



Supreme Court of California
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NEWS RELEASE

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FOR IMMEDIATE RELEASE

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Summary of Cases Accepted and Related Actions During Week of January 14, 2019

[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.]

#19-07 *In re Clifford Allen Brace, Jr., S252473.* (9th Cir. No. 17-60032; 908 F.3d 531; Central District of California; BAP No. 16-1041.) Request under California Rules of Court rule 8.548, that this court decide a question of California law presented in a matter pending in the United States Court of Appeals for the Ninth Circuit. The question presented is: “Does the form of title presumption set forth in section 662 of the California Evidence Code overcome the community property presumption set forth in section 760 of the California Family Code in Chapter 7 bankruptcy cases where: (1) the debtor husband and non-debtor wife acquire property from a third party as joint tenants; (2) the deed to that property conveys the property at issue to the debtor husband and non-debtor wife as joint tenants; and (3) the interests of the debtor and non-debtor spouse are aligned against the trustee of the bankruptcy estate?”

#19-08 *In re Palmer, S252145.* (A147177; 27 Cal.App.5th 120.) Petition for review after the Court of Appeal granted relief on a petition for writ of habeas corpus. This case presents the following issue: What standard should the Board of Parole Hearings apply in giving “great weight to the diminished culpability of youth as compared to adults, the hallmark features of youth, and any subsequent growth and increased maturity of the prisoner” as set forth in Penal Code section 4801, subdivision (c), in determining parole suitability for youth offenders?

#19-09 *Sandoval v. Qualcomm Inc., S252796.* (D070431; 28 Cal.App.5th 381; San Diego County Superior Court; 37-2014-00012901-CU-PO-CTL.) Petition for review after the Court of Appeal affirmed the judgment in a civil action. This case presents the following issue: Can a company that hires an independent contractor be liable in tort for injuries sustained by the contractor’s employee based solely on the company’s negligent

failure to undertake safety measures or is more affirmative action required to implicate *Hooker v. Department of Transportation* (2002) 27 Cal.4th 198?

#19-10 *Certified Tire & Auto Service Center Wage & Hour Cases, S252517.*

(D072265; 28 Cal.App.5th 1; San Diego County Superior Court; JCCP4762.) Petition for review after the Court of Appeal affirmed the judgment in a civil action. The court ordered briefing deferred pending decision in *Oman v. Delta Airlines*, S248726 (#18-88), on certification from the Ninth Circuit, in which we agreed to address the following questions: “(1) Do California Labor Code sections 204 and 226 apply to wage payments and wage statements provided by an out-of-state employer to an employee who, in the relevant pay period, works in California only episodically and for less than a day at a time? (2) Does California minimum wage law apply to all work performed in California for an out-of-state employer by an employee who works in California only episodically and for less than a day at a time? (See Cal. Labor Code, §§ 1182.12, 1194; Cal. Code Regs., § 11090(4).) (3) Does the *Armenta/Gonzalez* bar on averaging wages apply to a pay formula that generally awards credit for all hours on duty, but which, in certain situations resulting in higher pay, does not award credit for all hours on duty? (See *Gonzales v. Downtown LA Motors, LP* (2013) 215 Cal.App.4th 36, 155 Cal. Rptr. 3d 18; *Armenta v. Osmose, Inc.* (2005) 135 Cal.App.4th 314, 37 Cal. Rptr. 3d 460.)”

#19-11 *People v. Gray, S252222.* (B282321; nonpublished opinion; Los Angeles County Superior Court; KA106735.) Petition for review after the Court of Appeal affirmed remanded for resentencing and otherwise affirmed a judgment of conviction of criminal offenses. The court ordered briefing deferred pending decision in *People v. Canizales*, S221958 (#14-134) and *People v. Mateo*, S232674 (#16-147), which present issues concerning the instruction on the “kill-zone” theory of liability and the natural and probable consequences doctrine for attempted premeditated murder.

#19-12 *People v. Jackson, S253162.* (E069751; nonpublished opinion; San Bernardino County Superior Court; FV117003145.) 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 *In re Ricardo P.*, S230923 (#16-41) and *People v. Trujillo*, S244650 (#17-335), which present issues concerning the imposition of an “electronics search condition” of probation if the devices subject to the condition had no relationship to the crime or crimes committed and use of the devices would not itself involve criminal conduct, but access to the devices might facilitate supervision of the probationer.

#19-13 *People v. Roark, S252389.* (A151503; nonpublished opinion; Solano County Superior Court; VCR222819.) Petition for review after the Court of Appeal affirmed the judgment of conviction of criminal offenses. The court ordered briefing deferred pending decision in *People v. Frahs*, S252220 (#18-175), which presents the following issues: (1) Does Penal Code section 1001.36 apply retroactively to all cases in which the judgment

is not yet final? (2) Did the Court of Appeal err by remanding for a determination of defendant's eligibility under Penal Code section 1001.36?

DISPOSITION

People v. Lopez, Serna and Trujeque, S065877, an automatic appeal, was abated as to defendant Herminio Serna upon his death.

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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.