



Supreme Court of California
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NEWS RELEASE

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FOR IMMEDIATE RELEASE

October 14, 2022

Summary of Cases Accepted and Related Actions During Week of October 10, 2022

[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.]

#22-263 *JJD-HOV Elk Grove, LLC v. Jo-Ann Stores, LLC*, S275843. (C094190; 80 Cal.App.5th 409; Sacramento County Superior Court; 34201900248163CUBCGDS.) Petition for review after the Court of Appeal affirmed the judgment in a civil action. This case presents the following issues: (1) What analytical framework should be applied in determining the enforceability of co-tenancy provisions in retail lease agreements? (2) Did the Court of Appeal correctly determine that the co-tenancy provision in this case is enforceable?

#22-264 *People v. Salazar*, S275788. (B309803; 80 Cal.App.5th 453; Ventura County Superior Court; 2018027995.) Petition for review after the Court of Appeal affirmed a judgment of conviction of criminal offenses. The court limited review to the following issue: Did the Court of Appeal err by finding the record clearly indicates the trial court would not have imposed a low term sentence if it had been fully aware of its discretion under newly-added subdivision (b)(6) of Penal Code section 1170? (See *People v. Gutierrez* (2014) 58 Cal.4th 1354, 1391.)

#22-265 *People v. Burnett*, S276254. (C095101; nonpublished opinion; Sacramento County Superior Court; 96F05901.) 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?

#22-266 *People v. Dunn*, S275655. (F083390; 81 Cal.App.5th 394; Madera County Superior Court; MCR063302.) Petition for review after the Court of Appeal affirmed a judgment of conviction of criminal offenses.

#22-267 *People v. Flowers*, S276237. (B312522; 81 Cal.App.5th 680; San Luis Obispo County Superior Court; 20F-02462.) Petition for review after the Court of Appeal affirmed a judgment of conviction of a criminal offense.

#22-268 *People v. Marzetta*, S276244. (C093766; nonpublished opinion; Sacramento County Superior Court; 19FE018634, 20FE004246.) Petition for review after the Court of Appeal affirmed a judgment of conviction of a criminal offense.

#22-269 *People v. Stiles*, S276173. (B311291; nonpublished opinion; San Luis Obispo County Superior Court; 19F-09422.) Petition for review after the Court of Appeal affirmed a judgment of conviction of criminal offenses.

#22-270 *People v. Walker*, S276220. (E077548; nonpublished opinion; Riverside County Superior Court; INF1402616.) Petition for review after the Court of Appeal affirmed a judgment of conviction of a criminal offense.

The court ordered briefing in *Dunn*, *Flowers*, *Marzetta*, *Stiles*, and *Walker* deferred pending decision in *People v. Lynch*, S274942 (#22-217), which presents the following issue: What prejudice standard applies on appeal when determining whether a case should be remanded for resentencing in light of newly-enacted Senate Bill No. 567 (Stats. 2021, ch. 731)?

#22-271 *In re G.A.*, S276056. (C094857; 81 Cal.App.5th 355; San Joaquin County Superior Court; STKJVDP20190000302.) Petition for review after the Court of Appeal affirmed in part orders in a juvenile court proceeding, and remanded with directions.

#22-272 *In re M.M.*, S276099. (B315997; 81 Cal.App.5th 61; Los Angeles County Superior Court; 19CCJP00228.) Petition for review after the Court of Appeal affirmed orders in a juvenile court proceeding.

#22-273 *In re R.T.*, S275866. (B315541; nonpublished opinion; Los Angeles County Superior court; 19CCJP05312.) Petition for review after the Court of Appeal affirmed orders in a juvenile court proceeding.

The court ordered briefing deferred in *In re G.A.*, *In re M.M.*, and *In re R.T.* pending decision in *In re Dezi C.*, S275578 (#22-254), which presents the following issue: What constitutes reversible error when a child welfare agency fails to make the statutorily required inquiry concerning a child's potential Indian ancestry?

#22-274 *People v. Lubrin*, S276249. (G060424; nonpublished opinion; Santa Clara County Superior Court; C1519377.) Petition for review after the Court of Appeal conditionally reversed and remanded judgments of conviction of a criminal offense. The court ordered briefing deferred pending decision in *In re Lopez*, S258912 (#20-15), which presents the following issues: (1) Does a true finding on a gang-killing special circumstance (Pen. Code, § 190.2, subd. (a)(22)) render *Chiu* error (*People v. Chiu* (2014) 59 Cal.4th 155) harmless? (2) To what extent or in what manner, if any, may a reviewing court consider the evidence in favor of a legally valid theory in assessing whether it is clear beyond a reasonable doubt that the jury based its verdict on the valid theory, when the record contains indications that the jury considered the invalid theory? (See *People v. Aledamat* (2019) 8 Cal.5th 1.)

