



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 December 12, 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.]*

**#22-305 *People v. Mitchell*, S277314.** (A163476; 83 Cal.App.5th 1051; Mendocino County Superior Court; SCUKCR2021373081.) Petition for review after the Court of Appeal affirmed a judgment of conviction of criminal offenses. This case presents the following issue: Does Senate Bill No. 567 (Stats. 2021, ch. 731), which limits a trial court's discretion to impose upper term sentences, apply retroactively to defendants sentenced pursuant to stipulated plea agreements?

**#22-306 *People v. Boukes*, S277103.** (E077058; 83 Cal.App.5th 937; Riverside County Superior Court; BAF1600917.) Petition for review after the Court of Appeal affirmed in part and reversed in part a judgment of conviction of criminal offenses and remanded for further proceedings.

**#22-307 *People v. Perez*, S276997.** (E060438; nonpublished opinion; San Bernardino County Superior Court; FVI901482.) Petitions for review after the Court of Appeal affirmed in part and reversed in part judgments of conviction of criminal offenses and remanded for further proceedings.

The court ordered briefing in *Boukes* and *Perez* deferred pending decision in *People v. Burgos*, S274743 (#22-194), which presents 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?

**#22-308 *People v. Green*, S277265.** (C094752; nonpublished opinion; Yuba County Superior Court; CRF202660.) Petition for review after the Court of Appeal modified and affirmed a judgment of conviction of criminal offenses.

**#22-309 *People v. Lebus*, S277118.** (B317046; nonpublished opinion; Los Angeles County Superior Court; VA144354.) Petition for review after the Court of Appeal remanded for resentencing and otherwise affirmed a judgment of conviction of criminal offenses.

**#22-310 *People v. Waller*, S277228.** (C093431; nonpublished opinion; Sacramento County Superior Court; 18FE018342.) Petition for review after the Court of Appeal modified and affirmed a judgment of conviction of criminal offenses.

The court ordered briefing in *Green*, *Lebus*, and *Waller* 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)?

**#22-311 *People v. Johnson*, S277196.** (C094491; 83 Cal.App.5th 1074; Sacramento County Superior Court; 02F05812.) Petition for review after the Court of Appeal remanded for resentencing and otherwise affirmed a judgment of conviction of criminal offenses. The court ordered briefing deferred pending decision in *People v. McDavid*, S275940 (#22-261), which presents the following issue: Does the trial court have discretion to strike a firearm enhancement imposed pursuant to Penal Code section 12022.53 and instead impose a lesser uncharged firearm enhancement pursuant to a different statute (Pen. Code, § 12022.5)?

**#22-312 *People v. Mbugua*, S276914.** (B314153; nonpublished opinion; Los Angeles County Superior Court; A774712.) 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?

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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.*