



Supreme Court of California
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NEWS RELEASE

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FOR IMMEDIATE RELEASE

June 19, 2020

Summary of Cases Accepted and Related Actions During Week of June 15, 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.]

#20-147 *In re Erika F.*, S260839. (B295755, B297079; 45 Cal.App.5th 216; Los Angeles County Superior Court; PJ53161.) Petition for review after the Court of Appeal affirmed orders in a juvenile wardship proceeding. The court limited review to the following issue: When the prosecution moves for a temporary restraining order in a juvenile wardship proceeding without having given advance notice to the minor, must it be shown that: (a) “great or irreparable injury will result” before the matter could be heard with proper notice, and (b) the prosecution notified the minor within a reasonable time prior to the hearing regarding when and where the order would be sought, or attempted to notify the minor, or for specified reasons should not have been required to notify the minor? (See Welf. & Inst. Code, § 213.5, subd. (b); Code of Civ. Proc., § 527, subd. (c).)

#20-148 *People v. Ramirez*, S262010. (F076126; nonpublished opinion; Tuolumne County Superior Court; CRF50964.) Petition for review after the Court of Appeal affirmed a judgment of conviction of a criminal offense. This case presents the following issues: (1) Did the trial court err in ruling that defendant’s overdose on heroin during his jury trial was an implicit waiver of his right to be present and made him voluntarily absent within the meaning of Penal Code section 1043, subdivision (b)(2)? (2) Did the trial court err in denying the defense motion for a one-day continuance to permit defendant to testify?

#20-149 *People v. Alvarez*, S262309. (B298813; nonpublished opinion; Los Angeles County Superior Court; A713630.) Petition for review after the Court of Appeal affirmed an order denying a post-judgment motion in a criminal matter.

#20-150 *People v. Caballero, S262155.* (B298815; nonpublished opinion; Los Angeles County Superior Court; TA087353.) Petition for review after the Court of Appeal affirmed an order denying a post-judgment motion in a criminal matter.

#20-151 *People v. Washington, S261782.* (A158017; nonpublished opinion; Alameda County Superior Court; H53084A.) 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 *Alvarez, Caballero, and Washington* 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)?

#20-152 *People v. Cowan, S261952.* (A156253; 47 Cal.App.5th 32; San Francisco County Superior Court; SCN229497, SCN229498.) Petition for review after the Court of Appeal affirmed in part and reversed in part a judgment of conviction of a criminal offense. The court ordered briefing deferred pending decision in *People v. Kopp, S257844* (#19-171), which presents the following issues: (1) Must a court consider a defendant's ability to pay before imposing or executing fines, fees, and assessments? (2) If so, which party bears the burden of proof regarding the defendant's inability to pay?

#20-153 *People v. Gomez, S261654.* (F075678; nonpublished opinion; Kern County Superior Court; BF138013A.) 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. 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?

#20-154 *People v. Tuiono, S262000.* (E071886; nonpublished opinion; Riverside County Superior Court; RIF1800197.) 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. 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

The following cases were transferred for reconsideration in light of *People v. Jimenez* (2020) 9 Cal.5th 53:

#18-106 <i>People v. Case, S249667.</i>	(B283838; nonpublished opinion; Ventura County Superior Court; 2016045507)
#18-107 <i>People v. Chi, S249660.</i>	(B283968; nonpublished opinion; Ventura County Superior Court; 2017008363)
#18-137 <i>People v. Brayton, S251122.</i>	(B284408; 25 Cal.App.5th 734; Ventura County Superior Court; 2016005604)
#19-74 <i>People v. Chatman, S255235.</i>	(A151408; 33 Cal.App.5th 60; Contra Costa County Superior Court; 51618479, 51619709)
#20-34 <i>People v. Ragland, S259840.</i>	(A153476; nonpublished opinion; Marin County Superior Court; SC194558)
#20-48 <i>People v. Harrell, S259968.</i>	(A156017; nonpublished opinion; Solano County Superior Court; FCR336781)

Review in the following cases, which were granted and held for *People v. Jimenez* (2020) 9 Cal.5th 53, was dismissed:

#18-104 <i>People v. Sanders, S248775.</i>	(D072875; 22 Cal.App.5th 397; San Diego County Superior Court; SCE331514)
#18-130 <i>People v. Rousseaux, S250551.</i>	(B285098; nonpublished opinion; Los Angeles County Superior Court; GA097891)
#19-70 <i>People v. Donely, S255756.</i>	(D073715; nonpublished opinion; San Diego County Superior Court; SCD273714)
#19-75 <i>People v. Weir, S255212.</i>	(D073626; 33 Cal.App.5th 868; San Diego County Superior Court; SCD273683, SCD259797)
#19-87 <i>People v. Mountford, S255592.</i>	(B286803, B287202; nonpublished opinion; Los Angeles County Superior Court; BA359842, BA435045)
#19-117 <i>People v. O'Neal, S256584.</i>	(B289422; nonpublished opinion; Los Angeles County Superior Court; YA063443)
#19-138 <i>People v. Harmon, S257061.</i>	(D073975; nonpublished opinion; San Diego County Superior Court; SCN360700)

#19-147 <i>People v. Hutchinson</i> , S257067.	(F078063; nonpublished opinion; Fresno County Superior Court; F10900882)
#19-148 <i>People v. Mountford</i> , S256750.	(B287245; nonpublished opinion; Los Angeles County Superior Court; GA080859)
#20-33 <i>People v. Mountford</i> , S259526.	(B286655; nonpublished opinion; Los Angeles County Superior Court; GA065015)
#20-35 <i>People v. Swetnam</i> , S259460.	(F077286; nonpublished opinion; Fresno County Superior Court; F11904186)

Review in the following cases which was granted and held for *People v. Jimenez* (2020) 9 Cal.5th 53, was dismissed without prejudice to defendant's right to seek relief on remand under amended Penal Code section 667.5 (see Stats. 2019, ch. 590, §1):

#18-145 <i>People v. Garland</i> , S250718.	(C082670; nonpublished opinion; Sacramento County Superior Court; 15F06523)
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The following cases were transferred for reconsideration in light of *People v. Bullard* (2020) 9 Cal.5th 94:

#18-72 <i>People v. Wallace</i> , S247488.	(C082750; nonpublished opinion; Sacramento County Superior Court; 15F07322)
#18-111 <i>In re J.R.</i> , S249205.	(H043051; 22 Cal.App.5th 805; Santa Clara County Superior Court; JV40959)

STATUS

People v. McDaniel, S171393. The court ordered supplemental briefing in this automatic appeal on the following issues: (1) Do Penal Code section 1042 and article I, section 16, of the California Constitution require that the jury unanimously determine beyond a reasonable doubt factually disputed aggravating evidence and the ultimate penalty verdict? (2) If so, was Appellant prejudiced by the trial court's failure to so instruct the jury?

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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.