



Supreme Court of California  
350 McAllister Street, San Francisco, CA 94102-4797  
[www.courts.ca.gov/supremecourt](http://www.courts.ca.gov/supremecourt)

**NEWS RELEASE**

Contact: [Cathal Conneely](mailto:Cathal.Conneely@courts.ca.gov), 415-865-7740

**FOR IMMEDIATE RELEASE**

February 14, 2020

---

## Summary of Cases Accepted and Related Actions During Week of February 10, 2020

*[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.]*

**#20-36 *Berroteran v. Superior Court, S259522.*** (B296639; 41 Cal.App.5th 518; Los Angeles County Superior Court; BC542525.) Petition for review after the Court of Appeal granted a petition for peremptory writ of mandate. This case presents the following issue: Does a party against whom former deposition testimony in a different case is sought to be admitted at trial under Evidence Code section 1291, subdivision (a)(2), have a similar interest and motive at both hearings to cross-examine a friendly witness?

**#20-37 *Handoush v. Lease Finance Group, LLC, S259523.*** (A150863; 41 Cal.App.5th 729; Alameda County Superior Court; RG16800919.) Petition for review after the Court of Appeal reversed an order dismissing a civil action. This case presents the following issues: (1) Is a forum selection clause in a contract formed in another state and governed by non-California law, which chooses a non-California forum for litigation, per se unenforceable if the contract also contains a pre-dispute jury trial waiver? (2) Under what circumstances, if any, may the burden of proof on a motion to enforce a forum selection clause be shifted to the party seeking enforcement of the clause?

**#20-38 *Bank of America, N.A. v. Phillips, S259482.*** (A152201; nonpublished opinion; San Francisco County Superior Court; CGC13531103.) Petition for review after the Court of Appeal reversed in part and affirmed in part the judgment in a civil action. The court ordered briefing deferred pending decision in *Sheen v. Wells Fargo Bank, N.A.*, S258019 (#19-173), which presents the following issue: Does a mortgage servicer owe a borrower a duty of care to refrain from making material misrepresentations about the status of a foreclosure sale following the borrower's submission of, and the servicer's agreement to review, an application to modify a mortgage loan?

**#20-39 *People v. Besenty, S259696.*** (B257222; nonpublished opinion; Los Angeles County Superior Court; TA115853.) Petition for review after the Court of Appeal remanded for resentencing and otherwise affirmed a judgment of conviction of criminal offenses.

**#20-40 *People v. Gray, S259730.*** (B282321; nonpublished opinion; Los Angeles County Superior Court; KA106735.) Petition for review after the Court of Appeal remanded for resentencing and otherwise affirmed a judgment of conviction of criminal offenses.

**#20-41 *People v. Lebron, S259431.*** (G057512; nonpublished opinion; Orange County Superior Court; 12CF0360.) Petition for review after the Court of Appeal affirmed the denial of a post-judgment petition in a criminal case.

**#20-42 *People v. Wilson, S259790.*** (D075612; nonpublished opinion; San Diego County Superior Court; SCN067569.) Petition for review after the Court of Appeal affirmed the denial of a post-judgment petition in a criminal case.

The court ordered briefing in *Besenty, Gray, Lebron, and Wilson* 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?

**#20-43 *People v. Bloodworth, S259627.*** (B289301; nonpublished opinion; Los Angeles County Superior Court; YA079410.) Petition for review after the Court of Appeal affirmed a judgment of conviction of criminal offenses.

**#20-44 *People v. Cross, S260029.*** (C087767; nonpublished opinion; Shasta County Superior Court; 16F5140, 17F2259.) Petition for review after the Court of Appeal affirmed a judgment of conviction of criminal offenses.

**#20-45 *People v. Ryan, S259325.*** (A154832; nonpublished opinion; Mendocino County Superior Court; SCUKCR1688246.) Petition for review after the Court of Appeal affirmed a judgment of conviction of a criminal offense.

The court ordered briefing in *Bloodworth, Cross, and Ryan* 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?

**#20-46 *Conservatorship of D.P.*, S259568.** (B291525; 41 Cal.App.5th 794; Los Angeles County Superior Court; ZE041308.) The court ordered briefing deferred pending decision in *Conservatorship of K.P.*, S258212 (#19-188), which presents the following issue: Must the trier of fact find, beyond a reasonable doubt, that the objector is unwilling or unable voluntarily to accept meaningful treatment before a conservator may be appointed, or reappointed, under the Lanterman-Petris-Short Act (Welf. & Inst. Code, § 5000 et seq.)?

**#20-47 *People v. Daly*, S260067.** (F078500; nonpublished opinion; Fresno County Superior Court; F07902652.) 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. Orozco*, S249495 (#18-108), which presents the following issue: Can a felony conviction for receiving a stolen vehicle in violation of Penal Code section 496d be reclassified as a misdemeanor under Proposition 47 in light of Penal Code section 496, subdivision (a), which provides that receiving other stolen property is a misdemeanor when the value of the property does not exceed \$950?

**#20-48 *People v. Harrell*, S259968.** (A156017; nonpublished opinion; Solano County Superior Court; FCR336781.) 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. Jimenez*, S249397 (#18-99), which presents the following issue: May a felony conviction for the unauthorized use of personal identifying information of another (Pen. Code, § 530.5, subd. (a)) be reclassified as a misdemeanor under Proposition 47 on the ground that the offense amounted to Penal Code section 459.5 shoplifting?

**#20-49 *People v. Stepney*, S259970.** (D075171, D075454; nonpublished opinion; San Bernardino County Superior Court; FWV1600164.) Petition for review after the Court of Appeal modified and affirmed judgments of conviction of criminal offenses. 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?

**DISPOSITION**

*People v. Wilson*, S087533, an automatic appeal formerly captioned *People v. Pops and Wilson*, was abated as to appellant Aswad Pops upon his death.

# # #

*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.*