



Supreme Court of California
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NEWS RELEASE

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FOR IMMEDIATE RELEASE

January 15, 2021

Summary of Cases Accepted and Related Actions During Week of January 11, 2021

[This news release is issued to inform the public and the press of cases that the Supreme Court has accepted and of their general subject matter. The statement of the issue or issues in each case set out below does not necessarily reflect the view of the court, or define the specific issues that will be addressed by the court.]

#21-01 *People v. Duke*, S265309. (B300430; 55 Cal.App.5th 113; Los Angeles County Superior Court; MA057733.) Petition for review after the Court of Appeal affirmed an order denying a post-judgment motion in a criminal matter. The court limited review to the following issue: Can the People meet their burden of establishing a petitioner's ineligibility for resentencing under Penal Code section 1170.95, subdivision (d)(3) by presenting substantial evidence of the petitioner's liability for murder under Penal Code sections 188 and 189 as amended by Senate Bill No. 1437 (Stats. 2018, ch. 1015), or must the People prove every element of liability for murder under the amended statutes beyond a reasonable doubt?

#21-02 *People v. Aguilar*, S265975. (G057134; nonpublished opinion; Orange County Superior Court; 17CF2394.) Petition for review after the Court of Appeal affirmed an order denying a post-judgment motion in a criminal matter.

#21-03 *People v. Lemeur*, S265820. (D076846; nonpublished opinion; Riverside County Superior Court; SWF026931.) Petition for review after the Court of Appeal affirmed an order denying a post-judgment motion in a criminal matter.

The court ordered briefing in *Aguilar* and *Lemeur* deferred pending decision in *People v. Lopez*, S258175 (#19-172), which presents the following issues: (1) Does Senate Bill No. 1437 (Stats. 2018, ch. 1015) apply to attempted murder liability under the natural and probable consequences doctrine? (2) In order to convict an aider and abettor of attempted willful, deliberate and premeditated murder under the natural and probable consequences doctrine, must a premeditated attempt to murder have been a natural and probable consequence of the target offense? In other words, should *People v. Favor* (2012) 54

Cal.4th 868 be reconsidered in light of *Alleyne v. United States* (2013) 570 U.S. 99 and *People v. Chiu* (2014) 59 Cal.4th 155?

#21-04 *People v. Aremu, S265913.* (B300328; nonpublished opinion; Los Angeles County Superior Court; A390607.) Petition for review after the Court of Appeal affirmed an order denying a post-judgment motion in a criminal matter.

#21-05 *People v. Baker, S265564.* (E072712; nonpublished opinion; Riverside County Superior Court; CR56701.) Petition for review after the Court of Appeal affirmed an order denying a post-judgment motion in a criminal matter.

#21-06 *People v. Brown, S265942.* (B304228; nonpublished opinion; Los Angeles County Superior Court; BA260644.) Petition for review after the Court of Appeal affirmed an order denying a post-judgment motion in a criminal matter.

#21-07 *People v. Galloway, S265969.* (B303405, B303636; nonpublished opinion; Los Angeles County Superior Court; YA071844.) Petition for review after the Court of Appeal affirmed an order denying a post-judgment motion in a criminal matter.

#21-08 *People v. Gonzales, S265857.* (B304135; nonpublished opinion; Santa Barbara County Superior Court; 1434089.) Petition for review after the Court of Appeal affirmed an order denying a post-judgment motion in a criminal matter.

#21-09 *People v. Lawson, S265885.* (B296634; nonpublished opinion; Los Angeles County Superior Court; BA281894.) Petition for review after the Court of Appeal reversed an order denying a post-judgment motion in a criminal matter.

#21-10 *People v. Miles, S265483.* (B302041; nonpublished opinion; Los Angeles County Superior Court; NA047846.) Petition for review after the Court of Appeal affirmed an order denying a post-judgment motion in a criminal matter.

#21-11 *People v. Nieblas, S265843.* (B302488; nonpublished opinion; Los Angeles County Superior Court; BA360224.) Petition for review after the Court of Appeal affirmed an order denying a post-judgment motion in a criminal matter.

#21-12 *People v. Nunez, S265918.* (B299065; 57 Cal.App.5th 78; Los Angeles County Superior Court; YA068856.) Petition for review after the Court of Appeal affirmed an order denying a post-judgment motion in a criminal matter.

