** C098708 Third Appellate District

Petition for review denied

**GAMBOA (ELVIRA GARCIA)  
v. ARMAN (ANUPAM)**

**S286544**

Petition for writ of mandate/prohibition denied

**SCOTT (BYRON L.) v.  
COURT OF APPEAL, THIRD  
APPELLATE DISTRICT  
(MACOMBER)**

**S286551** B340123 Second Appellate District, Div. 4

The petition for review is denied.  
The stay previously issued by this court is dissolved.

**HARBER (DANNY) v. S.C.  
(PEOPLE)**

**S286555** B339649 Second Appellate District, Div. 7

Petition for review denied

**LAPIDUS (MICHAEL H.) v.  
S.C. (LAPIDUS)**

**S286576** F086107 Fifth Appellate District

Petition for review denied

**PEOPLE v. BROWN  
(FREDERICK)**

**S286577** D084571 Fourth Appellate District, Div. 1

Petition for review denied

**KORDUSA, INC. v. S.C.  
(AYRES)**

**S286600** H050625 Sixth Appellate District

Petition for review denied

**PEOPLE v. HERRERA  
(ERNEST GONZALES)**



**S286608** G063290 Fourth Appellate District, Div. 3

Petition for review denied

**PEOPLE v. GUZMAN  
MURCIA (ANA LIDIA)**

**S286627** C099218 Third Appellate District

Petition for review denied

**PEOPLE v. TIPTON  
(TIMOTHY RAY)**

**S286630** H049788 Sixth Appellate District

Petition for review denied

**PEOPLE v. CASTILLO  
(BULMARO GUTIERREZ)**

**S286657** H052294 Sixth Appellate District

Petition for review denied

**HALL (NATHANIEL  
VERNON) ON H.C.**

**S286659** F088484 Fifth Appellate District

Petition for review denied

**ROLLEN (VAN KEYSHONE)  
ON H.C.**

**S286666** B332537 Second Appellate District, Div. 1

Petition for review denied

**PEOPLE v. BLUMBERG  
(MICHAEL JAMES)**

**S286670** D083046 Fourth Appellate District, Div. 1

Petition for review denied

**PEOPLE v. BUENO III  
(FIDEL JUNIOR)**

**S286672** A167068 First Appellate District, Div. 2

Petition for review denied

**PEOPLE v. OAKLEY  
(ANTHONY WILLIAM)**

**S286677** B327291 Second Appellate District, Div. 1

Petition for review denied

**PEOPLE v. BETTANCOURT  
(RUDY)**

**S286678** A168731 First Appellate District, Div. 4  
Petition for review denied

**PEOPLE v. HARRIS (JOEY)**

**S286681** A167735 First Appellate District, Div. 5  
Petition for review denied

**PEOPLE v. GHUZI (NADHIR MUFTAH)**

**S286684** B331851 Second Appellate District, Div. 3  
Petition for review denied

**PEOPLE v. JOHNSON (ANTHONY)**

**S286687** F085045 Fifth Appellate District  
Petition for review denied

**PEOPLE v. McDARMENT (MARWIN DEAN)**

**S286688** E078899 Fourth Appellate District, Div. 2  
Petition for review denied

**PEOPLE v. AVILA (GABRIEL LOUIS)**

**S286689** H052277 Sixth Appellate District  
Petition for review denied

**RICHARDSON (PATRICK LAMONTE) ON H.C.**

**S286690** H052367 Sixth Appellate District  
Petition for review denied

**RICHARDSON (PATRICK LAMONTE) ON H.C.**

**S286693** E084160 Fourth Appellate District, Div. 2  
Petition for review denied

**HARRIS (EDWARD JAMES) ON H.C.**

**S286694** G061852 Fourth Appellate District, Div. 3  
Petition for review denied

**PEOPLE v. SALASMARIA (JOSE GUADALUPE)**

**S286695** B339711 Second Appellate District, Div. 5  
Petition for review denied

**SCOTT (FLOYD) ON H.C.**

**S286696** B328032 Second Appellate District, Div. 1  
Petition for review denied

**PEOPLE v. SANDOVAL  
(ALBERT)**

**S286697** G063310 Fourth Appellate District, Div. 3  
Petition for review denied

**PEOPLE v. BERBER  
(MICHAEL ANTHONY)**

