



Supreme Court of California  
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**NEWS RELEASE**

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**FOR IMMEDIATE RELEASE**

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## Summary of Cases Accepted and Related Actions During Week of November 22, 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.]*

**#21-536 *People v. Henderson*, S271346.** (C088883; 68 Cal.App.5th 709; Sacramento County Superior Court; 17FE008447.) 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. Tirado*, S257658 (#19-174), which presents the following issue: Can the trial court impose an enhancement under Penal Code section 12022.53, subdivision (b), for personal use of a firearm, or under section 12022.53, subdivision (c), for personal and intentional discharge of a firearm, as part of its authority under section 1385 and subdivision (h) of section 12022.53 to strike an enhancement under subdivision (d) for personal and intentional discharge of a firearm resulting in death or great bodily injury, even if the lesser enhancements were not charged in the information or indictment and were not submitted to the jury?

**#21-537 *People v. Marsh*, S271345.** (C088553; nonpublished opinion; Yolo County Superior Court; CRF132418.) Petition for review after the Court of Appeal dismissed an appeal from a reinstated judgment of conviction of a criminal offense. The court ordered briefing deferred pending decision in *People v. Federico*, S263082 (#20-231), which 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? and pending decision in *People v. Padilla*, S263375 (#20-232), which 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?

**#21-538 *People v. Ortega*, S271437.** (F080017; nonpublished opinion; Fresno County Superior Court; CF02902077.) 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. 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?

**#21-539 *Rodas v. Department of Transportation*, S270762.** (D078581, D078583; nonpublished opinion; Santa Clara County Superior Court; CV267867.) Petition for review after the Court of Appeal affirmed in part and reversed in part the judgment in a civil action. The court ordered briefing deferred pending decision in *Tansavatdi v. City of Rancho Palos Verdes*, S267453 (#21-185), which presents the following issue: Can a public entity be held liable under Government Code section 830.8 for failure to warn of an allegedly dangerous design of public property if the design itself is entitled to immunity under Government Code section 830.6?

#### DISPOSITIONS

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

<b>#21-01 <i>People v. Duke</i>, S265309.</b>	(B300430; 55 Cal.App.5th 113; Los Angeles County Superior Court; MA057733)
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Review in the following cases, which were granted and held for *People v. Lewis* (2021) 11 Cal.5th 952, was dismissed:

<b>#20-184 <i>People v. Lee</i>, S262459.</b>	(B297928; 49 Cal.App.5th 254; Los Angeles County Superior Court; BA079332)
<b>#20-397 <i>People v. Anderson</i>, S265771.</b>	(A156857; nonpublished opinion; Alameda County Superior Court; 114102A)
<b>#20-398 <i>People v. Calhoun</i>, S265523.</b>	(B296956; nonpublished opinion; Los Angeles County Superior Court; TA073433)
<b>#21-82 <i>People v. Swanson</i>, S266262.</b>	(B299638; 57 Cal.App.5th 604; Los Angeles County Superior Court; NA015162)

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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.*