



NEWS

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SUMMARY OF CASES ACCEPTED DURING THE WEEK OF JULY 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.]

#04-74 *People v. Moore*, S125314. (E032142; unpublished opinion; San Bernardino County Superior Court; FSB022611.) Petition for review after the Court of Appeal affirmed a judgment of conviction of a criminal offense. This case presents the following issue: When the trial court hearing on a defendant's motion to suppress evidence preceded this court's decision in *People v. Sanders* (2003) 31 Cal.4th 418 and the record does not reveal whether or not the police were aware of defendant's parole condition at the time of the search, should an appellate court simply reverse defendant's conviction or should it remand the matter to the trial court for a new suppression hearing?

#04-75 *People v. Towne*, S125677. (B166312; unpublished opinion; Los Angeles County Superior Court; PA040926.) Petition for review after the Court of Appeal affirmed a judgment of conviction of a criminal offense. This case presents the following issues: (1) Can a trial court use facts relating to counts on which a defendant was found not guilty as aggravating factors in determining the appropriate sentence? (2) Does *Blakely v. Washington* (2004) __ U.S. __, 124 S.Ct. 2531, preclude a trial court from making findings on aggravating factors in support of an upper term sentence? (3) If so, what prejudicial error standard applies, and was the error in this case prejudicial?

(over)

#04-76 *Powers v. The Rug Barn*, S125046. (E033920; 117 Cal.App.4th 1011; Riverside County Superior Court; INC019331.) Petition for review after the Court of Appeal affirmed the judgment in a civil action. The court ordered briefing deferred pending decision in *Reeves v. Hanlon*, S114811 (#03-79), which includes the following issue: May a third party be held liable to an employer for tortious interference with contractual relations, when the contractual relationship that allegedly has been interfered with is an at-will employment relationship between the employer and its employee or employees?

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