**S286698** B330979 Second Appellate District, Div. 2  
Petition for review & publication request(s) denied

**FELDMAN (CLIFFORD R.) v.  
AURORA LAS ENCINAS,  
LLC**

**S286701** A164885 First Appellate District, Div. 5  
Petition for review denied

**PEOPLE v. MURRAY  
(CASEY)**

**S286704** G063062 Fourth Appellate District, Div. 3  
Petition for review denied

**GARCIA (FRANZ  
CHRISTIAN) v. BOWMAN  
(JAKE)**

**S286709** H047815 Sixth Appellate District  
Petition for review denied

**PEOPLE v. OROSCO  
(ROBERT)**

**S286713** D084019 Fourth Appellate District, Div. 1  
Petition for review denied

**PEOPLE v. KINGSTON  
(SEAN PATRICK)**

- S286718**      D081883 Fourth Appellate District, Div. 1      **SAN DIEGO, CITY OF v. SAN DIEGO GAS & ELECTRIC COMPANY**
- Petition for review denied
- S286720**      B328636 Second Appellate District, Div. 2      **PEOPLE v. CARPIO (MICHAEL STEVEN)**
- Petition for review denied  
Liu and Evans, JJ., are of the opinion the petition should be granted.
- S286721**      B328627 Second Appellate District, Div. 8      **PEOPLE v. MALBRY (HARRY D.)**
- Petition for review denied; CA opinion decertified
- The petition for review 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 July 26, 2024, which appears at 103 Cal.App.5th 1174. (Cal. Const., art. VI, section 14; Cal. Rules of Court, rule 8.1125(c)(1).)
- S286723**      D081793 Fourth Appellate District, Div. 1      **PEOPLE v. VANCAMP (DEONTA ANTONIO)**
- Petition for review denied
- S286732**      B328539 Second Appellate District, Div. 2      **ELIE (LUC-RICHARD) v. LOS ANGELES UNIFIED SCHOOL DISTRICT**
- Petition for review denied
- S286733**      A168367 First Appellate District, Div. 3      **PEOPLE v. MILLER (CHRISTOPHER)**
- Petition for review denied
- S286758**      G063474 Fourth Appellate District, Div. 3      **PEOPLE v. MENDOZA (JOSE)**
- Petition for review denied

**S286759** F085594 Fifth Appellate District  
Petition for review denied

**PEOPLE v. FOX (NOAH)**

**S286762** B319888 Second Appellate District, Div. 3  
Petition for review denied

**PEOPLE v. KROLL (DAVID  
FERN)**

**S286763** B324627 Second Appellate District, Div. 7  
Petition for review denied

**MAGASINN (MICHAEL L.) v.  
RAFALIAN (BEHNAM);  
ELYASZADEH (SHAHRAM)**

**S286767** C097335 Third Appellate District  
Petition for review denied

**PEOPLE v. DZWONEK  
(JEROME DENNELL)**

**S286769** B324003 Second Appellate District, Div. 2  
Petition for review denied

**PEOPLE v. CRANE  
(RICHARD JOSEPH)**

**S286771** E084271 Fourth Appellate District, Div. 2  
Petition for review denied

**ESQUIVEL (MANUEL) v. S.C.  
(PEOPLE)**

**S286772** A170122 First Appellate District, Div. 5  
Petition for review denied

**WASHINGTON (JALIN) v.  
S.C. (PEOPLE)**

**S286774** B329637 Second Appellate District, Div. 5  
Petition for review denied

**PEOPLE v. VASQUEZ  
(SALVADOR)**

**S286775** A170761 First Appellate District, Div. 5  
Petition for review & application for stay denied

**NELSON (KHEJON  
MYRELL)v. S.C. (PEOPLE)**

**S286776** H050226 Sixth Appellate District

**PEOPLE v. DUVAL  
(MICHAEL JAMES)**

Petition for review denied

**S286778** H050825 Sixth Appellate District

**PEOPLE v. ALVAREZ  
(ROGELIO IVAN)**

Petition for review denied

**S286779** B330762 Second Appellate District, Div. 1

**PEOPLE v. STEWART  
(DENNIS LEONARD)**

Petition for review denied

Liu and Evans, JJ., are of the opinion the petition should be granted.

