



Supreme Court of California  
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**NEWS RELEASE**

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**FOR IMMEDIATE RELEASE**

September 13, 2019

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## Summary of Cases Accepted and Related Actions During Week of September 9, 2019

*[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.]*

**#19-140 *In re Friend*, S256914.** (A155955; nonpublished order; Alameda County Superior Court; 81254A.) Petition for review after the Court of Appeal denied a request for a certificate of appealability under Penal Code section 1509.1, subdivision (c). The court directed the parties to address the following issues: (1) Is the *dismissal* of a condemned inmate’s habeas corpus petition pursuant to Penal Code section 1509, subdivision (d) an appealable order and subject to the requirement of obtaining a certificate of appealability under Penal Code section 1509.1, subdivision (c), which applies to the “decision of the superior court *denying relief* on a successive petition” (italics added)? (2) What is the meaning of the term “successive petition” in Penal Code section 1509, subdivision (d), and is the habeas corpus petition at issue a successive petition? (3) If the habeas corpus petition at issue is a successive petition within the meaning of the statute, can the statutory provisions governing such petitions be applied to this petition when petitioner’s first habeas corpus petition was filed before the statutes took effect (see, e.g., *Landgraf v. USI Film Products* (1994) 511 U.S. 244, 269-270)?

**#19-141 *People v. Gentile*, S256698.** (E069088; 25 Cal.App.5th 932; Riverside County Superior Court; INF1401840.) Petition for review after the Court of Appeal affirmed a judgment of conviction of a criminal offense. The court limited review to the following issues: (1) Does the amendment to Penal Code section 188 by recently enacted Senate Bill No. 1437 eliminate second degree murder liability under the natural and probable consequences doctrine? (2) Does Senate Bill No. 1437 apply retroactively to cases not yet final on appeal? (3) Was it prejudicial error to instruct the jury in this case on natural and probable consequences as a theory of murder?

**#19-142 *Ixchel Pharma v. Biogen*, S256927.** (9th Cir. No. 18-15258; 930 F.3d 1031; Eastern District of California No. 2:17-cv-00715-WBS-EFB.) Request under California

Rules of Court rule 8.548, that this court decide questions of California law presented in a matter pending in the United States Court of Appeals for the Ninth Circuit. The questions presented are: “Does section 16600 of the California Business and Professions Code void a contract by which a business is restrained from engaging in a lawful trade or business with another business? Is a plaintiff required to plead an independently wrongful act in order to state a claim for intentional interference with a contract that can be terminated by a party at any time, or does that requirement apply only to at-will employment contracts?”

**#19-143 *People v. Craine*, S256671.** (F074622; 35 Cal.App.5th 744; Kern County Superior Court; DF012338A.) Petition for review after the Court of Appeal affirmed a judgment of conviction of a criminal offense.

**#19-144 *People v. Mascio*, S257184.** (D075553; nonpublished opinion; Riverside County Superior Court; RIF1700753.) Petition for review after the Court of Appeal conditionally reversed a judgment of conviction of criminal offenses.

**#19-145 *People v. Thompson*, S256911.** (F077598; nonpublished opinion; Fresno County Superior Court; M17911630, F17900396.) Petition for review after the Court of Appeal affirmed a judgment of conviction of criminal offenses.

**#19-146 *People v. Young*, S257112.** (B291756; nonpublished opinion; Los Angeles County Superior Court; YA097437.) Petition for review after the Court of Appeal remanded in part and otherwise affirmed a judgment of conviction of a criminal offense.

The court ordered briefing in *Craine*, *Mascio*, *Thompson*, and *Young* 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?

**#19-147 *People v. Hutchinson*, S257067.** (F078063; nonpublished opinion; Fresno County Superior Court; F10900882.) Petition for review after the Court of Appeal affirmed a judgment of conviction of a criminal offense.

**#19-148 *People v. Mountford*, S256750.** (B287245; nonpublished opinion; Los Angeles County Superior Court; GA080859.) Petition for review after the Court of Appeal affirmed a judgment of conviction of criminal offenses.

The court ordered briefing in *Hutchinson* and *Mountford* deferred pending decision in *People v. Jimenez*, S249397 (#18-99), which presents the following issue: May a felony conviction for the unauthorized use of personal identifying information of another (Pen.

Code, § 530.5, subd. (a)) be reclassified as a misdemeanor under Proposition 47 on the ground that the offense amounted to Penal Code section 459.5 shoplifting?

