



Supreme Court of California
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NEWS RELEASE

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FOR IMMEDIATE RELEASE

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Summary of Cases Accepted and Related Actions During Week of June 14, 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.]

#21-298 *People v. Aguirre*, S268799. (B296222; nonpublished opinion; Los Angeles County Superior Court; KA118509.) 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 deferred pending decision in *People v. Aguayo*, S254554 (#19-47), which presents the following issues: (1) Is assault by means of force likely to produce great bodily injury a lesser included offense of assault with a deadly weapon? (See *People v. Aledamat* (2019) 7 Cal.5th 1, 16, fn. 5.) (2) If so, was defendant's conviction of assault by means of force likely to produce great bodily injury based on the same act or course of conduct as her conviction of assault with a deadly weapon?

#21-299 *People v. Andahl*, S268336. (C090707; 62 Cal.App.5th 203; Calaveras County Superior Court; 17F7159, 18F7255.) Petition for review after the Court of Appeal affirmed a judgment of conviction of criminal offenses. The court ordered briefing deferred pending decision in *People v. Esquivel*, S262551 (#20-207), which presents the following issue: Is the judgment in a criminal case considered final for purposes of applying a later ameliorative change in the law when probation is granted and execution of sentence is suspended, or only upon revocation of probation when the suspended sentence is ordered into effect? and pending decision in *People v. Hernandez*, S265739 (#21-36), which presents the following issues: (1) If a defendant's prior prison term enhancements are stricken under Senate Bill No. 136, does the remainder of the sentence agreed to under a plea agreement remain intact or must the case be remanded to allow the People to withdraw from the plea agreement and to obtain the trial court's approval (see *People v. Stamps* (2020) 9 Cal.5th 685)? (2) If the plea agreement is rescinded in light of Senate Bill No. 136, can the defendant be sentenced to a term longer than provided for in the original agreement?

#21-300 *People v. Armstrong, S268729.* (B308270; nonpublished opinion; Los Angeles County Superior Court; NA055737.) Petition for review after the Court of Appeal dismissed an appeal from an order denying a post-judgment motion in a criminal matter.

#21-301 *People v. Muzquiz, S268463.* (C093087; nonpublished opinion; Sacramento County Superior Court; 88534.) 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 *Armstrong* and *Muzquiz* 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?

#21-302 *People v. Braganza, S268694.* (C091158; nonpublished opinion; Lassen County Superior Court; CH030105.) Petition for review after the Court of Appeal affirmed an order denying a post-judgment motion in a criminal matter.

#21-303 *People v. Brown, S268725.* (B303072; nonpublished opinion; Los Angeles County Superior Court; MA070234.) 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 *Braganza* and *Brown* 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]?

#21-304 *People v. Cernogg, S268158.* (B303218; nonpublished opinion; Los Angeles County Superior Court; TA085192.) 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?

#21-305 *People v. Cervantes, S268679.* (G058554; nonpublished opinion; Orange County Superior Court; 01WF2314.) Petition for review after the Court of Appeal affirmed an order denying a post-judgment motion in a criminal matter.

#21-306 *People v. Fitzhugh*, S268714. (C089261; nonpublished opinion; San Joaquin County Superior Court; STKCRFE20115309.) 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 *Cervantes* and *Fitzhugh* 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)?

#21-307 *People v. Cervantes*, S268698. (G057340; nonpublished opinion; Orange County Superior Court; 15CF0911.) Petition for review after the Court of Appeal affirmed a judgment of conviction of criminal offenses.

#21-308 *People v. Miranda*, S268384. (E071542; 62 Cal.App.5th 162; Riverside County Superior Court; RIF1703505.) Petition for review after the Court of Appeal affirmed in part and reversed in part a judgment of conviction of criminal offenses.

#21-309 *In re Woods*, S268740. (B301891; 62 Cal.App.5th 740; Los Angeles County Superior Court; NA037804.) Petition for review after the Court of Appeal granted relief on a petition for writ of habeas corpus.

The court ordered briefing in *Cervantes*, *Miranda*, and *Woods* deferred pending decision in *People v. Williams*, S262229 (#20-189), which presents the following issue: Does Penal Code section 3051, subdivision (h), violate the equal protection clause of the Fourteenth Amendment by excluding young adults convicted and sentenced for serious sex crimes under the One Strike law (Pen. Code, § 667.61) from youth offender parole consideration, while young adults convicted of first degree murder are entitled to such consideration?

#21-310 *In re Douglas*, S268750. (C091545; 62 Cal.App.5th 726; Sacramento County Superior Court; 12F01245, 13F00422.) 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 Mohammad*, S259999 (#20-52), which presents the following issue: Is a prisoner serving a sentence for a combination of violent and nonviolent felonies eligible for early parole consideration under the provisions of Proposition 57 following completion of the term for his or her primary offense?

#21-311 *People v. Howard*, S268777. (E074182; nonpublished opinion; Riverside County Superior Court; RIF1601045.) Petition for review after the Court of Appeal affirmed an order denying a post-judgment motion in a criminal matter.

#21-312 *People v. Sisneros, S268708.* (C089647; nonpublished opinion; San Joaquin County Superior Court; STKCRFE20020009102, SF086673B.) Petition for review after the Court of Appeal affirmed an order denying a post-judgment motion in a criminal matter.

#21-313 *People v. Twyman, S268695.* (B304515, B306643; nonpublished opinion; Los Angeles County Superior Court; TA139642.) 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 *Howard, Sisneros, and Twyman* 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?

#21-314 *People v. Miner, S268685.* (B301803; nonpublished opinion; Los Angeles County Superior Court; LA044952.) 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?

#21-315 *People v. Moisa, S268587.* (F077818; nonpublished opinion; Tulare County Superior Court; PCF287834.) 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?

DISPOSITIONS

Review in the following case, which had been granted and held for *In re Humphrey* (2021) 11 Cal.5th 135, was dismissed as moot:

#20-289 <i>In re Ung, S263946.</i>	(H048152; nonpublished opinion; Santa Clara County Superior Court; C1807777)
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Review in the following cases, which had been granted and held for *Brown v. USA Taekwando* (2021) 11 Cal.5th 204, was dismissed as moot:

#20-187 <i>McHenry v. Asylum Entertainment Delaware, LLC, S262297.</i>	(B292457; 46 Cal.App.5th 469; Los Angeles County Superior Court; BC641363)
#20-405 <i>Annie G. v. Glacial Garden Skating Arenas, S265251.</i>	(B293351, B295766; nonpublished opinion; Los Angeles County Superior Court; BC624620, BC694892)

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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.