



JUDICIAL COUNCIL OF
CALIFORNIA
ADMINISTRATIVE OFFICE
OF THE COURTS
Public Information Office
455 Golden Gate Avenue
San Francisco, CA 94102-3688
www.courtinfo.ca.gov

415-865-7740

Lynn Holton
Public Information Officer

NEWS RELEASE

Release Number: **S.C. 33/07**

Release Date: **August 17, 2007**

Summary of Cases Accepted During the Week of August 13, 2007

[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.]

#07-363 *Ameron Internat. Corp. v. Insurance Co. of the State of Pennsylvania, S153852.* (A109755; 150 Cal.App.4th 1050; San Francisco County Superior Court; 419929.) Petition for review after the Court of Appeal affirmed in part and reversed in part a judgment on the pleadings in a civil action. This case presents the following issue: Does a proceeding before the United States Department of the Interior Board of Contract Appeals constitute a “suit” such as to trigger insurance coverage under a commercial general liability policy?

#07-364 *People v. Chavez, S153920.* (B190270; 150 Cal.App.4th 1288; Los Angeles County Superior Court; VA092864.) Petition for review after the Court of Appeal modified and affirmed a judgment of conviction of a criminal offense. This case presents the following issues: (1) Is the amount of the state court construction penalty under Government Code section 70372, subdivision (a) reduced under Government Code section 70375 by amounts collected for the local courthouse construction fund (Gov. Code § 76100) or is only the amount transmitted to the state under Government Code section 70372, subdivision (f) so reduced? (2) Did the trial court properly deny defendant’s motion to strike a prior serious felony conviction allegation for purposes of sentencing (see *People v. Superior Court (Romero)* (1996) 13 Cal.4th 497)?

#07-365 *McDonald v. Antelope Valley Community College Dist., S153964.* (B188077; 151 Cal.App.4th 961; Los Angeles County Superior Court; BC304873.) Petition for review after the Court of Appeal affirmed in part and reversed in part a summary judgment in a

civil action. The court limited review to the following issue: In an employment discrimination action, is the one year statute of limitations for filing an administrative complaint with the Department of Fair Employment and Housing set forth in Government Code section 12960 subject to equitable tolling while the employee pursues an internal administrative remedy, such as a complaint with the community college chancellor filed pursuant to California Code of Regulations, title 5, section 59300 et seq.?

#07-366 *Meyer v. Sprint Spectrum, L.P.*, S153846. (G037375; 150 Cal.App.4th 1136; Orange County Superior Court; 04CC06254.) Petition for review after the Court of Appeal affirmed a judgment of dismissal of a civil action. This case presents the following issues: (1) Has a person suffered “damage” within the meaning of the Consumer Legal Remedies Act (Civil Code, § 1780, subd. (a)), such as to allow that person to bring an action under the Act if that person is a party to an agreement containing an unconscionable term (see Civil Code, § 1770, subd. (a)(19)), even though no effort has been made to enforce the unconscionable term? (2) Did plaintiffs have standing to seek declaratory relief?

#07-367 *Vasquez v. State of California*, S153813. (D046668; nonpublished opinion; San Diego County Superior Court; GIC740832.) Petition for review after the Court of Appeal affirmed the judgment in a civil action. The court ordered briefing deferred pending decision in *Vasquez v. State of California*, S143710 (#06-91), which presents the following issue: Does the rule that, in order to receive attorney fees under Code of Civil Procedure section 1021.5, the plaintiff must first reasonably attempt to settle the matter short of litigation, apply to this case?

#07-368 *People v. Ybarra*, S152984. (F047855; 149 Cal.App.4th 1175; Fresno County Superior Court; F03901251-9.) Petitions for review after the Court of Appeal remanded for resentencing and otherwise affirmed judgments of conviction of criminal offenses. The court ordered briefing deferred pending further order of the court. This case presents issues relating to the effect of *Cunningham v. California* (2007) 549 U.S. ___, 127 S.Ct. 856, on California sentencing law, as well as issues currently pending in *People v. Izaguirre*, S132980 (#05-117), and *People v. Sloan*, S132605 (#05-125), which concern whether enhancement allegations should be considered in determining whether a lesser offense is necessarily included in a charged offense as pled in the information or indictment, and *People v. Gonzalez*, S149898 (#07-86), which concerns whether, 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, the lesser enhancements should be stricken, stayed or simply not imposed at all.