**S286780** D081342 Fourth Appellate District, Div. 1

**PEOPLE v. STOKER, JR.,  
(RAYMOND LEE)**

Petition for review denied

**S286781** C098621 Third Appellate District

**PEOPLE v. CARPENTER  
(MATTHEW STEVEN)**

Petition for review denied

**S286782** B339393 Second Appellate District, Div. 6

**MARTINEZ (SALOMON) v.  
S.C. (PEOPLE)**

Petition for review denied

**S286783** D082418 Fourth Appellate District, Div. 1

**PEOPLE v. SEBASTIAN (LUIS  
FELIPE)**

Petition for review denied

**S286787** A165941 First Appellate District, Div. 3

**PEOPLE v. KHAN (DAVID)**

Petition for review denied

**S286789** H049745 Sixth Appellate District

**PEOPLE v. AZARIAH  
(RAMESH SUNDARAM)**

Petition for review denied

**S286793****McCRIGHT (COLVIN) v.  
COURT OF APPEAL, FIRST  
APPELLATE DISTRICT,  
DIVISION TWO (BOARD OF  
PAROLE HEARINGS)**

Petition for writ of mandate/prohibition denied

**S286796** B328980 Second Appellate District, Div. 6**PEOPLE v. CASTANEDA  
(JAIME JULIAN)**

Petition for review denied

**S286797** F087102 Fifth Appellate District**PEOPLE v. MEJIA (DANIEL)**

Petition for review denied

**S286799** B333572 Second Appellate District, Div. 4**PEOPLE v. VASQUEZ (RUDY  
EVAN)**

Petition for review denied

**S286801** B328617 Second Appellate District, Div. 8**PEOPLE v. SMYER (DEREK  
PAUL)**

Petition for review denied

Liu and Evans, JJ., are of the opinion the petition should be granted.

**S286802** E084030 Fourth Appellate District, Div. 2**HAWKINS (KENNETH RAY)  
v. S.C. (PEOPLE)**

Petition for review denied

**S286803** B340137 Second Appellate District, Div. 2**BURTON (MATTHEW) v. S.C.  
(PEOPLE)**

Petition for review denied

**S286804** E080741 Fourth Appellate District, Div. 2**PEOPLE v. NUNEZ  
(RODOLFO)**

Petition for review denied

<b>S286806</b>	B330824 Second Appellate District, Div. 2	<b>PEOPLE v. RANDOLPH (COLIN)</b>
Petition for review denied		
<b>S286807</b>	A168992 First Appellate District, Div. 4	<b>PEOPLE v. DIGGS (MICHAEL)</b>
Petition for review denied		
<b>S286808</b>	A166696 First Appellate District, Div. 4	<b>PEOPLE v. MIXON (JOHN HENRY)</b>
Petition for review denied		
<b>S286811</b>	D081663 Fourth Appellate District, Div. 1	<b>PEOPLE v. WIGHT (MARVIN MEYER)</b>
Petition for review denied		
<b>S286812</b>	G063267 Fourth Appellate District, Div. 3	<b>BROTHERS (JAMES JOHN) v. HERITAGE LOGISTICS, LLC</b>
Petition for review denied		
<b>S286813</b>	F086587 Fifth Appellate District	<b>PEOPLE v. CAMORLINGA (PETER SANCHEZ)</b>
Petition for review denied		
Liu and Evans, JJ., are of the opinion the petition should be granted.		
<b>S286814</b>	D081852 Fourth Appellate District, Div. 1	<b>PEOPLE v. FOCAARELLI (EUGENE)</b>
Petition for review denied		
<b>S286817</b>	G064539 Fourth Appellate District, Div. 3	<b>GEORGE (MICHAEL) v. S.C. (GEORGE)</b>
Petition for review & application for stay denied		



