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# NEWS RELEASE

Release Number: **S.C. 30/06**

Release Date: **July 31, 2006**

## Summary of Cases Accepted During the Week of July 24, 2006

*[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.]*

**#06-81 *In re Lino B.*, S144112.** (C050274; 138 Cal.App.4th 1474; Sacramento County Superior Court; JV119460.) Petition for review after the Court of Appeal affirmed orders in a wardship proceeding. This case presents the following issues: (1) Did the trial court err in imposing a probation term that exceeded the maximum term of probation permitted by Welfare and Institutions Code, section 725, subdivision (a)? (2) Is petitioner estopped from challenging the length of the probation term because he stipulated to it?

**#06-82 *Olson v. Automobile Club of Southern California*, S143999.** (B168730; 139 Cal.App.4th 552; Los Angeles County Superior Court; BC244326.) Petition for review after the Court of Appeal modified and affirmed the judgment in a civil action. The court limited review to the following issue: Is a prevailing plaintiff who is awarded attorney's fees under the private attorney general statute (Civ. Code, § 1021.5) entitled to recover expert witness fees?

**#06-83 *McQuarters v. Superior Court*, S143777.** (A112669; 138 Cal.App.4th 1357; Alameda County Superior Court; 88-30355.) Petition for review after the Court of Appeal granted a petition for peremptory writ of mandate. The court ordered briefing deferred pending decision in *People v. Allen*, S141913 (#06-57), which presents the following issue: Does a trial court have jurisdiction to extend the commitment of a

(over)

mentally disordered offender if the petition to extend the commitment was not filed until after the prior commitment had expired? (See Pen. Code, § 2972, subd. (e).)

**#06-84 *In re Michael R.*, S143293.** (F048706; unpublished opinion; Tulare County Superior Court; JJD04-58932.) Petition for review after the Court of Appeal affirmed orders in a wardship proceeding. The court ordered briefing deferred pending decision in *People v. Kelly*, S133114 (#05-118), which presents the following issues: (1) Does article VI, section 14, of the California Constitution, which provides that “[d]ecisions of the Supreme Court and courts of appeal that determine causes shall be in writing with reasons stated,” set the same standard for a criminal appeal in which defense counsel files a brief pursuant to *People v. Wende* (1979) 25 Cal.3d 436 raising no issue and defendant submits written argument on his own behalf as the standard that applies to a criminal appeal in which one or more specific claims of error is raised by defense counsel? (2) Did the Court of Appeal opinion in this case satisfy the requirements of article VI, section 14?

**#06-85 *People v. Sanchez*, S143771.** (B180113; 138 Cal.App.4th 1085; Los Angeles County Superior Court; KA065072.) 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. Cage*, S127344 (#04-111), which includes the following issue: Are all statements made by an ostensible crime victim to a police officer in response to general investigative questioning “testimonial hearsay” within the meaning of *Crawford v. Washington* (2004) 541 U.S. 36, and inadmissible in the absence of an opportunity to cross-examine the declarant, or does “testimonial hearsay” include only statements made in response to a formal interview at a police station?

**#06-86 *Toys “R” Us, Inc. v. Franchise Tax Bd.*, S143422.** (C045386; 138 Cal.App.4th 339, mod. 138 Cal.App.4th 1285a; Sacramento County Superior Court; 01AS04316.) Petition for review after the Court of Appeal affirmed the judgment in a civil action. The court ordered briefing deferred pending decision in *General Motors Corp. v. Franchise Tax Bd.*, S127086 (#04-113), and *Microsoft Corp. v. Franchise Tax Bd.*, S133343 (#05-120), which include the following issues: (1) In calculating the proportion of a unitary business group’s income that is subject to California income tax under the Uniform Division of Income for Tax Purposes Act (Rev. & Tax. Code, § 251310 et seq.), are the “gross receipts” of sales of securities measured by the total sales price (including return of principal) or the net proceeds (not including return of principal)? (2) If “gross receipts” includes the return of principal, can the Franchise Tax Board exclude that amount in order to effect an equitable apportionment that fairly represents the taxpayer’s business activity in California?