In the following cases, which present issues relating to the effect of *Cunningham v. California* (2007) 549 U.S. ___, 127 S.Ct. 856, on California sentencing law, the court ordered briefing deferred pending further order of the court:

#07-369 *People v. Anderson, S154310*. (C052270; nonpublished opinion; Yuba County Superior Court; CRF05708.) Petition for review after the Court of Appeal affirmed a judgment of conviction of a criminal offense.

#07-370 *People v. Brooks, S154386*. (E041690; nonpublished opinion; San Bernardino County Superior Court; RSB034640.) Petition for review after the Court of Appeal affirmed a judgment of conviction of a criminal offense.

#07-371 *People v. English, S154422*. (F049654; 151 Cal.App.4th 1216; Kings County Superior Court; 05C3624.) Petition for review after the Court of Appeal affirmed a judgment of conviction of a criminal offense.

#07-372 *People v. Evans, S153757*. (H029616; nonpublished opinion; Santa Clara County Superior Court; CC590605.) Petitions for review after the Court of Appeal reversed a judgment of conviction of a criminal offense and remanded for resentencing.

#07-373 *People v. Fluker, S154229*. (B193079; 151 Cal.App.4th 515; Los Angeles County Superior Court; NA068981.) Petition for review after the Court of Appeal remanded for resentencing and otherwise affirmed a judgment of conviction of criminal offenses.

#07-374 *People v. Fontenot, S154192*. (A112109; nonpublished opinion; Solano County Superior Court; FCR213332.) Petition for review after the Court of Appeal remanded for resentencing and otherwise affirmed a judgment of conviction of criminal offenses.

#07-375 *People v. Fugate, S154247*. (D048422; nonpublished opinion; San Diego County Superior Court; SCN197102.) Petition for review after the Court of Appeal affirmed a judgment of conviction of criminal offenses.

#07-376 *People v. Hunter, S153957*. (D046853; nonpublished opinion; San Diego County Superior Court; SCD183413.) Petition for review after the Court of Appeal modified and affirmed a judgment of conviction of criminal offenses.

#07-377 *People v. Mariani, S154471*. (B192553; nonpublished opinion; Los Angeles County Superior Court; NA069368.) Petition for review after the Court of Appeal remanded for resentencing and otherwise affirmed a judgment of conviction of criminal offenses.

#07-378 *People v. Reyes, S153455*. (B185929; 150 Cal.App.4th 735; Los Angeles County Superior Court; BA265139.) Petition for review after the Court of Appeal affirmed a judgment of conviction of criminal offenses.

#07-379 *People v. Salinas*, S154189. (G036194; nonpublished opinion; Orange County Superior Court; 04NF2793.) Petition for review after the Court of Appeal affirmed a judgment of conviction of criminal offenses.

#07-380 *People v. Santacruz*, S153433. (E039277; nonpublished opinion; San Bernardino County Superior Court; FV1021584.) Petitions for review after the Court of Appeal remanded for resentencing and modified and otherwise affirmed a judgment of conviction of criminal offenses.

#07-381 *People v. Soto*, S154293. (H027820; nonpublished opinion; Santa Clara County Superior Court; C9540785.) Petition for review after the Court of Appeal reversed a judgment of conviction of criminal offenses and remanded for resentencing.

#07-382 *People v. Williams*, S154232. (B190668; nonpublished opinion; Los Angeles County Superior Court; LA050504.) Petition for review after the Court of Appeal remanded for resentencing and otherwise affirmed a judgment of conviction of criminal offenses.

STATUS

#04-31 *People v. Brendlin*, S123133. The court directed the parties to file supplemental briefs addressing the following questions: (1) Does the exclusionary rule of the Fourth Amendment require suppression of the fruits of the search that followed the unlawful detention here, where the deputy, prior to the search, verified that Brendlin was a parole violator with an outstanding no-bail warrant for his arrest? (2) Did the search here violate *In re Jaime P.* (2006) 40 Cal.4th 206 or *People v. Sanders* (2003) 31 Cal.4th 318?

#06-103 *Sprint Telephony PCS, L.P. v. County of San Diego*, S145541. The court requested the parties to file supplemental letter briefs addressing the following question: What effect, if any, does the Ninth Circuit's decision in *Sprint Telephony PCS, L.P. v. County of San Diego, et al.* (9th Cir. 2007) 490 F.3d 700 [2007 WL 1695330; 2007 U.S. App. Lexis 13811], have on this case?