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NEWS RELEASE

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Summary of Cases Accepted During the Week of October 10, 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 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.]

#05-200 *Silicon Valley Taxpayers' Assn., Inc. v. Santa Clara County Open Space Authority, S136468.* (H026759; 130 Cal.App.4th 1295; Santa Clara County Superior Court; CV804474, CV000705.) Petition for review after the Court of Appeal affirmed the judgment in a civil action. This case includes the following issues: (1) In a legal action contesting the validity of an assessment under article XIII D of the California Constitution, what standard of review should a court apply in reviewing the determination of the agency proposing to levy the assessment that the properties on which the assessment is to be imposed will "receive a special benefit over and above the benefits conferred on the public at large and that the amount of any contested assessment is proportional to, and no greater than, the benefits conferred on the property or properties in question," as required by the applicable constitutional provision? (See Cal. Const., art. XIII D, § 4, subd. (f).) (2) Can the benefit that future purchases of unidentified open space will confer upon everyone who lives or works within the assessment district be characterized as a "special benefit" to each parcel in the district within the meaning of article XIII D? (3) Under article XIII D, may the assessing agency impose an identical assessment on all similar properties (e.g., all single-family residences) within the assessment district or must it calculate the special benefit and proportional cost to each individual parcel?

#05-201 *People v. McMahon, S136165.* (G032347; 131 Cal.App.4th 80; Orange County Superior Court; 00WF0268.) Petition for review after the Court of Appeal modified and affirmed a judgment of conviction of

(over)

criminal offenses. The court ordered briefing deferred pending decision in (1) *People v. Smith*, S123074 (#04-46), which concerns whether the defendant was properly convicted of two counts of attempted murder for firing a single shot toward two victims on the theory that both victims were within the so-called “kill zone” at the time of the shooting; and (2) *People v. Shabazz*, S131048 (#05-57), which concerns whether a defendant convicted of an offense that is punishable by a sentence of imprisonment for life without the possibility of parole is also subject to a sentence enhancement of 25 years to life under Penal Code section 12022.53, subdivision (d), for personally discharging a firearm and causing death, or whether Penal Code section 12022.53, subdivision (j), precludes the imposition of that enhancement when the punishment for the defendant’s underlying felony is imprisonment for life without the possibility of parole.

DISPOSITIONS

Review in the following case was dismissed in light of *In re Reeves* (2005) 35 Cal.4th 765:

#02-202 *In re Black*, S110683.

Review in the following case was dismissed in light of *Reynolds v. Bement* (2005) 36 Cal.4th 1075:

#04-18 *Arakelian v. Conquest*, S121911.

Review in the following case was dismissed in light of *In re Dannenberg* (2005) 34 Cal.4th 1061:

#04-130 *In re Cortinas*, S127439.

Review in the following case was dismissed pursuant to the joint motion of the parties:

#05-19 *Quest International, Inc. v. Icode Corporation*, S128935.

STATUS

***People v. Gonzalez*, S072946.** The court requested the parties to brief the following issues in this automatic appeal: (1) Whether the trial court erred in admitting rebuttal evidence at the first penalty trial (see AOB 97-104; cf. RB 188, fn. 44); (2) Whether, assuming the trial court did err in admitting rebuttal evidence at the first penalty trial, the error prejudiced defendant at the second penalty trial (see AOB 104-106); and (3) Whether, conversely, the

rulings and proffered rebuttal evidence at the first trial made harmless any error at the second penalty trial in the court's refusal to require the prosecution to disclose its rebuttal evidence, because appellant already knew what rebuttal evidence was available to the prosecution (see AOB 87-96).

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