DISPOSITIONS

The following cases were transferred for reconsideration in light of *People v. Lewis* (2021) 11 Cal.5th 952:

#21-417 <i>People v. Riley</i>, S269541	(B298450; nonpublished opinion; Los Angeles County Superior Court; NA079324)
#21-141 <i>People v. Tinsley</i>, S267087	(C089528; nonpublished opinion; San Joaquin County Superior Court; STKCRFE19940007582, SC058087A)
#20-282 <i>People v. Zepeda</i>, S264170	(B299071; nonpublished opinion; Los Angeles County Superior Court; PA066801)

The following cases were transferred for reconsideration in light of *People v. Strong* (2022) 13 Cal.5th 698 and *People v. Lewis* (2021) 11 Cal.5th 952:

#21-169 <i>People v. Wilson</i>, S267317	(B304453; nonpublished opinion; Los Angeles County Superior Court; NA057146)
#21-354 <i>People v. McLaughlin</i>, S269241	(E075089; nonpublished opinion; Riverside County Superior Court; CR42433)

The following case was transferred for reconsideration in light of Senate Bill No. 775 (Stats. 2021, ch. 551):

#20-403 <i>People v. Witherspoon</i>, S265710	(B303406; nonpublished opinion; Los Angeles County Superior Court; BA008291)
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Review in the following case, which was granted and held for *People v. Lewis* (2021) 11 Cal.5th 952, was dismissed:

#21-166 <i>People v. Jones</i>, S267179	(B304219; nonpublished opinion; Los Angeles County Superior Court; BA337608)
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Review in the following case, which was granted and held for *People v. Strong* (2022) 13 Cal.5th 698 and *People v. Lewis* (2021) 11 Cal.5th 952, was dismissed:

#20-165 <i>People v. Torres</i>, S262011	(B296179; 46 Cal.App.5th 1168; Los Angeles County Superior Court; BA189759)
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Review in the following case, which was granted and held for *People v. Strong* (2022) 13 Cal.5th 698, was dismissed:

#22-73 <i>People v. Mejorado</i>, S273159	(B308926; 73 Cal.App.5th 562; Los Angeles County Superior Court; TA079230)
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Review in the following cases, which were granted and held for *People v. Tran* (Aug. 29, 2022, S165998) ___ Cal.5th ___, was dismissed:

#22-220 <i>People v. Avendano</i>, S275083	(F079411; nonpublished opinion; Kern County Superior Court; BF167017A, BF167017B, BF167017C)
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#22-248 <i>People v. Casillas</i>, S275766	(B306934; nonpublished opinion; Los Angeles County Superior Court; KA098865)
#22-221 <i>People v. Castaneda</i>, S274689	(B307392, B310635; nonpublished opinion; Los Angeles County Superior Court; TA148781, TA148781)
#22-195 <i>People v. Gonzalez</i>, S274915	(G060374; nonpublished opinion; Santa Clara County Superior Court; C1634801)
#22-222 <i>People v. Gonzalez</i>, S275113	(H046836; nonpublished opinion; Santa Clara County Superior Court; 214496)
#22-196 <i>People v. Harper</i>, S274930	(A153332; nonpublished opinion; Contra Costa County Superior Court; 51617695)
#22-244 <i>People v. Pimentel</i>, S275378	(E071786; nonpublished opinion; San Bernardino County Superior Court; FSB1103091)
#22-239 <i>People v. Spicer</i>, S275141	(B308931; nonpublished opinion; Los Angeles County Superior Court; TA148753)
#22-232 <i>People v. Zaragoza</i>, S275101	(F080295; nonpublished opinion; Kings County Superior Court; 17CMS4395A)

STATUS

#22-194 *People v. Burgos*, S274743. The court ordered briefing in this case, in which briefing was previously deferred pending decision in *People v. Tran* (Aug. 29, 2022, S165998) ___ Cal.5th ___. The court limited review to the following issue: Does the provision of Penal Code section 1109 governing the bifurcation at trial of gang enhancements from the substantive offense or offenses apply retroactively to cases that are not yet final?

In the following cases, in which briefing was previously deferred pending decision in *People v. Tran* (Aug. 29, 2022, S165998) ___ Cal.5th ___, the court ordered briefing deferred pending decision in *People v. Burgos*, S274743 (22-194):

#22-193 <i>People v. Buchanan</i>, S274254	(B305671; nonpublished opinion; Los Angeles County Superior Court; BA464579)
#22-256 <i>People v. Herrera</i>, S275743	(B298686; nonpublished opinion; Los Angeles County Superior Court; VA140013)
#22-197 <i>People v. Jones</i>, S274606	(B306118; nonpublished opinion; Santa Barbara County Superior Court; 18CR06985)
#22-223 <i>People v. Perez</i>, S275089	(F080852; nonpublished opinion; Tulare County Superior Court; VCF361905A)
#22-230 <i>People v. Perez</i>, S275090	(B300396; 78 Cal.App.5th 192; Los Angeles County Superior Court; TA143448)
#22-215 <i>People v. Phenneger</i>, S274865	(F078550; nonpublished opinion; Kings County Superior Court; 15CM1278, 15CM3557E, 15CMS0662, 15CMS0679)
#22-231 <i>People v. Ramirez</i>, S275341	(H047847; 79 Cal.App.5th 48; Monterey County Superior Court; 17CR001723)

In the following case, in which briefing was previously deferred pending decision in *People v. Lewis* (2021) 11 Cal.5th 952, the court ordered briefing deferred pending decision in *People v. Curiel*, S272238 (#22-23):

#20-339 <i>People v. Cardenas,</i> S264713	(G058311; nonpublished opinion; Orange County Superior Court; 07CF2192)
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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.