



Supreme Court of California
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NEWS RELEASE

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FOR IMMEDIATE RELEASE

October 29, 2021

Summary of Cases Accepted and Related Actions During Week of October 25, 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.]

#21-508 *In re F.M., S270907.* (H048693; nonpublished opinion; Santa Cruz County Superior Court; 19JU00191.) Petition for review after the Court of Appeal modified and affirmed an order in a juvenile wardship proceeding. This case presents the following issue: Did the Court of Appeal err in ruling that the trial court adequately exercised its discretion to determine whether the juvenile's offenses were felonies or misdemeanors as required by Welfare and Institutions Code section 702 and *In re Manzy W.* (1997) 14 Cal.4th 1199?

#21-509 *People v. Reyes, S270723.* (G059251; nonpublished opinion; Orange County Superior Court; 04CF2780.) Petition for review after the Court of Appeal affirmed an order denying a post-judgment motion in a criminal matter. This case includes the following issue: Does substantial evidence support the superior court's finding that petitioner is ineligible for relief under Penal Code section 1170.95?

#21-510 *People v. Davis, S270932.* (E074748; nonpublished opinion; Riverside County Superior Court; ICR22535.) Petition for review after the Court of Appeal affirmed an order denying a post-judgment motion in a criminal matter.

#21-511 *People v. Dickson, S270971.* (C091152; nonpublished opinion; El Dorado County Superior Court; P03CRF0136.) Petition for review after the Court of Appeal affirmed an order denying a post-judgment motion in a criminal matter.

#21-512 *People v. Santos, S270979.* (B306738; nonpublished opinion; Los Angeles County Superior Court; BA124342.) Petition for review after the Court of Appeal reversed an order denying a post-judgment motion in a criminal matter.

The court ordered briefing in *Davis, Dickson, and Santos* 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?

#21-513 *In re Hernandez, S270972.* (F076752; nonpublished opinion; Kern County Superior Court; BF150639A, HC15330A.) Petition for review after the Court of Appeal affirmed an order denying a post-judgment motion in a criminal matter. The court ordered briefing deferred pending decision in *People v. Espinoza, S269647* (#21-453), which presents the following issue: Did the Court of Appeal err in ruling that defendant failed to adequately corroborate his claim that immigration consequences were a paramount concern and thus that he could not demonstrate prejudice within the meaning of Penal Code section 1473.7?

#21-514 *People v. Hernandez, S270663.* (C091247; nonpublished opinion; San Joaquin County Superior Court; STKCRFE20090008905.) Petition for review after the Court of Appeal reversed an order denying a post-judgment motion in a criminal matter.

#21-515 *People v. Soy, S270880.* (B307805; nonpublished opinion; Los Angeles County Superior Court; NA074870.) Petition for review after the Court of Appeal reversed an order denying a post-judgment motion in a criminal matter.

The court ordered briefing in *Hernandez* and *Soy* 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?

#21-516 *People v. Jimenez, S270925.* (H047776; nonpublished opinion; Santa Clara County Superior Court; CC272706.) Petition for review after the Court of Appeal dismissed an appeal from an order denying a post-judgment motion in a criminal matter.

#21-517 *People v. McDonough*, S270931. (C092461; nonpublished opinion; Nevada County Superior Court; SF07431.) 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 in *Jimenez* and *McDonough* 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?

#21-518 *People v. Smith*, S270943. (A159254; nonpublished opinion; Sonoma County Superior Court; SCR7228701.) 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. Aguayo*, S254554 (#19-47), which presents the following issues: (1) Is assault by means of force likely to produce great bodily injury a lesser included offense of assault with a deadly weapon? (See *People v. Aledamat* (2019) 7 Cal.5th 1, 16, fn. 5.) (2) If so, was defendant's conviction of assault by means of force likely to produce great bodily injury based on the same act or course of conduct as her conviction of assault with a deadly weapon?

DISPOSITIONS

#19-189 *People v. Moses*, S258143. The court ordered the cause severed as to defendant Aaron Moses, dismissed review as to Moses, and remanded with directions to issue the remittitur as to Moses alone.

