



Supreme Court of California
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NEWS RELEASE

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FOR IMMEDIATE RELEASE

June 11, 2021

Summary of Cases Accepted and Related Actions During Week of June 7, 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.]

#21-270 *Souliotes v. California Victim Compensation Bd., S267930.* (B295163; 61 Cal.App.5th 73; Los Angeles County Superior Court; BS170608.) Petition for review after the Court of Appeal affirmed in part and reversed in part the judgment in an action for writ of administrative mandate and other relief. This case presents the following issues: (1) Does a federal court’s “gateway” finding of actual innocence (*Schlup v. Delo* (1995) 513 U.S. 298) satisfy the “factually innocent” standard of Penal Code section 1485.55, subdivision (a), for entitlement to compensation by a person wrongfully convicted and incarcerated? (2) Are the factual findings and credibility determinations made in a federal court’s *Schlup* order binding on state courts under Penal Code section 1485.5, subdivision (c)?

#21-271 *People v. Castillo, S268385.* (B301982; nonpublished opinion; Los Angeles County Superior Court; BA438393.) Petition for review after the Court of Appeal affirmed a judgment of conviction of criminal offenses.

#21-272 *People v. Ponce, S267898.* (A155368; nonpublished opinion; Contra Costa County Superior Court; 51702232.) Petition for review after the Court of Appeal modified sentence and otherwise affirmed a judgment of conviction of criminal offenses.

The court ordered briefing in *Castillo* and *Ponce* deferred pending decision in *People v. Renteria*, S266854 (#21-160), which presents the following issues: When a member of a criminal street gang acts alone in committing a felony, what evidence will suffice to establish the felony was “committed for the benefit of, at the direction of, or in association with any criminal street gang, with the specific intent to promote, further, or assist in any criminal conduct by gang members”? (Pen. Code, § 186.22, subd. (b)(1); see *People v. Albillar* (2010) 51 Cal.4th 47, 59-60.)

#21-273 *People v. Chavez, S268528.* (E074718; nonpublished opinion; Riverside County Superior Court; CR46579.) Petition for review after the Court of Appeal affirmed an order denying a post-judgment motion in a criminal matter.

#21-274 *People v. Enriquez, S268508.* (E074943; nonpublished opinion; Riverside County Superior Court; RIF120947.) Petition for review after the Court of Appeal affirmed an order denying a post-judgment motion in a criminal matter.

#21-275 *People v. Jenkins, S268195.* (E075787; nonpublished order; Riverside County Superior Court; INF064867.) Petition for review after the Court of Appeal dismissed an appeal from an order denying a post-judgment motion in a criminal matter.

#21-276 *People v. McKinley, S267981.* (E074721; nonpublished opinion; Riverside County Superior Court; CR61388.) 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 *Chavez, Enriquez, Jenkins, and McKinley* deferred pending decision in *People v. Strong, S266606* (#21-101), which presents the following issue: Does a felony-murder special circumstance finding (Pen. Code, § 190.2, subd. (a)(17)) made before *People v. Banks* (2015) 61 Cal.4th 788 and *People v. Clark* (2016) 63 Cal.4th 522 preclude a defendant from making a prima facie showing of eligibility for relief under Penal Code section 1170.95?

#21-277 *People v. Faumui, S268439.* (E075801; nonpublished order; San Bernardino County Superior Court; FBV3726.) Petition for review after the Court of Appeal dismissed an appeal from an order denying a post-judgment motion in a criminal matter.

#21-278 *People v. Ruffinpatterson, S268248.* (E075782; nonpublished order; Riverside County Superior Court; BPR2000103.) Petition for review after the Court of Appeal dismissed an appeal from an order denying a post-judgment motion in a criminal matter.

The court ordered briefing in *Faumui* and *Ruffinpatterson* deferred pending decision in *People v. Delgadillo, S266305* (#21-72), which presents the following issues: (1) What procedures must appointed counsel and the Courts of Appeal follow when counsel determines that an appeal from an order denying postconviction relief lacks arguable merit? (2) Are defendants entitled to notice of these procedures?

#21-279 *People v. Franklin, S268667.* (A159387; nonpublished opinion; Contra Costa County Superior Court; 51412816.) Petition for review after the Court of Appeal affirmed an order denying a post-judgment motion in a criminal matter.

#21-280 *People v. Gonzalez, S268519.* (E074653; nonpublished opinion; Riverside County Superior Court; RIF117693.) Petition for review after the Court of Appeal affirmed an order dismissing a post-judgment motion in a criminal matter.

#21-281 *People v. Hawkins, S268401.* (E074651; nonpublished opinion; Riverside County Superior Court; RIF73308.) Petition for review after the Court of Appeal affirmed an order denying a post-judgment motion in a criminal matter.

#21-282 *People v. Johnson, S268537.* (A158366; nonpublished opinion; Contra Costa County Superior Court; 51603604.) Petition for review after the Court of Appeal affirmed an order denying a post-judgment motion in a criminal matter.

#21-283 *People v. Love, S268438.* (G058669; nonpublished opinion; Riverside County Superior Court; RIF122615.) 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 *Franklin, Gonzalez, Hawkins, Johnson, and Love* 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?

