



Supreme Court of California
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NEWS RELEASE

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FOR IMMEDIATE RELEASE

November 12, 2021

Summary of Cases Accepted and Related Actions During Week of November 8, 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.]

#21-519 *Law Finance Group, LLC v. Key, S270798.* (B305790; 67 Cal.App.5th 307; Los Angeles County Superior Court; 19STCP04251.) Petition for review after the Court of Appeal reversed the judgment in a civil action. This case includes the following issue: Does equitable tolling apply to the 100-day deadline in Code of Civil Procedure section 1288.2 to serve and file a request to vacate an arbitration award in a response to a petition to confirm the award?

#21-520 *People v. Mumin, S271049.* (D076916; 68 Cal.App.5th 36; San Diego County Superior Court; SCD261780.) Petition for review after the Court of Appeal modified and affirmed a judgment of conviction of criminal offenses. The court limited review to the following issues: Did the trial court err by providing a kill zone instruction? Did the Court of Appeal apply the proper standard of review under *People v. Canizales* (2019) 7 Cal.5th 591 in holding the trial court did not err in providing the kill zone instruction?

#21-521 *Taking Offense v. State of California, S270535.* (C088485; 66 Cal.App.5th 696; Sacramento County Superior Court; 34201780002749CUWMGDS.) Petition for review after the Court of Appeal affirmed in part and reversed in part the judgment in an action for writ of administrative mandate. This case presents the following issue: Did the Court of Appeal err in declaring the provision of the Lesbian, Gay, Bisexual, and Transgender (LGBT) Long-Term Care Facility Residents' Bill of Rights (Health & Saf. Code, § 1439.51) that criminalizes the willful and repeated failure to use a resident's chosen name and pronouns unconstitutional on its face under the First Amendment?

#21-522 *Turner v. Victoria, S271054.* (D076318, D076336; 67 Cal.App.5th 1099; San Diego County Superior Court; 37-2017-00009873-PR-TR-CTL, 37-2018-00038613-CU-MC-CTL.) 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) Does a director or officer of a California nonprofit public benefit corporation who brings an action under Corporations Code sections 5142, 5223, and/or 5233 for breach of charitable trust and/or improper conduct by directors of the trust lose standing to continue litigating the claims if he or she does not remain a director during the litigation? (2) Does the “continuous ownership” requirement of Corporations Code section 5710 for shareholder derivative standing in the for-profit context apply to derivative standing of members of a nonprofit public benefit corporation?

#21-523 *People v. Blocker, S271141.* (B309642; nonpublished opinion; Los Angeles County Superior Court; YA018677.) Petition for review after the Court of Appeal affirmed an order denying a post-judgment motion in a criminal matter.

#21-524 *People v. Flowers, S271205.* (B301439; nonpublished opinion; Los Angeles County Superior Court; BA109227.) Petition for review after the Court of Appeal reversed an order denying a post-judgment motion in a criminal matter.

#21-525 *People v. Gallow, S271211.* (B300252; nonpublished opinion; Los Angeles County Superior Court; BA091853.) Petition for review after the Court of Appeal affirmed an order denying a post-judgment motion in a criminal matter.

#21-526 *People v. Maurtua, S271073.* (B301104; nonpublished opinion; Los Angeles County Superior Court; KA083187.) Petition for review after the Court of Appeal reversed an order denying a post-judgment motion in a criminal matter.

#21-527 *People v. Myers, S271142.* (B306667; nonpublished opinion; Los Angeles County Superior Court; NA061108.) 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 *Blocker, Flowers, Gallow, Maurtua, and Myers* 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?

#21-528 *People v. Brew, S271139.* (H047156; nonpublished opinion; Santa Clara County Superior Court; 206491.) 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?

#21-529 *People v. Lopez*, S271094. (B306060; nonpublished opinion; Los Angeles County Superior Court; BA460612.) Petition for review after the Court of Appeal affirmed a judgment of conviction of criminal offenses.

#21-530 *People v. Montes*, S271056. (F078875; nonpublished opinion; Kern County Superior Court; BF173257A.) Petition for review after the Court of Appeal affirmed in part and reversed in part a judgment of conviction of criminal offenses.

The court ordered briefing in *Lopez* and *Montes* deferred pending decision in *In re Vaquera*, S258376 (#19-195), which presents the following issues: (1) Did the Court of Appeal err by disagreeing with *People v. Jimenez* (2019) 35 Cal.App.5th 373 and endorsing as mandatory the sentencing practice prohibited in that case? (2) Is the Court of Appeal's decision incorrect under *People v. Mancebo* (2002) 27 Cal.4th 735? (3) Did the Court of Appeal err by failing to address petitioner's claims as to the issues of waiver and estoppel?

#21-531 *People v. Prudholme*, S271057. (E076007; nonpublished opinion; San Bernardino County Superior Court; FWV18004340.) 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. Hernandez*, S265739 (#21-36), which presents the following issues: (1) If a defendant's prior prison term enhancements are stricken under Senate Bill No. 136, does the remainder of the sentence agreed to under a plea agreement remain intact or must the case be remanded to allow the People to withdraw from the plea agreement and to obtain the trial court's approval (see *People v. Stamps* (2020) 9 Cal.5th 685)? (2) If the plea agreement is rescinded in light of Senate Bill No. 136, can the defendant be sentenced to a term longer than provided for in the original agreement?

#21-532 *People v. Rodriguez*, S270895. (D078183; 68 Cal.App.5th 584; San Diego County Superior Court; SCD276622.) 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. Braden*, S268925 (#21-345), which presents the following issue: What is the latest point at which a defendant may request mental health diversion under Penal Code section 1001.36?

SEPARATE STATEMENT ON DENIAL OF REVIEW

Haytasingsh v. City of San Diego, S270451. (D076228; 66 Cal.App.5th 429; San Diego County Superior Court; 37-2014-00082437-CU-PO-CTL.) Petition for review after the Court of Appeal reversed the judgment in a civil action.

DISPOSITIONS

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

#19-172 <i>People v. Lopez, S258175.</i>	(B271516; 38 Cal.App.5th 1087; Los Angeles County Superior Court; BA404685)
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Review in the following cases, which had been granted and held for *People v. Lewis* (2021) 11 Cal.5th 952, was dismissed:

#20-143 <i>People v. Morrison, S261627.</i>	(A156981; nonpublished opinion; Contra Costa County Superior Court; 16154)
#20-213 <i>People v. Tarkington, S263219.</i>	(B296331; 49 Cal.App.5th 892; Los Angeles County Superior Court; BA134487)

STATUS

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):

#20-319 <i>People v. Handwerk, S264507.</i>	(E072738; nonpublished opinion; Riverside County Superior Court; INF065236)
#20-342 <i>People v. Olson, S264322.</i>	(B300206; nonpublished opinion; Los Angeles County Superior Court; YA018677)
#20-383 <i>People v. Williams, S265368.</i>	(E072975; nonpublished opinion; Riverside County Superior Court; RIF088153)
#20-388 <i>People v. Benavidez, S265392.</i>	(E073092; nonpublished opinion; Riverside County Superior Court; INF065236)

#21-05 <i>People v. Baker</i>, S265564.	(E072712; nonpublished opinion; Riverside County Superior Court; CR56701)
#21-306 <i>People v. Fitzhugh</i>, S268714.	(C089261; nonpublished opinion; San Joaquin County Superior Court; STKCRFE20115309)

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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.