Supreme Court of California
350 McAllister Street, San Francisco, CA 94102-4797
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Summary of Cases Accepted and Related Actions During Week of June 8, 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.]

#20-139 *In re Brown, S261454*. (E071401; 45 Cal.App.5th 699; San Bernardino County Superior Court; CU15081064.) Petition for review after the Court of Appeal granted relief on a petition for writ of habeas corpus. The court ordered briefing deferred pending decision in *In re Milton*, S259954 (#20-64), which presents the following issue: Do the limitations of *People v. Gallardo* (2017) 4 Cal.5th 120 on judicial fact-finding concerning the basis for a prior conviction apply retroactively to final judgments? (Compare *In re Milton* (2019) 42 Cal.App.5th 977 with *In re Brown* (2020) 45 Cal.App.5th 699.)

#20-140 *Facebook, Inc. v. Superior Court, S260846*. (A157143; 46 Cal.App.5th 109; San Francisco County Superior Court; 13035657, 13035658.) Petition for review after the Court of Appeal granted a petition for peremptory writ of mandate. The court ordered briefing deferred pending decision in *Facebook, Inc. v. Superior Court*, S245203 (#18-19), which presents issues relating to discovery of information related to postings on social media.

#20-141 *People v. Garcia, S261772*. (B293491; 46 Cal.App.5th 786; Los Angeles County Superior Court; SA095648.) 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. 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?

#20-142 People v. Merritt, S261634. (H046069; nonpublished opinion; Santa Clara County Superior Court; C1639645.) Petition for review after the Court of Appeal remanded for resentencing and otherwise affirmed a judgment of conviction of a criminal offense. 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?

#20-143 People v. Morrison, S261627. (A156981; nonpublished opinion; Contra Costa County Superior Court; 16154.) 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. 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)?

#20-144 People v. Niebla, S261855. (D075037; nonpublished opinion; San Diego County Superior Court; SCD212938.) Petition for review after the Court of Appeal dismissed an appeal from a judgment of conviction of criminal offenses. The court ordered briefing deferred pending decision in *People v. Stamps*, S255843 (#19-63), which presents the following issue: Is a certificate of probable cause required for a defendant to challenge a negotiated sentence based on a subsequent ameliorative, retroactive change in the law?

#20-145 People v. Quintero, S261684. (F075807; nonpublished opinion; Tulare County Superior Court; VCF255016C.) Petition for review after the Court of Appeal affirmed in part and reversed in part a judgment of conviction of criminal offenses.

#20-146 People v. Sanchez, S261768. (F076838; 46 Cal.App.5th 637; Kern County Superior Court; BF164349B.) Petition for review after the Court of Appeal affirmed in part and reversed in part a judgment of conviction of criminal offenses.

The court ordered briefing in *Quintero* and *Sanchez* 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?

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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.