



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 21, 2020

*[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.]*

**#20-387 *People v. Henderson*, S265172.** (B298366; 54 Cal.App.5th 612; Los Angeles County Superior Court; BA437882.) Petition for review after the Court of Appeal affirmed a judgment of conviction of criminal offenses. The court limited review to the following issue: Does the Three Strikes law (Pen. Code, §§ 667, subd. (c)(6) & (7), 1170.12, subd. (a)(6) & (7)) require consecutive terms on multiple current violent or serious felony convictions, regardless of whether the offenses occurred on the same occasion or arose from the same set of operative facts?

**#20-388 *People v. Benavidez*, S265392.** (E073092; nonpublished opinion; Riverside County Superior Court; INF065236.) Petition for review after the Court of Appeal affirmed an order denying a post-judgment motion in a criminal matter.

**#20-389 *People v. McGowan*, S265339.** (B300245; nonpublished opinion; Los Angeles County Superior Court; BA025262.) Petition for review after the Court of Appeal affirmed an order denying a post-judgment motion in a criminal matter.

**#20-390 *People v. Parker*, S265613.** (A159440; nonpublished opinion; Sonoma County Superior Court; SCR654799.) 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 *Benavides*, *McGowan*, and *Parker* deferred pending decision in *People v. Lewis*, S260598 (#20-78), which presents the following issues: (1) May superior courts consider the record of conviction in determining whether a defendant has made a prima facie showing of eligibility for relief under Penal Code

section 1170.95? (2) When does the right to appointed counsel arise under Penal Code section 1170.95, subdivision (c)?

**#20-391 *People v. Herrera*, S265322.** (B298686; nonpublished opinion; Los Angeles County Superior Court; VA140013.) Petition for review after the Court of Appeal affirmed a judgment of conviction of criminal offenses.

**#20-392 *People v. Wohlfeil*, S265584.** (E072752; nonpublished opinion; Riverside County Superior Court; SWF1707381.) Petition for review after the Court of Appeal affirmed a judgment of conviction of criminal offenses.

The court ordered briefing in *Herrera* and *Wohlfeil* 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?

**#20-393 *In re Jackson*, S265676.** (E072464; nonpublished opinion; San Bernardino County Superior Court; FSB11452, WHCJS1800321.) Petition for review after the Court of Appeal granted relief on a petition for writ of habeas corpus. The court ordered briefing deferred pending decision in *In re Milton*, S259954 (#20-64), which presents the following issue: Do the limitations of *People v. Gallardo* (2017) 4 Cal.5th 120 on judicial fact-finding concerning the basis for a prior conviction apply retroactively to final judgments? (Compare *In re Milton* (2019) 42 Cal.App.5th 977 with *In re Brown* (2020) 45 Cal.App.5th 699.)

**#20-394 *People v. Keshishian*, S265593.** (D076284; nonpublished opinion; Imperial County Superior Court; JCF30252.) 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. Raybon*, S256978 (#19-121), which presents the following issue: Did Proposition 64 [the “Adult Use of Marijuana Act”] decriminalize the possession of up to 28.5 grams of marijuana by adults 21 years of age or older who are in state prison [as well as those not in prison]?

**#20-395 *People v. Montes*, S265524.** (G058526; nonpublished opinion; Orange County Superior Court; 97CF0404.) 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. Lopez*, S258175 (#19-172), which presents the

following issues: (1) Does Senate Bill No. 1437 (Stats. 2018, ch. 1015) apply to attempted murder liability under the natural and probable consequences doctrine? (2) In order to convict an aider and abettor of attempted willful, deliberate and premeditated murder under the natural and probable consequences doctrine, must a premeditated attempt to murder have been a natural and probable consequence of the target offense? In other words, should *People v. Favor* (2012) 54 Cal.4th 868 be reconsidered in light of *Alleyne v. United States* (2013) 570 U.S. 99 and *People v. Chiu* (2014) 59 Cal.4th 155?

## DISPOSITIONS

*People v. Franklin*, S236589, an automatic appeal, was abated upon the death of the appellant.

Review in the following case, which had been granted and held for *B.B. v. County of Los Angeles* (2020) 10 Cal.5th 1, was dismissed:

<b>#19-79 <i>Burch v. CertainTeed Corp.</i>, S255969.</b>	(A151633, A152252, A153624; 34 Cal.App.5th 341; Alameda County Superior Court; RG16819332)
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Review in the following case, which had been granted and held for *O.G. v. Superior Court*, S250911 (#19-190), was dismissed in light of the request of the Los Angeles County District Attorney's Office to withdraw the petition for review:

<b>#20-55 <i>Narith S. v. Superior Court</i>, S260090.</b>	(B296384; 42 Cal.App.5th 1131; Los Angeles County Superior Court; NJ39093, NA101252)
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## STATUS

**#20-379 *Conyer v. Hula Media Services, LLC*, S264821.** The court ordered the issues to be briefed and argued in this case limited to the following: Did the Court of Appeal err by severing unconscionable terms from the arbitration agreement and ordering the agreement enforced? Did it err by doing so without determining whether the invalid provisions were included in the agreement in bad faith? (See *Armendariz v. Foundation Health Psychcare Services, Inc.* (2000) 24 Cal.4th 83, 124–125, fn. 13.)

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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.*