



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 August 9, 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.]

#21-394 *People v. Abdul-Malik*, S269726. (B306876; nonpublished opinion; Los Angeles County Superior Court; GA045631.) 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?

#21-395 *People v. Arenas*, S269232. (E074088; nonpublished opinion; Riverside County Superior Court; RIF1103487.) Petition for review after the Court of Appeal affirmed orders denying post-judgment motions in a criminal matter.

#21-396 *People v. Clark*, S269555. (E074941; nonpublished opinion; Riverside County Superior Court; RIF151250.) Petition for review after the Court of Appeal affirmed an order denying a post-judgment motion in a criminal matter.

#21-397 *People v. Wallace*, S269758. (B307965; nonpublished opinion; Los Angeles County Superior Court; MA049674.) 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 *Arenas*, *Clark*, and *Wallace* 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?

#21-398 *People v. Barrera*, S269680. (F080629; nonpublished opinion; Kings County Superior Court; 19CM3059A.) Petition for review after the Court of Appeal affirmed in part and reversed in part a judgment of conviction of criminal offenses.

#21-399 *People v. Thomas*, S269662. (H047467; nonpublished opinion; Monterey County Superior Court; SS160707.) 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 *Barrera* and *Thomas* deferred 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?

#21-400 *People v. Braggs*, S269678. (B301727; nonpublished opinion; Los Angeles County Superior Court; BA470870.) Petition for review after the Court of Appeal affirmed a judgment of conviction of a criminal offense.

#21-401 *People v. Mays*, S269376. (B302559; nonpublished opinion; Los Angeles County Superior Court; BA463973.) 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 *Braggs* and *Mays* deferred pending decision in *People v. Renteria*, S266854 (#21-160), which presents the following issue: 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.)

#21-402 *People v. Dunson, S269645.* (E074818; nonpublished opinion; Riverside County Superior Court; INF065236.) Petition for review after the Court of Appeal affirmed an order denying a post-judgment motion in a criminal matter.

#21-403 *People v. Mathis, S269676.* (E074933; nonpublished opinion; Riverside County Superior Court; CR50362.) Petition for review after the Court of Appeal affirmed an order denying a post-judgment motion in a criminal matter.

#21-404 *People v. Purcell, S269540.* (B307038; nonpublished opinion; Los Angeles County Superior Court; VA073043.) 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 *Dunson*, *Mathis*, and *Purcell* 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?

#21-405 *People v. Lara, S269107.* (E074161; nonpublished opinion; Riverside County Superior Court; INF1501389.) Petition for review after the Court of Appeal modified and affirmed a judgment of conviction of a criminal offense.

#21-406 *People v. Sams, S269706.* (F080738; nonpublished opinion; Fresno County Superior Court; F14906439.) Petition for review after the Court of Appeal affirmed a judgment of conviction of a criminal offense.

The court ordered briefing in *Lara* and *Sams* 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?

#21-407 *People v. Rael, S269543.* (B308169; nonpublished opinion; Los Angeles County Superior Court; VA106907.) 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 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?

#21-408 *People v. Wilson, S269127.* (B305961; nonpublished opinion; Los Angeles County Superior Court; YA089874.) 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. Arnold, S269172 9#21-344*), which presents the following issue: Did the trial court err when it declined to accept the recommendation by the California Department of Corrections and Rehabilitation that defendant's sentence be recalled (Pen. Code, § 1170, subd. (d)) in order to address the statutory amendments made by Senate Bill No. 1393 in light of the court's conclusion that those amendments did not apply to final judgments?

DISPOSITIONS

The following cases were transferred for reconsideration in light of *People v. Esquivel* (2021) 11 Cal.5th 671:

#20-208 <i>People v. Shelton, S262972.</i>	(B299376; nonpublished opinion; Los Angeles County Superior Court; GA093524)
#20-247 <i>People v. Milazo, S263602.</i>	(D074159; nonpublished opinion; San Diego County Superior Court; SCE360034)
#20-259 <i>People v. Dubarr, S263904.</i>	(E073611; nonpublished opinion; Riverside County Superior Court; BAF1800962)
#20-283 <i>People v. Donaldson, S264131.</i>	(F075916; nonpublished opinion; Kern County Superior Court; BF167392A, BF166044A)
#20-375 <i>People v. Gezzer, S265198.</i>	(F076566; nonpublished opinion; Tulare County Superior Court; VCF294305, VCF340478)

Review in the following cases, which had been granted and held for *People v. Esquivel* (2021) 11 Cal.5th 671, was dismissed:

#20-335 <i>People v. Conatser, S264721.</i>	(A154326; 53 Cal.App.5th 1223; Alameda County Superior Court; CR167593)
#20-336 <i>People v. Contreras, S264638.</i>	(H045787; nonpublished opinion; Santa Cruz County Superior Court; 16CR01219)

#20-337 <i>People v. Martinez</i>, S264848.	(B303086; nonpublished opinion; 54 Cal.App.5th 59; Ventura County Superior Court; 2017032341)
#21-19 <i>People v. Glavish</i>, S265602.	(B287131; nonpublished opinion; Los Angeles County Superior Court; PA082516)
#21-47 <i>People v. Lopez</i>, S266016.	(H046618; 57 Cal.App.5th 409; Monterey County Superior Court; SS111812)

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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.