



Supreme Court of California
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NEWS RELEASE

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FOR IMMEDIATE RELEASE

July 10, 2020

Summary of Cases Accepted and Related Actions During Week of July 6, 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.]

#20-167 *Siry Investment v. Farkhondehpour, S262081.* (B27750, B279009, B285904; 45 Cal.App.5th 1098; Los Angeles County Superior Court; BC372362.) Petition for review after the Court of Appeal affirmed the judgment in a civil action. This case presents the following issues: (1) May a party in default file a motion for new trial raising legal error, including the inapplicability of certain remedies under the allegations as pleaded? (2) May a trial court may award treble damages and attorney fees under Penal Code section 496, subdivision (c), in a case involving the fraudulent diversion of business funds rather than trafficking in stolen goods?

#20-168 *People v. Alcaraz, S261946.* (G057009; nonpublished opinion; Orange County Superior Court; 12NF1202.) Petition for review after the Court of Appeal affirmed judgments of conviction of criminal offenses.

#20-169 *People v. Allen, S262471.* (A158267; nonpublished opinion; Alameda County Superior Court; 171681A.) Petition for review after the Court of Appeal affirmed a judgment of conviction of a criminal offense.

#20-170 *People v. Arriola, S261740.* (B297120; nonpublished opinion; Los Angeles County Superior Court; PA030665.) Petition for review after the Court of Appeal affirmed an order denying a post-judgment motion in a criminal matter.

#20-171 *People v. Hutchinson, S262003.* (B299078; nonpublished opinion; Los Angeles County Superior Court; NA102378.) 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 *Alcaraz, Allen, Arriola, and Hutchinson* 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?

#20-172 *People v. Edwards*, S262481. (A158055; 48 Cal.App.5th 666; Alameda County Superior Court; 164975.) Petition for review after the Court of Appeal affirmed an order denying a post-judgment motion in a criminal matter.

#20-173 *People v. Griffin*, S262362. (B297212; nonpublished opinion; Los Angeles County Superior Court; TA109162.) Petition for review after the Court of Appeal affirmed an order denying a post-judgment motion in a criminal matter.

#20-174 *People v. Johnson*, S262171. (B297944; nonpublished opinion; Los Angeles County Superior Court; TA102619.) Petition for review after the Court of Appeal affirmed an order denying a post-judgment motion in a criminal matter.

#20-175 *People v. Law*, S262490. (E072845; 48 Cal.App.5th 811; Riverside County Superior Court; RIF100589.) Petition for review after the Court of Appeal affirmed an order denying a post-judgment motion in a criminal matter.

#20-176 *People v. May*, S262510. (E073498; nonpublished opinion; Riverside County Superior Court; RIF100589.) Petition for review after the Court of Appeal affirmed an order denying a post-judgment motion in a criminal matter.

#20-177 *People v. Walker*, S262505. (A157758; nonpublished opinion; Alameda County Superior Court; 137327.) Petition for review after the Court of Appeal affirmed an order denying a post-judgment motion in a criminal matter.

#20-178 *People v. Williams*, S262352. (B297781; nonpublished opinion; Los Angeles County Superior Court; YA078839.) 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 *Edwards, Griffin, Johnson, Law, May, Walker, and Williams* 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)?

#20-179 *People v. Hall*, S262434. (B302462; nonpublished opinion; Los Angeles County Superior Court; BA289736.) 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)? and 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?

#20-180 *People v. Venable*, S262423. (E071681; nonpublished opinion; San Bernardino County Superior Court; FSB17002517.) 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. Lemcke*, S250108 (#18-136), which presents the following issue: Does instructing a jury with CALCRIM No. 315 that an eyewitness's level of certainty can be considered when evaluating the reliability of the identification violate a defendant's due process rights? and 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 was granted and held for *People v. Perez* (2020) 9 Cal.5th 1, was dismissed:

#19-36 <i>People v. Meraz</i> , S253629.	(B245657; 30 Cal.App.5th 768; Los Angeles County Superior Court; PA065446)
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The following case was transferred for reconsideration in light of *People v. Perez* (2020) 9 Cal.5th 1:

#19-80 <i>People v. Clark</i> , S255431.	(B279396; nonpublished opinion; Los Angeles County Superior Court; MA058334)
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The following case was transferred for further proceedings in light of respondent's concessions, and the Reporter of Decisions was directed not to publish in the Official Appellate Reports the Court of Appeal opinion in this matter filed June 27, 2019, which appears at 37 Cal.App.5th 529:

#19-157 <i>Rivera v. Kent</i> , S257304.	(A147534; 37 Cal.App.5th 529; Alameda County Superior Court; RG14740911)
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STATUS

People v. Garcia, S250670 (#18-141), and *People v. Valencia*, S250218 (#18-142). The court consolidated these cases, which had been granted and held for *People v. Perez* (2020) 9 Cal.5th 1, and ordered briefing on the following issues: (1) Does gang expert testimony regarding uncharged predicate offenses to establish a “pattern of criminal gang activity” under Penal Code section 186.22, subdivision (e) constitute background information or case-specific evidence within the meaning of *People v. Sanchez* (2016) 63 Cal.4th 665? (2) Was any error prejudicial?

People v. Blessett, S249250 (#18-105). In this case in which briefing was previously deferred pending decision in *People v. Perez* (2020) 9 Cal.5th 1, the court ordered action deferred pending decision in *People v. Garcia*, S250670 (#18-141), and *People v. Valencia*, S250218 (#18-142), which present the following issues: (1) Does gang expert testimony regarding uncharged predicate offenses to establish a “pattern of criminal gang activity” under Penal Code section 186.22, subdivision (e) constitute background information or case-specific evidence within the meaning of *People v. Sanchez* (2016) 63 Cal.4th 665? (2) Was any error prejudicial?

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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.