



Supreme Court of California  
350 McAllister Street, San Francisco, CA 94102-4797  
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**NEWS RELEASE**

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

**FOR IMMEDIATE RELEASE**

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## Summary of Cases Accepted and Related Actions During Week of February 27, 2023

*[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.]*

**#23-36 *Another Planet Entertainment, LLC v. Vigilant Insurance Company*, S277893.** (9th Cir. No. 21-16093; 56 F.4th 730; Northern District of California; D.C. No. 3:20-cv-07476-VC.) 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: “Can the actual or potential presence of the COVID-19 virus on an insured’s premises constitute ‘direct physical loss or damage to property’ for purposes of coverage under a commercial property insurance policy?”

**#23-37 *People v. Carter*, S278262.** (C094949; 86 Cal.App.5th 739; Yolo County Superior Court; CRF19987081.) Petition for review after the Court of Appeal affirmed a civil commitment order. This case presents the following issue: Did the trial court deprive defendant of effective assistance of counsel by failing to appoint substitute counsel to evaluate and potentially argue defendant’s pro. per. motion to dismiss after appointed counsel refused to consider the motion based on an asserted conflict in arguing her own ineffective assistance of counsel?

**#23-38 *In re D.D.*, S278070.** (B319941; nonpublished opinion; Los Angeles County Superior Court; 18CCJP02204.) Petition for review after the Court of Appeal affirmed an order in a juvenile dependency proceeding. The court ordered briefing deferred pending decision in *In re Dezi C.*, S275578 (#22-254), which presents the following issue: What constitutes reversible error when a child welfare agency fails to make the statutorily required inquiry concerning a child’s potential Indian ancestry?

**#23-39 *People v. Herbert*, S277900.** (D078399; nonpublished opinion; Riverside County Superior Court; RIF1702155.) Petition for review after the Court of Appeal

affirmed in part and reversed in part a judgment of conviction of criminal offenses and remanded for further proceedings. The court ordered briefing deferred pending decision in *People v. Rojas*, S275835 (#22-276), which presents the following issue: Does Assembly Bill No. 333 (Stats. 2021, ch. 699) unconstitutionally amend Proposition 21, if applied to the gang-murder special circumstance (Pen. Code, § 190.2, subd. (a)(22))?

**#23-40 *People v. Ortez*, S278072.** (B311885; nonpublished opinion; Los Angeles County Superior Court; BA451111.) Petition for review after the Court of Appeal affirmed in part and reversed in part a judgment of conviction of criminal offenses and remanded for further proceedings. The court ordered briefing deferred pending decision in *People v. Lynch*, S274942 (#22-217), which presents the following issue: What prejudice standard applies on appeal when determining whether a case should be remanded for resentencing in light of newly-enacted Senate Bill No. 567 (Stats. 2021, ch. 731)? and pending decision in *People v. Salazar*, S275788 (#22-264), which presents the following issue: Did the Court of Appeal err by finding the record clearly indicates the trial court would not have imposed a low term sentence if it had been fully aware of its discretion under newly-added subdivision (b)(6) of Penal Code section 1170? (See *People v. Gutierrez* (2014) 58 Cal.4th 1354, 1391.)

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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.*