Review in the following cases, which were granted and held for *People v. Lewis* (2021) 11 Cal.5th 952, was dismissed:

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| #20-82 <i>People v. Cornelius</i>, S260410. | (B296605; 44 Cal.App.5th 54; San Luis Obispo County Superior Court; F268843) |
| #21-27 <i>People v. Phan</i>, S265608. | (B301797; nonpublished opinion; Los Angeles County Superior Court; GA020922) |
| #21-30 <i>People v. Spillman</i>, S265644. | (H047057; nonpublished opinion; Monterey County Superior Court; SS03184) |
| #21-39 <i>People v. Jackson</i>, S265840. | (E073934; nonpublished opinion; San Bernardino County Superior Court; FSB1145) |

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| #21-78 <i>People v. Eads</i>, S266515. | (E074967; nonpublished opinion; Riverside County Superior Court; RIF102809) |
| #21-108 <i>People v. Carter</i>, S266593. | (A159196; nonpublished opinion; Solano County Superior Court; VCR165496) |
| #21-165 <i>People v. Huerta</i>, S267541. | (E074969; nonpublished opinion; San Bernardino County Superior Court; FVA07541) |
| #21-209 <i>People v. Demery</i>, S267180. | (B304487; nonpublished opinion; Los Angeles Superior Court; KA048444, KA149139) |
| #21-210 <i>People v. Harvey</i>, S267464. | (B304497; nonpublished opinion; Los Angeles County Superior Court; BA205676) |
| #21-211 <i>People v. Hayter</i>, S267392. | (A159002; nonpublished opinion; San Francisco Superior Court; SCN180847) |
| #21-347 <i>People v. Arcuri</i>, S267273. | (E075123; nonpublished opinion; Riverside County Superior Court; HEF004579) |
| #21-348 <i>People v. Bhushan</i>, S269129. | (A159917; nonpublished opinion; Alameda County Superior Court; C175094A) |

The following cases were transferred for reconsideration in light of Assembly Bill No. 1540 (Stats. 2021, ch. 719):

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| #21-344 <i>People v. Arnold</i>, S269172. | (B305073; nonpublished opinion; Los Angeles County Superior Court; GA077104) |
| #21-408 <i>People v. Wilson</i>, S269127. | (B305961; nonpublished opinion; Los Angeles County Superior Court; YA089874) |

STATUS

#21-36 *People v. Hernandez*, S265739. The court directed the parties to file supplemental briefs addressing the significance, if any, of Senate Bill No. 783 (Stats. 2021, ch. 728) to the issues presented in this case.

In the following cases, 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. Delgadillo*, S266305 (21-72):

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| #20-236 <i>People v. Windham</i>, S263030. | (H047278; nonpublished opinion; Monterey County Superior Court; MCR4493) |
| #20-240 <i>People v. Jones</i>, S263563. | (C090013; nonpublished order; San Joaquin County Superior Court; STKCRCNV19980016791) |
| #20-294 <i>People v. Cole</i>, S264278. | (B304329; 52 Cal.App.5th 1023; Los Angeles County Superior Court; NA061968) |
| #20-318 <i>People v. Grissom</i>, S264576. | (B303540; nonpublished opinion; Los Angeles County Superior Court; YA026000) |
| #20-324 <i>People v. Teague</i>, S264590. | (B303706; nonpublished opinion; Los Angeles County Superior Court; TA024803) |
| #21-43 <i>People v. Puebla</i>, S265851. | (B299620; nonpublished opinion; Los Angeles County Superior Court; PA028402) |
| #21-44 <i>People v. Ruiz</i>, S265797. | (B301477; nonpublished opinion; Los Angeles County Superior Court; BA232116) |
| #21-59 <i>People v. Taylor</i>, S265791. | (B306134; nonpublished opinion; Los Angeles County Superior Court; TA115410) |

In the following cases, 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. Strong*, S266606 (21-101):

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| #20-165 <i>People v. Torres</i>, S262011. | (B296179; 46 Cal.App.5th 1168; Los Angeles County Superior Court; BA189759) |
| #20-175 <i>People v. Law</i>, S262490. | (E072845; 48 Cal.App.5th 811; Riverside County Superior Court; RIF100589) |
| #20-192 <i>People v. Smith</i>, S262835. | (B298642; 49 Cal.App.5th 85; Los Angeles County Superior Court; BA042241) |
| #20-297 <i>People v. Galvan</i>, S264284. | (B300323; 52 Cal.App.5th 1134; Los Angeles County Superior Court; BA390560) |
| #20-298 <i>People v. Gomez</i>, S264033. | (D076101; 52 Cal.App.5th 1; Riverside County Superior Court; RIF128455) |
| #20-348 <i>People v. Murillo</i>, S264978. | (B297546; 54 Cal.App.5th 160; Los Angeles County Superior Court; LA010613) |

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| #20-351 <i>People v. York</i>, S264954. | (B298635; 54 Cal.App.5th 250; Los Angeles County Superior Court; BA042241) |
| #21-12 <i>People v. Nunez</i>, S265918. | (B299065; 57 Cal.App.5th 78; Los Angeles County Superior Court; YA068856) |
| #21-40 <i>People v. Jones</i>, S265854. | (E072961; 56 Cal.App.5th 474; Riverside County Superior Court; RIF74986) |

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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.