#21-284 *People v. Galarza, S268654.* (B303867; nonpublished opinion; Los Angeles County Superior Court; BA227460.) Petition for review after the Court of Appeal affirmed an order denying a post-judgment motion in a criminal matter.

#21-285 *People v. Garcia, S268068.* (B304788; Los Angeles County Superior Court; VA128373.) 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 *Galarza* and *Garcia* 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? and 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)?

#21-286 *People v. Houston*, S268427. (A160479; nonpublished opinion; Alameda County Superior Court; 142789.) Petition for review after the Court of Appeal affirmed an order denying a post-judgment motion in a criminal matter.

#21-287 *People v. Morgan*, S268206. (B301411; nonpublished opinion; Los Angeles County Superior Court; BA152037.) Petition for review after the Court of Appeal affirmed an order denying a post-judgment motion in a criminal matter.

#21-288 *People v. Rivera*, S268405. (A158284; 62 Cal.App.5th 217; San Mateo County Superior Court; SC080432.) Petition for review after the Court of Appeal reversed an order denying a post-judgment motion in a criminal matter.

#21-289 *People v. Romero*, S268592. (F080588; nonpublished opinion; Fresno County Superior Court; F13905308.) Petition for review after the Court of Appeal affirmed an order denying a post-judgment motion in a criminal matter.

#21-290 *People v. Rubio*, S268239. (C090823; nonpublished opinion; Shasta County Superior Court; 98F2652.) Petition for review after the Court of Appeal affirmed an order denying a post-judgment motion in a criminal matter.

#21-291 *People v. Sainz*, S268423. (D077858; nonpublished opinion; San Diego County Superior Court; CR86492.) Petition for review after the Court of Appeal affirmed an order denying a post-judgment motion in a criminal matter.

#21-292 *People v. Walker*, S267994. (B306499; nonpublished opinion; Los Angeles County Superior Court; KA010664.) 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 *Houston*, *Morgan*, *Rivera*, *Romero*, *Rubio*, *Sainz*, and *Walker* 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)?

#21-293 *People v. Jones, S268604.* (D077396; nonpublished opinion; San Diego County Superior Court; SCS147831.) Petition for review after the Court of Appeal affirmed an order denying a post-judgment motion in a criminal matter.

#21-294 *People v. Meadows, S268339.* (E074143; nonpublished opinion; Riverside County Superior Court; BLF002634.) 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 *Jones* and *Meadows* 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]?

#21-295 *People v. Ortiz, S268306.* (B300776; nonpublished opinion; San Luis Obispo County Superior Court; F000270432003.) Petition for review after the Court of Appeal affirmed an order denying a post-judgment motion in a criminal matter. The court ordered briefing deferred pending decision in *People v. Duke, S265309* (#21-01), which presents 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? and 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)?

#21-296 *People v. Ross, S268061.* (B304808; nonpublished opinion; Los Angeles County Superior Court; SA120316.) Petition for review after the Court of Appeal affirmed an order denying a post-judgment motion in a criminal matter. The court ordered briefing deferred pending decision in *People v. Strong, S266606* (#21-101), which presents the following issue: Does a felony-murder special circumstance finding (Pen. Code, § 190.2, subd. (a)(17)) made before *People v. Banks* (2015) 61 Cal.4th 788 and *People v. Clark* (2016) 63 Cal.4th 522 preclude a defendant from making a prima facie showing of eligibility for relief under Penal Code section 1170.95? and 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)?

#21-297 *People v. Valdivia*, S268196. (B302201; nonpublished opinion; Los Angeles County Superior Court; BA225456.) Petition for review after the Court of Appeal reversed an order denying a post-judgment motion in a criminal matter. The court ordered briefing deferred pending decision in *People v. Duke*, S265309 (#21-01), which presents 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?

SEPARATE STATEMENT ON DENIAL OF REVIEW

People v. Jackson, S267812. (D077095; 61 Cal.App.5th 189; San Diego County Superior Court; SCD127034.) Petition for review after the Court of Appeal affirmed an order denying a post-judgment motion in a criminal matter.

DISPOSITIONS

The following cases were transferred for reconsideration in light of *People v. Vivar* (2021) 11 Cal.5th 510:

#20-316 <i>In re Hernandez</i>, S264019.	(F076752; nonpublished opinion; Kern County Superior Court; HC15330A, BF150639A)
#21-136 <i>People v. Bravo</i>, S266777.	(E072782; 58 Cal.App.5th 1161; Riverside County Superior Court; RIF75184)

Review in the following case, which had been granted and held for *People v. Vivar* (2021) 11 Cal.5th 510, was dismissed:

#20-329 <i>People v. Amirian</i>, S264551.	(B298094; nonpublished opinion; Los Angeles County Superior Court; GA087122)
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The following cases were transferred for reconsideration in light of *In re A.R.* (2021) 11 Cal.5th 234:

#20-311 <i>In re A.M.</i>, S264012.	(E075218; nonpublished opinion; San Bernardino County Superior Court; J283167, J283168)
#21-104 <i>In re B.K.</i>, S265902.	(B307799; nonpublished opinion; Los Angeles County Superior Court;

	20CCJP01221, 20CCJP01221A, 20CCJP01221B)
#21-105 In re B.K., S266192.	(B307799; nonpublished opinion; Los Angeles County Superior Court; 20CCJP01221, 20CCJP01221A, 20CCJP01221B)

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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.