



Supreme Court of California
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NEWS RELEASE

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FOR IMMEDIATE RELEASE

July 12, 2019

Summary of Cases Accepted and Related Actions During Week of July 8, 2019

[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.]

#19-78 *People v. Maya*, S255371. (B290589; 33 Cal.App.5th 266; Ventura County Superior Court; 2010031209.) Petition for review after the Court of Appeal affirmed an order denying a motion to expunge a criminal conviction. This case presents the following issue: Does Penal Code section 1203.4a, subdivision (a), which sets forth a procedure to obtain the setting aside of a guilty verdict, authorize a court to consider an individual's time spent in immigration custody after judgment of conviction, as part of the determination whether that individual has "lived an honest and upright life"?

#19-79 *Burch v. CertainTeed Corp.*, S255969. (A151633, A152252, A153624; 34 Cal.App.5th 341; Alameda County Superior Court; RG16819332.) Petition for review after the Court of Appeal affirmed in part and reversed in part the judgment in a civil action. The court ordered briefing deferred pending decision in *B.B. v. County of Los Angeles*, S250734 (#18-134), which presents the following issue: May a defendant who commits an intentional tort invoke Civil Code section 1431.2, which limits a defendant's liability for non-economic damages "in direct proportion to that defendant's percentage of fault," to have his liability for damages reduced based on principles of comparative fault?

#19-80 *People v. Clark*, S255431. (B279396; nonpublished opinion; Los Angeles County Superior Court; MA058334.) 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. Perez*, S248730 (#18-95), which presents the following issue: Did defendant's failure to object at trial, before *People v. Sánchez* (2016) 63 Cal.4th 665 was decided, forfeit his claim that a gang expert's testimony related case-specific hearsay in violation of his Sixth Amendment right of confrontation?

#19-81 *People v. Davis*, S255605. (D073554; nonpublished opinion; San Diego County Superior Court; SCD273996.) Petition for review after the Court of Appeal affirmed a judgment of conviction of criminal offenses.

#19-82 *People v. Dudzinsky*, S255889. (E069417; nonpublished opinion; San Bernardino County Superior Court; FVI1501345.) Petition for review after the Court of Appeal remanded in part and otherwise affirmed a judgment of conviction of a criminal offense.

The court ordered briefing in *Davis* and *Dudzinsky* deferred pending decision in *People v. Aledamat*, S248105 (#18-87), which presents the following issue: Is error in instructing the jury on both a legally correct theory of guilt and a legally incorrect one harmless if an examination of the record permits a reviewing court to conclude beyond a reasonable doubt that the jury based its verdict on the valid theory, or is the error harmless only if the record affirmatively demonstrates that the jury actually rested its verdict on the legally correct theory?

#19-83 *In re J.G.*, S255628. (B287487; 33 Cal.App.5th 1084; San Luis Obispo County Superior Court; 17JV00334.) Petition for review after the Court of Appeal affirmed orders in a juvenile wardship proceeding. The court ordered briefing deferred pending decision in *In re Ricardo P.*, S230923 (#16-41) and *People v. Trujillo*, S244650 (#17-335), which present issues concerning the imposition of an “electronics search condition” of probation if the devices subject to the condition had no relationship to the crime or crimes committed and use of the devices would not itself involve criminal conduct, but access to the devices might facilitate supervision of the probationer.

#19-84 *People v. Knight*, S256081. (B284886; nonpublished opinion; Los Angeles County Superior Court; BA444204.) Petition for review after the Court of Appeal conditionally reversed and remanded a judgment of conviction of criminal offenses.

#19-85 *People v. Williams*, S255686. (B290706; nonpublished opinion; Los Angeles County Superior Court; BA465517.) Petition for review after the Court of Appeal conditionally reversed and remanded a judgment of conviction of criminal offenses.

