



Supreme Court of California  
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**NEWS RELEASE**

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**FOR IMMEDIATE RELEASE**

August 28, 2020

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## Summary of Cases Accepted and Related Actions During Week of August 24, 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.]*

**#20-231 *People v. Federico, S263082.*** (E072620; 50 Cal.App.5th 318; Riverside County Superior Court County Superior Court; SWF017423.) Petition for review after the Court of Appeal affirmed a judgment of conviction of criminal offenses. This case presents the following issue: Did defendant’s resentencing pursuant to Penal Code section 1170, subdivision (d)(1) “reopen” the finality of his sentence, such that he was entitled to the retroactive application of Proposition 57 and Senate Bill No. 1391 on an otherwise long-final conviction? (See also *People v. Padilla, S263375* (#20-232).

**#20-232 *People v. Padilla, S263375.*** (B297213; 50 Cal.App.5th 244; Los Angeles County Superior Court; TA051184.) Petition for review after the Court of Appeal conditionally reversed a remanded a judgment of conviction of criminal offenses. This case presents the following issue: When a judgment becomes final, but is later vacated, altered, or amended and a new sentence imposed, is the case no longer final for the purpose of applying an intervening ameliorative change in the law? (See also *People v. Federico, S263082* (#20-231).

**#20-233 *People v. Emairi, S263170.*** (C088844; nonpublished opinion; San Joaquin County Superior Court; STKCRFECOD20150005573.) 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. 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?

**#20-234 *People v. Jenkins, S263400.*** (C085180; nonpublished opinion; Sacramento County Superior Court; 16FE008258.) Petition for review after the Court of Appeal remanded for resentencing in part, 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?

**#20-235 *People v. Molina, S263296.*** (B301642; nonpublished opinion; Los Angeles County Superior Court; NA023660.) Petition for review after the Court of Appeal affirmed an order denying a post-judgment motion in a criminal matter.

**#20-236 *People v. Windham, S263030.*** (H047278; nonpublished opinion; Monterey County Superior Court; MCR4493.) 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 *Molina* and *Windham* 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)?

## DISPOSITIONS

Review in the following cases, which were granted and held for *People v. Frahs* (2020) 9 Cal.5th 618, was dismissed:

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| <b>#19-42 <i>People v. McDonald, S254030.</i></b>   | (G054148; nonpublished opinion; Orange County Superior Court; 14CF2681)     |
| <b>#19-91 <i>People v. Shaw, S255608.</i></b>       | (A148318; nonpublished opinion; Alameda County Superior Court; 175413A)     |
| <b>#19-105 <i>People v. Cawkwell, S256113.</i></b>  | (D074157; 34 Cal.App.5th 1048; San Diego County Superior Court; SCN358730)  |
| <b>#19-108 <i>People v. McDaniels, S256060.</i></b> | (D073692; nonpublished opinion; San Diego County Superior Court; SCD264069) |

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| <b>#19-122 <i>People v. Duenas</i>, S256866.</b>    | (B288392; nonpublished opinion; Los Angeles County Superior Court; KA088870)      |
| <b>#19-132 <i>People v. Berlin</i>, S256697.</b>    | (D073030; nonpublished opinion; San Diego County Superior Court; SCD261086)       |
| <b>#19-153 <i>People v. McShane</i>, S257018.</b>   | (E069547; 36 Cal.App.5th 245; San Bernardino County Superior Court; FRE05916)     |
| <b>#19-158 <i>People v. Barrios</i>, S257256.</b>   | (E069418; nonpublished opinion; San Bernardino County Superior Court; FSB1401341) |
| <b>#19-175 <i>People v. Johnson</i>, S257996.</b>   | (F075561; nonpublished opinion; Fresno County Superior Court; F12901158)          |
| <b>#19-177 <i>People v. Munoz</i>, S257678.</b>     | (G054141; nonpublished opinion; Orange County Superior Court; 14WF0136)           |
| <b>#19-180 <i>People v. Thompson</i>, S257843.</b>  | (A151625; nonpublished opinion; Contra Costa County Superior Court; 51612092)     |
| <b>#19-210 <i>People v. Hernandez</i>, S258929.</b> | (E069364; nonpublished opinion; Riverside County Superior Court; RIF1406285)      |
| <b>#20-06 <i>People v. Laut</i>, S258982.</b>       | (B277216; nonpublished opinion; Ventura County Superior Court; 2015011510)        |
| <b>#20-09 <i>People v. Thompson</i>, S258845.</b>   | (E070503; nonpublished opinion; Riverside County Superior Court; RIF1605162)      |
| <b>#20-43 <i>People v. Bloodworth</i>, S259627.</b> | (B289301; nonpublished opinion; Los Angeles County Superior Court; YA079410)      |
| <b>#20-45 <i>People v. Ryan</i>, S259325.</b>       | (A154832; nonpublished opinion; Mendocino County Superior Court; SCUKCR1688246)   |
| <b>#20-93 <i>People v. Burks</i>, S260662.</b>      | (D074599; nonpublished opinion; San Diego County Superior Court; SCD272955)       |
| <b>#20-118 <i>People v. Sheppard</i>, S261295.</b>  | (H045521; nonpublished opinion; Santa Clara County Superior Court; F1347150)      |
| <b>#20-119 <i>People v. Stone</i>, S261098.</b>     | (G056524; nonpublished opinion; Orange County Superior Court; 15NF0081)           |
| <b>#20-128 <i>People v. Johnson</i>, S261284.</b>   | (D073338; nonpublished opinion; San Diego County Superior Court; SCD241227)       |
| <b>#20-153 <i>People v. Gomez</i>, S261654.</b>     | (F075678; nonpublished opinion; Kern County Superior Court; BF138013A)            |

The following cases were transferred for reconsideration in light of *People v. Frahs* (2020) 9 Cal.5th 618:

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| <b>#20-31 <i>People v. Mirzakhanyan</i>, S259548.</b> | (B290629; nonpublished opinion; Los Angeles County Superior Court; GA100960) |
| <b>#20-69 <i>People v. Tooker</i>, S260046.</b>       | (A154181; nonpublished opinion; Marin County Superior Court; SC197709)       |
| <b>#20-142 <i>People v. Merritt</i>, S261634.</b>     | (H046069; nonpublished opinion; Santa Clara County Superior Court; C1639645) |

## STATUS

In the following case, in which review was previously granted, 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?

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| <b>#20-208 <i>People v. Shelton</i>, S262972.</b> | (B299376; nonpublished opinion; Los Angeles County Superior Court; GA093524) |
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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.*