



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 10, 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.]*

**#20-205 *Coast Community College Dist. v. Commission on State Mandates, S262663.*** (C080349; 47 Cal.App.5th 415; Sacramento County Superior Court; 34201480001842CUWMGDS.) Petition for review after the Court of Appeal affirmed in part and reversed in part the judgment in a civil action. This case presents the following issues: (1) Is the cost of complying with regulations that establish minimum conditions for community college districts to receive state aid a reimbursable state mandate within the meaning of article XIII B, section 6, of the state Constitution? (2) Does a trial court lack jurisdiction under article XIII B, section 6, to make subvention findings as to statutes that were not specifically identified in an initial test claim? (3) Does a trial court lack jurisdiction to remand a test claim based on a statute that was the subject of a prior final decision by the Commission on State Mandates? The court directed the Reporter of Decisions not to publish the opinion in this matter in the Official Appellate Reports.

**#20-206 *Ducksworth v. Tri-Modal Distribution Services, S262699.*** (B294872; 47 Cal.App.5th 532; Los Angeles County Superior Court; BC676917.) Petition for review after the Court of Appeal affirmed the judgment in a civil action. This case presents the following issues: (1) In a cause of action alleging *quid pro quo* sexual harassment resulting in a failure to promote in violation of the Fair Employment and Housing Act, did the statute of limitations to file an administrative complaint with the Department of Fair Employment and Housing begin to run when the successful candidate was offered and accepted the position, or when that promotion later took effect, if there is no evidence that the plaintiff was aware of the promotion on the earlier date? (2) Was it proper for the Court of Appeal to award costs on appeal under rule 8.278 of the California Rules of Court against an unsuccessful FEHA claimant in the absence of a finding that the underlying claims were objectively frivolous?

**#20-207 *People v. Esquivel, S262551.*** (B294024; nonpublished opinion; Los Angeles County Superior Court; NA102362.) Petition for review after the Court of Appeal affirmed a judgment of conviction of a criminal offense. The court limited review to 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? (See also *People v. Shelton, S262972.*)

**#20-208 *People v. Shelton, S262972.*** (B299376; nonpublished opinion; Los Angeles County Superior Court; GA093524.) Petition for review after the Court of Appeal affirmed a judgment of conviction of criminal offenses. This case 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? (See also *People v. Esquivel, S262551.*)

**#20-209 *Zolly v. City of Oakland, S262634.*** (A154986; 47 Cal.App.5th 73; Alameda County Superior Court; RG16821376.) Petition for review after the Court of Appeal affirmed in part and reversed in part the judgment in a civil action. This case presents the following issue: Must city franchise fees that are subject to California Constitution, article XIII C, be reasonably related to the value of the franchise?

**#20-210 *People v. Boochee, S263017.*** (B299847; nonpublished opinion; Los Angeles County Superior Court; BA419591.) Petition for review after the Court of Appeal affirmed an order denying a post-judgment motion in a criminal matter.

**#20-211 *People v. Jackson, S263023.*** (B296324; nonpublished opinion; Los Angeles County Superior Court; BA244075.) Petition for review after the Court of Appeal affirmed an order denying a post-judgment motion in a criminal matter.

**#20-212 *People v. Magana, S263066.*** (B297514; nonpublished opinion; Los Angeles County Superior Court; BA129512.) Petition for review after the Court of Appeal affirmed an order denying a post-judgment motion in a criminal matter.

**#20-213 *People v. Tarkington, S263219.*** (B296331; 49 Cal.App.5th 892; Los Angeles County Superior Court; BA134487.) 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 *Boochee, Jackson, Magana, and Tarkington* 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)?

**#20-214 *D’Arcy v. Schulte*, S262532.** (G057203; nonpublished opinion; Orange County Superior Court; 30-2017-00916754.) Petition for review after the Court of Appeal affirmed an order denying a special motion to strike in a civil action. The court ordered briefing deferred pending decision in *Geiser v. Kuhns*, S262032 (#20-188), which presents following issue: How should it be determined what public issue or issue of public interest is implicated by speech within the meaning of the anti-SLAPP statute (Code of Civ. Proc., § 425.16, subd. (e)(4)) and the first step of the two-part test articulated in *FilmOn.com Inc. v. DoubleVerify Inc.* (2019) 7 Cal.5th 133, 149-150, and should deference be granted to a defendant’s framing of the public interest issue at this step?

**#20-215 *People v. Devlin*, S263124.** (B297848; nonpublished opinion; Los Angeles County Superior Court; SA039719.) Petition for review after the Court of Appeal affirmed an order denying a post-judgment motion in a criminal matter.

**#20-216 *People v. Williams*, S263193.** (B299053; nonpublished opinion; Los Angeles County Superior Court; KA007720.) 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 *Devlin* 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)? 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?

**#20-217 *People v. Guzman*, S263161.** (B293017; nonpublished opinion; Los Angeles County Superior Court; BA465263.) 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. 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?

**#20-218 *In re Haden*, S263261.** (A158376; 49 Cal.App.5th 1091; San Mateo County Superior Court; SC042504A.) Petition for review after the Court of Appeal denied a petition for writ of habeas corpus.

**#20-219 *In re Scott*, S262716.** (D076909; 49 Cal.App.5th 1003; San Diego County Superior Court; SCD137581.) Petition for review after the Court of Appeal denied a petition for writ of habeas corpus.

The court ordered briefing in *Haden* and *Scott* 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.)

**#20-220 *People v. Mitchell*, S263098.** (B298910; nonpublished opinion; Los Angeles County Superior Court; BA422497.) Petition for review after the Court of Appeal affirmed a judgment of conviction of criminal offenses

**#20-221 *People v. Stultz*, S263034.** (E071841; nonpublished opinion; Riverside County Superior Court; INF1601918.) Petition for review after the Court of Appeal affirmed a judgment of conviction of criminal offenses.

The court ordered briefing in *Mitchell* and *Stultz* 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?

**#20-222 *In re O'Keefe*, S263086.** (D075462; nonpublished opinion; San Diego County Superior Court; HC16835, SCD157233.) Petition for review after the Court of Appeal affirmed an order granting relief on a petition for writ of habeas corpus. The court ordered briefing deferred pending decision in *In re Gadlin*, S254599 (#19-53), which includes the following issue: Under Proposition 57 (Cal. Const., art. I, § 32), may the California Department of Corrections and Rehabilitation categorically exclude from early

parole consideration all prisoners who have been previously convicted of a sex offense requiring registration under Penal Code section 290?

**#20-223 *People v. Runderson, S263068.*** (F074056; nonpublished opinion; Fresno County Superior Court; F15907050.) Petition for review after the Court of Appeal affirmed in part and reversed in part judgments of conviction of criminal offenses. The court ordered briefing 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?

**#20-224 *People v. Whalum, S262935.*** (D076384; 50 Cal.App.5th 1; Imperial County Superior Court; JCF33890.) 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. Raybon*, S256978 (#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]?

## DISPOSITION

Review in the following case was dismissed:

<b>#20-37 <i>Handoush v. Lease Finance Group, LLC, S259523.</i></b>	(A150863; 41 Cal.App.5th 729; Alameda County Superior Court; RG16800919)
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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.*