#21-13 *People v. Owens, S265897.* (E072711; nonpublished opinion; Riverside County Superior Court; INF039223.) Petition for review after the Court of Appeal affirmed an order denying a post-judgment motion in a criminal matter.

#21-14 *People v. Thao, S265815.* (C089584; nonpublished opinion; Sacramento County Superior Court; 95F01142.) Petition for review after the Court of Appeal affirmed an order denying a post-judgment motion in a criminal matter.

#21-15 *People v. Walton, S265961.* (E0727770; nonpublished opinion; Riverside County Superior Court; INF039223.) Petition for review after the Court of Appeal affirmed an order denying a post-judgment motion in a criminal matter.

The court ordered briefing in *Aremu, Baker, Brown, Galloway, Gonzales, Lawson, Miles, Nieblas, Nunez, Owens, Thao, and Walton* deferred pending decision in *People v. Lewis, S260598* (#20-78), which presents the following issues: (1) May superior courts consider the record of conviction in determining whether a defendant has made a prima facie showing of eligibility for relief under Penal Code section 1170.95? (2) When does the right to appointed counsel arise under Penal Code section 1170.95, subdivision (c)?

#21-16 *People v. Childers, S266071.* (C089184; nonpublished opinion; Sacramento County Superior Court; 17FE005883.) Petition for review after the Court of Appeal affirmed a judgment of conviction of a criminal offense. The court ordered briefing deferred pending decision in *People v. Tirado, S257658* (#19-174), which presents the following issue: Can the trial court impose an enhancement under Penal Code section 12022.53, subdivision (b) for personal use of a firearm, or under section 12022.53, subdivision (c) for personal and intentional discharge of a firearm, as part of its authority under section 1385 and subdivision (h) of section 12022.53 to strike an enhancement under subdivision (d) for personal and intentional discharge of a firearm resulting in death or great bodily injury, even if the lesser enhancements were not charged in the information or indictment and were not submitted to the jury?

#21-17 *People v. Donaldson, S265880.* (D076957; nonpublished opinion; Imperial County Superior Court; JCF000898.) Petition for review after the Court of Appeal affirmed a judgment of conviction of a criminal offense.

#21-18 *People v. Randall, S265856.* (D076619; nonpublished opinion; Imperial County Superior Court; JCF30391.) Petition for review after the Court of Appeal affirmed a judgment of conviction of a criminal offense.

The court ordered briefing in *Donaldson* and *Randall* deferred pending decision in *People v. Raybon, S256798* (#19-121), which presents the following issue: Did Proposition 64 [the “Adult Use of Marijuana Act”] decriminalize the possession of up to 28.5 grams of marijuana by adults 21 years of age or older who are in state prison [as well as those not in prison]?

#21-19 *People v. Glavish*, S265602. (B287131; nonpublished opinion; Los Angeles County Superior Court; PA082516.) Petition for review after the Court of Appeal remanded for resentencing and otherwise affirmed a judgment of conviction of criminal offenses. The court ordered briefing deferred pending decision in *People v. Esquivel*, S262551 (#20-207), which presents the following issue: Is the judgment in a criminal case considered final for purposes of applying a later ameliorative change in the law when probation is granted and execution of sentence is suspended, or only upon revocation of probation when the suspended sentence is ordered into effect?

#21-20 *People v. Lopez*, S265730. (C087357; nonpublished opinion; Yolo County Superior Court; CRF1758041.) Petition for review after the Court of Appeal affirmed a judgment of conviction of criminal offenses. The court ordered briefing deferred pending decision in *People v. Garcia*, S250670 (#18-141), and *People v. Valencia*, S250218 (#18-142), which present the following issues: (1) Does gang expert testimony regarding uncharged predicate offenses to establish a “pattern of criminal gang activity” under Penal Code section 186.22, subdivision (e) constitute background information or case-specific evidence within the meaning of *People v. Sanchez* (2016) 63 Cal.4th 665? (2) Was any error prejudicial?

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The Supreme Court of California is the state’s highest court and its decisions are binding on all other California state courts. The court’s primary role is to decide matters of statewide importance and to maintain uniformity in the law throughout California by reviewing matters from the six districts of the California Courts of Appeal and the fifty-eight county superior courts (the trial courts). Among its other duties, the court also decides all capital appeals and related matters and reviews both attorney and judicial disciplinary matters.