<b>S286818</b>	A170136 First Appellate District, Div. 5	<b>WATSON (DONJUAN) v. S.C. (PEOPLE)</b>
Petition for review & application for stay denied		
<b>S286819</b>	B339927 Second Appellate District, Div. 7	<b>SALT RIVER PIMA-MARICOPA INDIAN COMMUNITY v. S.C. (DEDICATO TREATMENT CENTER, INC.)</b>
Petition for review denied		
<b>S286835</b>	B328177 Second Appellate District, Div. 8	<b>PEOPLE v. TOLEDO (ROBERTO JOSE)</b>
Petition for review denied		
<b>S286851</b>	B330393 Second Appellate District, Div. 4	<b>PEOPLE v. YOUNG (RICHARD ERIC)</b>
Petition for review denied		
<b>S286852</b>	A165351 First Appellate District, Div. 4	<b>IN RE W.M.</b>
Petition for review denied		
<b>S286859</b>	B340033 Second Appellate District, Div. 1	<b>CARTER (KEITH) v. S.C. (PEOPLE)</b>
Petition for review denied		
<b>S286862</b>	G064571 Fourth Appellate District, Div. 3	<b>CROSS (GEORGE EUGENE) v. S.C. (PEOPLE)</b>
Petition for review denied		
<b>S286864</b>	C098965 Third Appellate District	<b>PEOPLE v. ESLAMI (NATHAN)</b>
Petition for review denied		

**S286865** C097535 Third Appellate District

Petition for review denied

**PEOPLE v. SWANSON  
(FRANK)**

**S286867** H050269 Sixth Appellate District

Petition for review denied

**PEOPLE v. HERNANDEZ  
(SERGIO URIEL)**

**S286872** E078468 Fourth Appellate District, Div. 2

Petition for review denied

**PEOPLE v. GREEN (ROBERT  
ALMOND)**

**S286876** F085549 Fifth Appellate District

Petition for review denied

**PEOPLE v. RICHARDSON  
(KAJUAN A.)**

**S286886**

Petition for writ of mandate/prohibition denied

**LAL (AZHAR) v. COURT OF  
APPEAL, THIRD  
APPELLATE DISTRICT  
(PEOPLE)**

**S286899** C099147 Third Appellate District

Petition for review denied

**PEOPLE v. TROTTER  
(ANDY)**

**S286901** E081354 Fourth Appellate District, Div. 2

Petition for review denied

**PEOPLE v. SWAFFORD  
(BRUCE CLAYTON)**

**S286903** H052258 Sixth Appellate District

Petition for review denied

**CORTEZ (NOEL) v. S.C.  
(PEOPLE)**

**S287100** A170046 First Appellate District, Div. 3**MENDONES (MARIDOL) v.  
STATE OF CALIFORNIA**

Petition for review &amp; application for stay denied

**S282326****WILLIAMS (ROBERT  
VINCENT) ON H.C.**

The petition for writ of habeas corpus has been read and considered. Petitioner contends, among other claims, that he is entitled to relief under the Racial Justice Act of 2020 (Pen. Code, § 745). In this respect, petitioner claims he is factually innocent of the charged offenses and was convicted on the basis of false evidence because of structural racism targeting Black defendants for prosecution. We do not consider petitioner's allegation that gang expert Hector Gutierrez's testimony was racist and violative of the Racial Justice Act because the allegation was made for the first time in petitioner's informal reply. (See *People v. Tully* (2012) 54 Cal.4th 952, 1075 ["It is axiomatic that arguments made for the first time in a reply brief will not be entertained because of the unfairness to the other party."].)

The petition does not satisfy the statutory requirements for the appointment of counsel under the Racial Justice Act. (Pen. Code, § 1473, subd. (e) [providing for the appointment of counsel for an indigent petitioner who alleges facts that would establish a violation of the Racial Justice Act].) The petition also fails to make a prima facie showing of entitlement to relief under the Racial Justice Act. (Pen. Code, § 1473, subd. (e).) The petition fails to allege particularized facts that adequately describe any alleged actions by any state actor and how they reflected racial bias or animus. Nor does petitioner describe or attach supporting documentary evidence concerning racial bias or animus or the use of racially discriminatory language. (Pen. Code, § 745, subd. (a)(1)-(4); cf. *In re Swain* (1949) 34 Cal.2d 300, 304 [a petition for writ of habeas corpus must allege sufficient facts with particularity]; cf. also *People v. Duvall* (1995) 9 Cal.4th 464, 474 [a petition for writ of habeas corpus must include copies of reasonably available documentary evidence].)

The petition for writ of habeas corpus is denied without prejudice to the filing of a new petition in Los Angeles County Superior Court alleging particularized facts and providing supporting documentation for claims asserting violations of the Racial Justice Act of 2020.

