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NEWS RELEASE

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Summary of Cases Accepted During the Week of March 28, 2005

[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.]

#05-75 *People v. Dominguez*, S130860. (H022727; 124 Cal.App.4th 1270, mod. 125 Cal.App.4th 699b; San Benito County Superior Court; CRF99-37033.) Petition for review after the Court of Appeal affirmed in part and reversed in part a judgment of conviction of criminal offenses. This case includes the following issues: (1) Did the trial court adequately instruct the jury with respect to the liability of an aider and abettor for felony murder under the principles of *People v. Cavitt* (2004) 33 Cal.4th 187? (2) Was the evidence sufficient to establish the asportation element of aggravated kidnapping for the purpose of rape? (3) Did the trial court have a sua sponte duty to instruct the jury pursuant to *People v. Mayberry* (1975) 15 Cal.3d 143 with respect to a reasonable and good faith belief the victim had consented to engage in sexual intercourse?

#05-75 *People v. Watson*, S131052. (B172763; 125 Cal.App.4th 700; San Luis Obispo County Superior Court; F340614.) Petition for review after the Court of Appeal reversed a judgment of conviction of a criminal offense. This case presents the following issue: Is a state prison inmate who has been transferred to a state hospital for mental health treatment (see Pen. Code, § 2684) a person who is “confined in a state prison” for the purpose of such offenses as battery by a person confined in state prison upon a non-confined person in violation of Penal Code section 4501.5? (See Pen. Code, § 4504.)

#05-77 *People v. Lamont*, S131308. (G032369; 124 Cal.App.4th 404; Orange County Superior Court; 02NF1341.) Petition for review after the Court of Appeal reversed a judgment of conviction of criminal offenses. The court ordered briefing deferred pending decision in *People v.*

Brendlin, S123133 (#04-31), and *People v. Saunders*, S122744 (#04-32), which include one or more of the following issues: (1) When a car is subjected to a traffic stop, is a passenger in the car “seized” or “detained” within the meaning of the Fourth Amendment, so that the passenger may challenge the validity of the traffic stop in contesting the admissibility of evidence obtained from the passenger after the stop? (2) May a car that has expired registration tags but that also has a temporary registration permit be legally stopped to investigate the validity of the temporary permit? (3) Can a parolee subject to a search condition challenge his detention as invalid if police were not aware he was on parole at the time they detained him?

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