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# NEWS RELEASE

Release Number: **S.C. 15/08**

Release Date: **April 11, 2008**

## Summary of Cases Accepted During the Week of April 7, 2008

*[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.]*

**#08-65 *In re Pope*, S160930.** (C051564; 158 Cal.App.4th 860; Sacramento County Superior Court; 05F05526.) Petition for review after the Court of Appeal vacated an order granting a petition for writ of habeas corpus. This case presents the following issue: Does Penal Code section 2933.1, which limits to 15 percent the worktime credits a defendant convicted of a violent felony can earn, apply if the sentence on the violent felony was stayed under Penal Code section 654?

**#08-66 *People v. Lawrence*, S160736.** (B193831; 158 Cal.App.4th 685; Los Angeles County Superior Court; BA284590.) Petition for review after the Court of Appeal reversed a judgment of conviction of criminal offenses. This case presents the following issues: (1) Did the trial court abuse its discretion by denying a self-represented defendant's requests for appointment of counsel prior to opening argument? (2) Is the erroneous denial of a motion for reappointment of counsel made after the commencement of trial automatically reversible as structural error?

**#08-67 *People v. Dean*, S160418.** (A115164; 158 Cal.App.4th 377; Contra Costa County Superior Court; 050519372.) Petition for review after the Court of Appeal reversed a judgment of conviction of criminal offenses. The court ordered briefing deferred pending decision in *In re Raymond C.*, S149728 (#07-105), and *People v. Hernandez*, S150038 (#07-106), which present the following issue: If a police officer sees that a motor vehicle lacks a rear or both license plates, may the officer make a traffic stop to determine if the vehicle has a temporary permit or if a displayed temporary permit is a valid one?

**#08-68 *People v. McFearson*, S160601.** (F051882; 158 Cal.App.4th 810; Kern County Superior Court; BF114516A.) Petition for review after the Court of Appeal reversed in part and affirmed in part a judgment of conviction of criminal offenses. The court ordered briefing deferred pending decision in *People v. Gonzalez*, S149898 (#07-86), which presents the following issue: When separate firearm enhancements under Penal Code section 12022.5 and subdivisions (b), (c), and/or (d) of section 12022.53 are found true and the longest enhancement is imposed, should the lesser enhancements be stricken, stayed or simply not imposed at all?

**#08-69 *Quihuis v. City of Los Angeles*, S161544.** (B196367; 159 Cal.App.4th 443, mod. 159 Cal.App.4th 1510f; Los Angeles County Superior Court; BS096271.) Petition for review after the Court of Appeal reversed the judgment in an action for writ of administrative mandate. The court ordered briefing deferred pending decision in *Mays v. City of Los Angeles*, S149455 (#07-87), which presents the following issue: Does the Public Safety Officers' Procedural Bill of Rights Act (Gov. Code, § 3300 et seq.) require that an officer facing discipline be provided with notice of both the alleged offense of which he or she is accused *and* the potential punishment within one year of discovery of the alleged misconduct?

**#08-70 *People v. Rodriguez*, S160514.** (B194159; nonpublished opinion; Los Angeles County Superior Court; BA295740.) 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. Towne*, S125677 (#04-75), and *People v. Nguyen*, S154847 (#07-416), which present issues concerning the use as aggravating sentencing of such factors as being on probation or parole when a crime was committed and prior unsatisfactory performance on probation or parole, and whether a prior juvenile adjudication of a criminal offense in California can constitutionally subject a defendant to the provisions of the three strikes law (Pen. Code, §§ 667, subds. (b)-(i), 1170.12) although there is no right to a jury trial in juvenile wardship proceedings in this state.

**#08-71 *People v. Smith*, S160467.** (A112647; nonpublished opinion; San Francisco County Superior Court; 2187358.) 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. Towne*, S125677 (#04-75), which presents issues concerning the use as aggravating sentencing of such factors as being on probation or parole when a crime was committed and prior unsatisfactory performance on probation or parole.

## **DISPOSITION**

The following case was transferred for reconsideration in light of *People v. Alford* (2007) 42 Cal.4th 749:

**#06-53 *People v. Carmichael*, S141415.**

## **STATUS**

**#06-26 *People v. Cross*, S139791.** The court directed the parties to file simultaneous letter briefs directed to the following questions: (1) If a general verdict could have rested on two theories, one of which described a legally invalid theory of liability and one of which described a legally valid theory of liability, can the error in the instructions be deemed harmless if it is “clear beyond a reasonable doubt that a rational jury would have found the defendant guilty absent the error”? (*Neder v. United States* (1999) 527 U.S. 1, 18; see *People v. Guiton* (1993) 4 Cal.4th 1116, 1130-1131; *Chrones v. Pulido*, No. 07-544, cert. granted Feb. 25, 2008.) (2) If so, was any error in the instructions harmless in this case?

**#06-135 *Cable Connection, Inc. v. DIRECTV, Inc.*, S147767.** The court vacated submission of this matter for the purpose of obtaining supplemental briefing and specified that the matter will be deemed resubmitted upon filing of the supplemental reply briefs. (See Cal. Rules of Court, rule 8.524(h).) The court directed the parties to serve and file simultaneous letter briefs addressing the following questions: (1) In view of the specification in the parties’ contract that “any arbitration conducted hereunder shall be governed by the United States Arbitration Act,” are the proceedings for judicial review of the arbitration award governed by the Federal Arbitration Act, or the California Arbitration Act? (2) If the California act applies, how should the United States Supreme Court’s decision in *Hall Street Associates, LLC v. Mattel, Inc.* (March 25, 2008, 06-989) \_\_U.S.\_\_ [2008 WL 762537] affect the court’s determination of whether a contract provision for review of legal error is enforceable? (3) If review for legal error is permissible, did the arbitrators violate the AAA rule against “consider[ing] the existence of these Supplementary Rules, or any other AAA rules, to be a factor either in favor of or against permitting the arbitration to proceed on a class basis,” as DIRECTV argued for the first time in this court in its reply brief? (AAA, Supplementary Rules for Class Arbitrations (Oct. 2003) rule 3.)

**#08-31 *People v. Stevens*, S158852.** The court ordered the issues to be briefed and argued limited to the following issue: Did the trial court abuse its discretion in requiring a uniformed, armed deputy sheriff to sit immediately beside defendant during his testimony?