The court ordered briefing in *Knight* and *Williams* deferred pending decision in *People v. Frahs*, S252220 (#18-175), which presents the following issues: (1) Does Penal Code section 1001.36 apply retroactively to all cases in which the judgment is not yet final? (2) Did the Court of Appeal err by remanding for a determination of defendant’s eligibility under Penal Code section 1001.36?

#19-86 *People v. Mercado*, S256066. (C079671; nonpublished opinion; Glenn County Superior Court; 11NCR09001, 12NCR09089, 12NCR09093, 12NCR09489.) Petition for

review after the Court of Appeal affirmed an order denying a petition to recall sentence. The court ordered briefing deferred pending decision in *People v. Orozco*, S249495 (#18-108), which presents the following issue: Can a felony conviction for receiving a stolen vehicle in violation of Penal Code section 496d be reclassified as a misdemeanor under Proposition 47 in light of Penal Code section 496, subdivision (a), which provides that receiving other stolen property is a misdemeanor when the value of the property does not exceed \$950?

#19-87 *People v. Mountford*, S255592. (B286803, B287202; nonpublished opinion; Los Angeles County Superior Court; BA359842, BA435045.) Petition for review after the Court of Appeal affirmed judgments of conviction of criminal offenses. The court ordered briefing deferred pending decision in *People v. Jimenez*, S249397 (#18-99), which presents the following issue: May a felony conviction for the unauthorized use of personal identifying information of another (Pen. Code, § 530.5, subd. (a)) be reclassified as a misdemeanor under Proposition 47 on the ground that the offense amounted to Penal Code section 459.5 shoplifting?

#19-88 *Strouse v. Webcor Construction, L.P.*, S256136. (A148863; 34 Cal.App.5th 703; Alameda County Superior Court; RG13670376.) Petition for review after the Court of Appeal affirmed the judgment in a civil action. The court ordered briefing deferred pending decision in *Sandoval v. Qualcomm Inc.*, S252796 (#19-09), which concerns whether a company that hires an independent contractor can be held liable in tort for injuries sustained by the contractor's employee based solely on the company's negligent failure to undertake safety measures, and *Gonzalez v. Mathis*, S247677 (#18-67), which concerns whether a homeowner who hires an independent contractor can be held liable in tort for injury sustained by the contractor's employee when the homeowner does not retain control over the worksite and the hazard causing the injury was known to the contractor.

#19-89 *Zakaryan v. The Men's Wearhouse, Inc.*, S255610. (B289192; 33 Cal.App.5th 659; Los Angeles County Superior Court; BC647541.) Petition for review after the Court of Appeal affirmed an order denying a petition to compel arbitration in a civil action. The court ordered briefing deferred pending decision in *Z.B., N.A. v. Superior Court*, S246711 (#18-48), which presents the following issue: Does a representative action under the Private Attorneys General Act of 2004 (Lab. Code, § 2698 et seq.) seeking recovery of individualized lost wages as civil penalties under Labor Code section 558 fall within the preemptive scope of the Federal Arbitration Act (9 U.S.C. § 1 et seq.)?

STATUS

#18-19 *Facebook, Inc. v. Superior Court*, S245203. The court directed the parties to brief whether the court should take judicial notice of the underlying preliminary hearing

transcript of September 29, 2016 and related exhibits and whether it should unseal the April 21, 2017 declaration and related exhibits (quoting from and presenting copies of public social media posts and conditionally confidential probation reports) on the ground that access by petitioner Facebook, Inc. and intervenor San Diego County District Attorney is necessary to fairly address and resolve whether the underlying subpoena's request for private and restricted social media communications is supported by good cause.

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The Supreme Court of California is the state's highest court and its decisions are binding on all other California state courts. The court's primary role is to decide matters of statewide importance and to maintain uniformity in the law throughout California by reviewing matters from the six districts of the California Courts of Appeal and the fifty-eight county superior courts (the trial courts). Among its other duties, the court also decides all capital appeals and related matters and reviews both attorney and judicial disciplinary matters.