**S283180****BARTH (SHAWN DAMON)  
ON H.C.**

Petition for writ of habeas corpus denied

**S283774****BRUMMETT, JR., (MELVIN  
RAY) ON H.C.**

Petition for writ of habeas corpus denied

**S284111****COVARRUBIAS (DANIEL  
SANCHEZ) ON H.C.**

Petition for writ of habeas corpus denied

**S284583****FENNELL (JEREMY DON)  
ON H.C.**

Petition for writ of habeas corpus denied

**S284586****EVANS (GENE EDWARDS)  
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]; *In re Miller* (1941) 17 Cal.2d 734, 735 [courts will not entertain habeas corpus claims that are repetitive].) Individual claims are denied, as applicable. (See *In re Dixon* (1953) 41 Cal.2d 756, 759 [courts will not entertain habeas corpus claims that could have been, but were not, raised on appeal].)

**S284589****HILL (DARRYL) 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].) Individual claims are denied, as applicable. (See *In re Waltreus* (1965) 62 Cal.2d 218, 225 [courts will not entertain habeas corpus claims that were rejected on appeal]; *In re Lindley* (1947) 29 Cal.2d 709, 723 [courts will not entertain habeas corpus claims that attack the sufficiency of the evidence].)

**S284725****ALI (SALEH) 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 Swain* (1949) 34 Cal.2d 300, 304 [a petition for writ of habeas corpus must allege sufficient facts with particularity].) Individual claims are denied, as applicable. (See *In re Waltreus* (1965) 62 Cal.2d 218, 225 [courts will not entertain habeas corpus claims that were rejected on appeal]; *In re Lessard* (1965) 62 Cal.2d 497, 503 [courts will not entertain habeas corpus claims that raise Fourth Amendment violations]; *In re Dixon* (1953) 41 Cal.2d 756, 759 [courts will not entertain habeas corpus claims that could have been, but were not, raised on appeal]; *In re Lindley* (1947) 29 Cal.2d 709, 723 [courts will not entertain habeas corpus claims that attack the sufficiency of the evidence].)

**S284728****SEAHOLM (CAMERON  
CHARLES) 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 Swain* (1949) 34 Cal.2d 300, 304 [a petition for writ of habeas corpus must allege sufficient facts with particularity].)

**S284746****KIRKPATRICK (KELVIN  
DAVIS) 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].)

**S284868****FAVOR (BRANDON  
ALEXANDER) 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]; *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].)

**S284957****PERRIERA (BRANDON  
MICHAEL) ON H.C.**

Petition for writ of habeas corpus denied

**S286160****EVANS (GENE EDWARDS)  
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]; *In re Miller* (1941) 17 Cal.2d 734, 735 [courts will not entertain habeas corpus claims that are repetitive].) Individual claims are denied, as applicable. (See *In re Dixon* (1953) 41 Cal.2d 756, 759 [courts will not entertain habeas corpus claims that could have been, but were not, raised on appeal].)

**S287068****JOBE, JR., (DWIGHT) ON  
H.C.**

The petition for writ of habeas corpus has been read and considered. Petitioner contends, among other claims, that he is entitled to relief under the Racial Justice Act of 2020 (Pen. Code, § 745) and requests the appointment of counsel. In this respect, petitioner claims the superior court set unaffordable bail due to petitioner's race and provides affordable bail to members of other races,

ethnicities, or national origins. He further contends he was charged in a more severe manner than similarly situated individuals of different races, ethnicities, and national origins.

The petition does not satisfy the statutory requirements for the appointment of counsel under the Racial Justice Act. (Pen. Code, § 1473, subd. (e) [providing for the appointment of counsel for an indigent petitioner who alleges facts that would establish a violation of the Racial Justice Act].)

The petition fails to make a prima facie showing of entitlement to relief under the Racial Justice Act. (Pen. Code, § 1473, subd. (e).) The petition fails to allege particularized facts that adequately describe any alleged actions and how they reflected racial bias or animus or facts to support a claim that petitioner was charged, convicted, or sentenced in a more severe manner than similarly situated individuals of other races, ethnicities, or national origins. Nor does petitioner describe or attach supporting documentary evidence concerning racial bias or animus or the use of racially discriminatory language. (Pen. Code, § 745, subd. (a)(1)-(4); cf. *In re Swain* (1949) 34 Cal.2d 300, 304 [a petition for writ of habeas corpus must allege sufficient facts with particularity]; cf. also *People v. Duvall* (1995) 9 Cal.4th 464, 474 [a petition for writ of habeas corpus must include copies of reasonably available documentary evidence].)

