



Supreme Court of California  
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**NEWS RELEASE**

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**FOR IMMEDIATE RELEASE**

May 15, 2020

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## Summary of Cases Accepted and Related Actions During Week of May 11, 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.]*

**#20-120 *In re A.R., S260928.*** (A158143; nonpublished order; Alameda County Superior Court; JD02839802.) Petition for review after the Court of Appeal dismissed the appeal from an order terminating parental rights. The court limited review to the following issues: (1) Does a parent in a juvenile dependency case have the right to challenge her counsel's failure to file a timely notice of appeal from an order terminating her parental rights under Welfare and Institutions Code section 366.26? (See *Welf. & Inst. Code*, § 317.5, subd. (a); *In re Kristin H.* (1996) 46 Cal.App.4th 1635 [ineffective assistance of counsel claim in dependency proceeding brought on a petition for writ of habeas corpus].) (2) If so, what are the proper procedures for raising such a claim?

**#20-121 *Grande v. Eisenhower Medical Center, S261247.*** (E068730, E068751; 44 Cal.App.5th 1147; Riverside County Superior Court; RIC1514281.) Petition for review after the Court of Appeal affirmed the judgment in a civil action. The court limited review to the following issue: May a class of workers bring a wage and hour class action against a staffing agency, settle that lawsuit with a stipulated judgment that releases all of the staffing agency's agents, and then bring a second class action premised on the same alleged wage and hour violations against the staffing agency's client?

**#20-122 *People v. Britt, S261128.*** (B297588; nonpublished opinion; Los Angeles County Superior Court; TA098926.) Petition for review after the Court of Appeal affirmed an order denying a post-judgment motion in a criminal matter.

**#20-123 *People v. Graham, S260963.*** (C089323; nonpublished opinion; San Joaquin County Superior Court; SF111544A, STKCRFE20096385.) 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 *Britt* and *Graham* 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)?

**#20-124 *People v. Cerda*, S260915.** (B232572; 45 Cal.App.5th 1; Los Angeles County Superior Court; MA041397.) Petition for review after the Court of Appeal affirmed in part and reversed in part a judgment of conviction of criminal offenses.

**#20-125 *In re Morrison*, S261386.** (E067811; nonpublished opinion; San Bernardino County Superior Court; WHCJS1500067.) Petition for review after the Court of Appeal denied a petition for writ of habeas corpus.

The court ordered briefing in *Cerda* and *Morrison* 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?

**#20-126 *People v. Harper*, S261226.** (D074943; nonpublished opinion; San Diego County Superior Court; SCN308840.) Petition for review after the Court of Appeal affirmed a judgment of conviction of criminal offenses.

**#20-127 *People v. Reynolds*, S261348.** (G056849; nonpublished opinion; Orange County Superior Court; 14WF3283.) 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 *Harper* and *Reynolds* 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?

**#20-128 *People v. Johnson*, S261284.** (D073338; nonpublished opinion; San Diego County Superior Court; SCD241227.) Petition for review after the Court of Appeal remanded for resentencing and otherwise affirmed a judgment of conviction of criminal offenses.

**#20-129 *People v. Lipsett*, S261323.** (H045282; 45 Cal.App.5th 569; Monterey County Superior Court; SS160402.) Petition for review after the Court of Appeal affirmed a judgment of conviction of a criminal offense.

The court ordered briefing in *Johnson* and *Lipsett* 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?

**#20-130 *In re McDowell*, S261450.** (A157020; 45 Cal.App.5th 921; Sonoma County Superior Court; SCR33484.) Petition for review after the Court of Appeal denied a petition for writ of habeas corpus. The court ordered briefing deferred pending decision in *In re Scoggins*, S253155 (#19-37), which presents the following issue: Was the evidence at trial sufficient to support the robbery-murder special circumstance under *People v. Banks* (2015) 61 Cal.4th 788 and *People v. Clark* (2016) 63 Cal.4th 522?

**#20-131 *People v. Schafer*, S261258.** (C083560; nonpublished opinion; Sacramento County Superior Court; 15F04925.) 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. Anderson*, S253227 (#19-25), which concerns whether enhancements under Penal Code section 12022.53, subdivision (e), were improperly imposed as to certain counts when the prosecution did not specifically plead a violation of the subdivision as to those counts (see *People v. Mancebo* (2002) 27 Cal.4th 735), and *In re Vaquera*, S258376 (#19-195), which presents related sentencing and pleading issues.

## STATUS

*People v. Wesley*, S170280. The court directed the parties in this automatic appeal to file supplemental briefs addressing the following issues: Was expert testimony that is excludable under *People v. Sanchez* (2016) 63 Cal.4th 665 admitted at defendant's trial? If so, can the admission of such evidence be asserted as a ground for reversal in this appeal (see, e.g., *People v. Perez* (2020) 9 Cal.5th 1)? Assuming affirmative answers to the first two questions, was the admission of such evidence prejudicial to defendant with respect to any of the offenses of which he was convicted or any of the allegations found true?

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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.*