



NEWS

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SUMMARY OF CASES ACCEPTED DURING THE WEEK OF JANUARY 12, 2004

[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 description or descriptions set out below do not necessarily reflect the view of the court, or define the specific issues that will be addressed by the court.]

#04-01 *Claremont Police Officers Assn. v. City of Claremont*, S120546.

(B163219; 112 Cal.App.4th 639; Los Angeles County Superior Court; KS007219.)

Petition for review after the Court of Appeal reversed the judgment in an action for writ of administrative mandate. This case presents the following issues: (1) Under what circumstances, if any, does a public agency's duty under the *Meyers-Milias-Brown Act* (Gov. Code, § 3500 et seq.) to meet and confer with a recognized employee organization before making changes to working conditions apply to actions *implementing* a fundamental management or policy decision where the *adoption* of that decision was exempt under Government Code section 3504? (2) In particular, did the city have a duty to meet and confer before implementing the Vehicle Stop Data Policy at issue in this case?

#04-02 *People v. Garza*, S120551. (H024041; 112 Cal.App.4th 655; Santa Clara County Superior Court; CC095672.) Petition for review after the Court of Appeal affirmed in part and reversed in part a judgment of conviction of criminal offenses. This case presents the following issue: Can a defendant be convicted both of (1) unlawfully *taking or driving* a vehicle in violation of Vehicle Code section 10851 and (2) *receiving* that same vehicle as stolen property in violation of Penal Code section 496?

(over)

#04-03 *People v. Sorden*, S120677. (A099674; unpublished opinion; San Mateo County Superior Court; SC-050781.) Petition for review after the Court of Appeal reversed a judgment of conviction of a criminal offense. This case presents the following issue: When a defendant is charged with the felony offense of “willfully” failing to register as a sex offender (Pen. Code, § 290), does the defendant’s unintentional forgetting of the obligation to register constitute a defense to the charge?

#04-04 *State of California ex rel. Rono, LLC v. Altus Finance S.A.*, S119046. (9th Cir. No. 01-08587; 344 F.3d 920; Central District of California; CV 01-8587-AHM(CWX).) Request under California Rules of Court, rule 29.8, that this court decide a question of California law presented in a matter pending in the United States Court of Appeals for the Ninth Circuit. The questions presented are: “(1) Can the Attorney General pursue civil remedies, under the California False Claims Act [(Gov. Code, § 12650 et seq.)] and the California Unfair Competition Law [(Bus. & Prof. Code, § 17200 et seq.)], concerning assets of an insolvent insurance company for which the Insurance Commissioner is acting as conservatory or liquidator, or does the California Insurance Code, particularly section 1037, give exclusive authority to the Insurance Commissioner to bring civil actions? (2) Do assets to which the California Insurance Commissioner acquires title from an insolvent insurance company under California Insurance Code section 1101 constitute ‘state funds’ within the meaning of the California False Claims Act [(Gov. Code, § 12650, subd. (b)(1))]?”

#04-05 *Avila v. Jado Properties, Inc.*, S120396. (B153932; 112 Cal.App.4th 405; Los Angeles County Superior Court; BC228365.) 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 *Delgado v. Trax Bar & Grill*, S117287 (#03-109), which presents the following issue: Does a tavern owner who voluntarily provides security guards to monitor the tavern’s parking lot and control patron behavior thereby assume the duty to protect patrons from assault by others in the parking lot, or is the existence of such a duty still subject to the foreseeability analysis of *Ann M. v. Pacific Plaza Shopping Center* (1993) 6 Cal.4th 666?

#04-06 *People v. Cantu*, S120585. (H024717; 112 Cal.App.4th 729; San Benito County Superior Court; CRF01-41306.) 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. Canty*, S109537 (#02-167), which presents the following issue: Was defendant entitled to have the disposition of her conviction for transportation of a controlled substance set in accordance with the provisions of the Substance Abuse and Crime Prevention Act of 2000 (Prop. 36, General Elec. (Nov. 7, 2000)), or was that enactment inapplicable because defendant was also convicted of misdemeanor driving under the influence of a controlled substance? (See Pen. Code, § 1210.1, subd. (b)(2).)

DISPOSITIONS

The following cases were dismissed and remanded to the Court of Appeal:

#02-103 *People v. Black*, S106428.

#01-130 *People v. Hardiman*, S099287.

#02-104 *People v. Henke*, S106477.

#03-116 *People v. Stancil*, S117931.

The following cases were transferred to the Court of Appeal for reconsideration in light of *People v. Sanders* (2003) 31 Cal.4th 318:

#02-121 *People v. Bowers*, S107318.

#03-71 *People v. Casian*, S114697.

#01-67 *People v. Daniel*, S096485.

#02-129 *People v. DeLeon*, S107720.

#03-87 *People v. Hill*, S115525.

#02-130 *People v. Hollis*, S107783.

#02-140 *People v. Lazalde*, S108136.

#02-201 *People v. Newman*, S111133.

#01-100 *People v. Perry*, S098277.

The following cases were transferred to the Court of Appeal for reconsideration in light of *People v. Sanders* (2003) 31 Cal.4th 318 and *Maryland v. Pringle* (Dec. 15, 2003, No. 02-809) __ U.S. __ [124 S.Ct. 795]:

#02-40 *People v. Hanks*, S102982.

#02-41 *People v. Hester*, S102961.

STATUS

#03-145 *People v. Athar*, S119975. In this case in which review was previously granted, the court ordered briefing limited to the following issue: Can an enhancement be imposed under Penal Code section 186.10, subdivision (c), for “money laundering” a sum exceeding a specified dollar amount, where the defendant was not convicted of money laundering under section 186.10, subdivision (a), but instead was convicted only of conspiracy to commit money laundering?

#03-146 *People v. Ault*, S119948. In this case in which review was previously granted, the court ordered briefing limited to the following issue: What is the proper standard of review when the People appeal an order granting a motion for a new trial due to juror misconduct?

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