The petition for writ of habeas corpus is denied.

**S285945**      B325502 Second Appellate District, Div. 8

**AIDS HEALTHCARE  
FOUNDATION v. CITY OF  
LOS ANGELES (SOUTHERN  
CALIFORNIA FLOWER  
GROWERS, INC.)**

Publication requests denied (case closed)

**S285946**      A167116 First Appellate District, Div. 1

**ABRISHAMCAR (MARYAM)  
v. ORACLE AMERICA, INC.**

Publication request denied (case closed)

**S285990**      B331262 Second Appellate District, Div. 1

**IN RE JUAN H.**

Publication requests denied (case closed)

**S286111**      F085301 Fifth Appellate District

**PEOPLE v. CORONA (JOSE)**

Publication request denied (case closed)

**S286248**      H051049 Sixth Appellate District

**MONTANO (GEORGINA) v.  
ELLIS (WILLIAM)**

Publication request denied (case closed)

**S286258** B333715 Second Appellate District, Div. 1

Publication request denied (case closed)

**PEOPLE v. VARGAS (JOSE LUIS)**

**S286353** B321874 Second Appellate District, Div. 2

Publication request denied (case closed)

**WINDSOR GARDENS  
CONVALESCENT CENTER  
OF LOS ANGELES v. BAASS  
(MICHELLE)**

**S286432** D082360 Fourth Appellate District, Div. 1

Publication requests denied (case closed)

**CORONADO CITIZENS FOR  
TRANSPARENT  
GOVERNMENT v. CITY OF  
CORONADO**

**S286451** G062698 Fourth Appellate District, Div. 3

Publication request denied (case closed)

**ODEDRA ENTERPRISES,  
INC. v. S.C (OPTUMRX)**

**S286464** B333621 Second Appellate District, Div. 2

Publication request denied (case closed)

**CUEVAS (WALTER) v.  
CENTURION PROTECTION  
SERVICES**

**S286475** B317858 Second Appellate District, Div. 4

Publication request denied (case closed)

**McKENZIE (RUSSELL) v. LIU  
(JOHN)**

**S286829** B326455 Second Appellate District, Div. 6

Publication request denied (case closed)

**K. (T.R.) v. V. (V.)**

**S286904**      D082478 Fourth Appellate District, Div. 1      **LET THEM CHOOSE v. SAN DIEGO UNIFIED SCHOOL DISTRICT**

The application to appear as counsel pro hac vice is granted. (Cal. Rules of Court, rule 9.40(a).) 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.

**S287406**      E079749 Fourth Appellate District, Div. 2      **RAMIREZ (MARTIN) v. FPI MANAGEMENT, INC.**

Time for ordering review extended on the court's own motion

Having received the petition for review within the Court's original jurisdiction, the time for ordering review on the court's own motion is hereby extended to December 16, 2024. (Cal. Rules of Court, rule 8.512(c).)

**S286295**      A167372 First Appellate District, Div. 1      **H. (S.), CONSERVATORSHIP OF**

The time for granting or denying review in the above-entitled matter is hereby extended to November 25, 2024.

**S286520**      B328333 Second Appellate District, Div. 1      **PEOPLE v. ALLEN (DAVID LEE)**

The time for granting or denying review in the above-entitled matter is hereby extended to November 20, 2024.

**S286585**      D083782 Fourth Appellate District, Div. 1      **ALFORD (PAUL MARK) v. NOVAK (KORI)**

The time for granting or denying review in the above-entitled matter is hereby extended to November 22, 2024.

**S286644**      C089972 Third Appellate District      **NORTHERN CALIFORNIA COLLECTION SERVICE, INC. v. PIERSON III (RAYMOND H.); McINTYRE (GERALD)**

The time for granting or denying review in the above-entitled matter is hereby extended to November 26, 2024.



**S286654**      B337125 Second Appellate District, Div. 4      **ZEPEDA (LETICIA MONTOYA) ON H.C.**

The time for granting or denying review in the above-entitled matter is hereby extended to November 27, 2024.

**S286656**      B324509 Second Appellate District, Div. 7      **PEOPLE v. CHO (JAE CHEOL)**

The time for granting or denying review in the above-entitled matter is hereby extended to November 27, 2024.