**#19-149 *People v. Joaquin*, S257245.** (A152786; nonpublished opinion; Mendocino County Superior Court; SCUKCR1789461001.) Petition for review after the Court of Appeal remanded in part and otherwise affirmed a judgment of conviction of a criminal offense.

**#19-150 *People v. Madrigal*, S257356.** (H044892; nonpublished opinion; Santa Clara County Superior Court; C1226816.) Petition for review after the Court of Appeal reversed a judgment of conviction of criminal offenses.

The court ordered briefing in *Joaquin* and *Madrigal* deferred pending decision in *People v. Kelly*, S255145 (#19-62), and *People v. Stamps*, S255843 (#19-63), which present the following issue: Is a certificate of probable cause required for a defendant to challenge a negotiated sentence based on a subsequent ameliorative, retroactive change in the law?

**#19-151 *People v. Ketchens*, S256749.** (B282486; nonpublished opinion; Los Angeles County Superior Court; YA094354.) 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. Arredondo*, S244166 (#17-135), which presents the following issue: Was defendant's right of confrontation violated when he was unable to see witnesses as they testified because the trial court allowed a computer monitor on the witness stand to be raised by several inches to allow them to testify without seeing him when they testified in his presence?

## DISPOSITIONS

The following case was transferred for reconsideration in light of *People v. Canizales* (2019) 7 Cal.5th 591, Senate Bill No. 1437 (Stats. 2018, ch. 1015), and Senate Bill No. 620 (Stats. 2017, ch. 682):

<b>#15-49 <i>People v. Cerda</i>, S224430.</b>	(B232572; nonpublished opinion; Los Angeles County Superior Court; MA041397.)
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Review in the following cases, which were granted and held for *People v. Canizales* (2019) 7 Cal.5th 591, was dismissed:

<b>#15-131 <i>People v. Sek</i>, S226721.</b>	(B251196; 235 Cal.App.4th 1388; Los Angeles County Superior Court; NA087661.)
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<b>#19-72 <i>People v. Medina</i>, S255373.</b>	(B286117; 33 Cal.App.5th 146, mod. 34 Cal.App.5th 310a; Los Angeles County Superior Court; BA447301, BA447145)
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The following cases were transferred for reconsideration in light of *People v. Canizales* (2019) 7 Cal.5th 591:

<b>#15-186 <i>People v. Anderson</i>, S228552.</b>	(B251527; nonpublished opinion; Los Angeles County Superior Court; BA368517)
<b>#16-113 <i>People v. Granados</i>, S232571.</b>	(B257627; nonpublished opinion; Los Angeles County Superior Court; BA398784.)
<b>#16-250 <i>People v. Mariscal</i>, S234057.</b>	(B262278; nonpublished opinion; Los Angeles County Superior Court; SA078033.)
<b>#17-28 <i>People v. Windfield</i>, S238073.</b>	(E055062; 3 Cal.App.5th 739; San Bernardino County Superior Court; FVA900999.)
<b>#17-103 <i>People v. Garcia</i>, S239826.</b>	(B259708; nonpublished opinion; Los Angeles County Superior Court; YA080092.)
<b>#17-193 <i>People v. Escobar</i>, S241137.</b>	(B259309; nonpublished opinion; Los Angeles County Superior Court; TA127185.)
<b>#17-194 <i>People v. Miranda</i>, S240998.</b>	(B266817; nonpublished opinion; Los Angeles County Superior Court; KA107796.)
<b>#18-70 <i>People v. Esquivel</i>, S247832.</b>	(B269545; nonpublished opinion; Los Angeles County Superior Court; SA084395)
<b>#18-125 <i>People v Goins</i>, S249681.</b>	(B281831; nonpublished opinion; Los Angeles County Superior Court; GA09584)

The following cases were transferred for reconsideration in light of *FilmOn.com v. DoubleVerify, Inc.* (2019) 7 Cal.5th 133:

<b>#18-155 <i>Geiser v. Kuhns</i>, S251756.</b>	(B279738; nonpublished opinion; Los Angeles County Superior Court; BS161018, BS161019, BS161020)
<b>#18-170 <i>Serova v. Sony Music Entertainment</i>, S251822.</b>	(B280526; 26 Cal.App.5th 759; Los Angeles County Superior Court; BC548468)

The following case was transferred for reconsideration in light of Senate Bill No. 1437 (Stats. 2018, ch. 1015):

<i>#19-11 People v. Gray, S252222.</i>	(B282321; nonpublished opinion; Los Angeles County Superior Court; KA106735)
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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.*