**S286716**      **LACHER ON DISCIPLINE**  
Motion denied – PAMELA GAYLE LACHER

The “Motion to Terminate Action Enrolling Licensee as an Inactive Licensee Pursuant to Business and Professions Code Section 6007(C)(4)” is denied.

**S287078**      **AJEIGBE (DANIEL O.) v. APPELLATE DIVISION (CITY OF BIG BEAR LAKE)**

Transferred to Court of Appeal, Fourth Appellate District, Division Two

The above-entitled matter is transferred to the Court of Appeal, Fourth Appellate District, Division Two, for consideration in light of *Hagan v. Superior Court* (1962) 57 Cal.2d 767. In the event the Court of Appeal determines that this petition is substantially identical to a prior petition, the repetitious petition must be denied.

**S286679**      **ACCUSATION OF POPOV**  
Petition denied      (accusation)

**S285406**      **OLIVERI ON DISCIPLINE**  
Petition for review denied; recommended discipline imposed

The petition for review is denied.

The court orders that MATTHEW McDONALD OLIVERI (Respondent), State Bar Number 230486, is suspended from the practice of law in California for three years, execution of that period of suspension is stayed, and Respondent is placed on probation for three years subject to the following conditions:

1. Respondent is suspended from the practice of law for a minimum of the first 18 months of probation, and Respondent will remain suspended until providing proof to the State Bar

Court of rehabilitation, fitness to practice and present learning and ability in the general law. (Rules Proc. of State Bar, tit. IV, Stds. for Atty. Sanctions for Prof. Misconduct, std.

1.2(c)(1).)

2. Respondent must also comply with the other conditions of probation recommended by the Review Department of the State Bar Court in its Opinion filed on April 30, 2024.
3. At the expiration of the period of probation, if Respondent has complied with all conditions of probation, the period of stayed suspension will be satisfied and that suspension will be terminated. Respondent must provide to the State Bar's Office of Probation proof of taking and passing the Multistate Professional Responsibility Examination as recommended by the Review Department in its Opinion filed on April 30, 2024. Failure to do so may result in suspension. (Cal. Rules of Court, rule 9.10(b).)

Respondent must comply with California Rules of Court, rule 9.20, and perform the acts specified in subdivisions (a) and (c) of that rule within 30 and 40 calendar days, respectively, after the date this order is filed. (*Athearn v. State Bar* (1982) 32 Cal.3d 38, 45 [the operative date for identification of clients being represented in pending matters and others to be notified is the filing date of this order].) Failure to do so may result in disbarment or suspension. Respondent must also maintain the records of compliance as required by the conditions of probation.

Respondent must pay monetary sanctions to the State Bar of California Client Security Fund in the amount of \$2,500 in accordance with Business and Professions Code section 6086.13 and rule 5.137 of the Rules of Procedure of the State Bar. Monetary sanctions are enforceable as a money judgment and may be collected by the State Bar through any means permitted by law.

Costs are awarded to the State Bar in accordance with Business and Professions Code section 6086.10 and are enforceable both as provided in Business and Professions Code section 6140.7 and as a money judgment, and may be collected by the State Bar through any means permitted by law.

**S287363****BLAIR ON RESIGNATION**

Voluntary resignation accepted

The court orders that the voluntary resignation of RANDAL FRANK BLAIR, State Bar Number 239490, as an attorney of the State Bar of California is accepted.

**S287365****CONNERS ON  
RESIGNATION**

Voluntary resignation accepted

The court orders that the voluntary resignation of PATRICIA LOUISE CONNERS, State Bar Number 163782, as an attorney of the State Bar of California is accepted.

**S287367**

**COSTANZA ON  
RESIGNATION**

Voluntary resignation accepted

The court orders that the voluntary resignation of ANGELO JOHN COSTANZA, State Bar Number 60870, as an attorney of the State Bar of California is accepted.

**S287368**

**DUPERON ON  
RESIGNATION**

Voluntary resignation accepted

The court orders that the voluntary resignation of LORI ANNE DUPERON, State Bar Number 205325, as an attorney of the State Bar of California is accepted.

**S287369**

**EVART ON RESIGNATION**

Voluntary resignation accepted

The court orders that the voluntary resignation of MEGAN LEE EVART, State Bar Number 218700, as an attorney of the State Bar of California is accepted.

**S287370**

**HILDEBRANDT ON  
RESIGNATION**

Voluntary resignation accepted

The court orders that the voluntary resignation of RICHARD JOSEPH HILDEBRANDT, State Bar Number 80186, as an attorney of the State Bar of California is accepted.

**S287371**

**LING ON RESIGNATION**

Voluntary resignation accepted

The court orders that the voluntary resignation of CHRISTIAN SING HEE LING, State Bar Number 294565, as an attorney of the State Bar of California is accepted.

**S287372**

**POGOSOV ON  
RESIGNATION**

Voluntary resignation accepted

The court orders that the voluntary resignation of ARSEN POGOSOV, State Bar Number 273348, as an attorney of the State Bar of California is accepted.

**S287374**

**POLLACK ON  
RESIGNATION**

Voluntary resignation accepted

The court orders that the voluntary resignation of SCOTT IAN POLLACK, State Bar Number 186824, as an attorney of the State Bar of California is accepted.

**S287375**

**SLOMINSKI ON  
RESIGNATION**

Voluntary resignation accepted

The court orders that the voluntary resignation of MOLLY MICHELE SLOMINSKI, State Bar Number 202555, as an attorney of the State Bar of California is accepted.

**S287376**

**SMITH ON RESIGNATION**

Voluntary resignation accepted

The court orders that the voluntary resignation of PAUL W. SMITH, State Bar Number 97983, as an attorney of the State Bar of California is accepted.

**S287377**

**BRINK ON RESIGNATION**

Voluntary resignation accepted

The court orders that the voluntary resignation of BARBARA KAREN BRINK, State Bar Number 101595, as an attorney of the State Bar of California is accepted.

**S287378**

**BUTLER ON RESIGNATION**

Voluntary resignation accepted

The court orders that the voluntary resignation of DEBORAH ANN BUTLER, State Bar Number 203085, as an attorney of the State Bar of California is accepted.

**S287379**

**CHONG ON RESIGNATION**

Voluntary resignation accepted

The court orders that the voluntary resignation of DOLORES CHONG, State Bar Number 173635, as an attorney of the State Bar of California is accepted.

**S287380****HACHIGIAN ON  
RESIGNATION**

Voluntary resignation accepted

The court orders that the voluntary resignation of NINA LUCINE HACHIGIAN, State Bar Number 177551, as an attorney of the State Bar of California is accepted.

**S287381****HEAGY ON RESIGNATION**

Voluntary resignation accepted

The court orders that the voluntary resignation of JOSIAH HENRY HEAGY, State Bar Number 276903, as an attorney of the State Bar of California is accepted.

**S287384****PERRY ON RESIGNATION**

Voluntary resignation accepted

The court orders that the voluntary resignation of STEVEN McCALL PERRY, State Bar Number 106154, as an attorney of the State Bar of California is accepted.

**S287385****POON ON RESIGNATION**

Voluntary resignation accepted

The court orders that the voluntary resignation of WILLIAM POON, State Bar Number 114191, as an attorney of the State Bar of California is accepted.

**S287387****TAJGMAN ON  
RESIGNATION**

Voluntary resignation accepted

The court orders that the voluntary resignation of DAVID TAJGMAN, State Bar Number 106617, as an attorney of the State Bar of California is accepted.

**S287388****WATTS ON RESIGNATION**

Voluntary resignation accepted

The court orders that the voluntary resignation of Matthew Curtis Watts, State Bar Number 283053, as an attorney of the State Bar of California is accepted.

**S287389**

**WHEELER ON  
RESIGNATION**

Voluntary resignation accepted

The court orders that the voluntary resignation of David Earl Wheeler, State Bar Number 168607, as an attorney of the State Bar of California is accepted.



**SUPREME COURT OF CALIFORNIA  
ORAL ARGUMENT CALENDAR  
SAN FRANCISCO SESSION  
NOVEMBER 5, 2024**

In accordance with [Administrative Order 2023-05-11](#), the Supreme Court has resumed in-person oral argument sessions. Counsel have the option to appear in person at these sessions, or remotely via video. The public may attend in person and will also 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 November 5, 2024.

**TUESDAY, NOVEMBER 5, 2024 — 9:00 A.M.**

- (1) Crescent Trust v. City of Oakland, S280234
- (2) People v. Lopez (Oscar), S281488
- (3) People v. Hin (Mao), [Automatic Appeal], S141519

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**GUERRERO**  
*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).)