



Supreme Court of California  
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**NEWS RELEASE**

Contact: [Cathal Conneely](mailto:Cathal.Conneely), 415-865-7740

**FOR IMMEDIATE RELEASE**

October 21, 2016

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## Summary of Cases Accepted and Related Actions During Week of October 17, 2016

*[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.]*

**#16-362 *People v. Frierson, S236728.*** (B260774; 1 Cal.App.5th 788; Los Angeles County Superior Court; GA043389.) Petition for review after the Court of Appeal affirmed an order denying a petition to recall sentence. The court limited review to the following issue: What is the standard of proof for a finding of ineligibility for resentencing under Proposition 36? (See *People v. Arevalo* (2016) 244 Cal.App.4th 836; cf. *People v. Osuna* (2014) 225 Cal.App.4th 1020)?

**#16-363 *Liberty Surplus Ins. Corp. v. Ledesma & Meyers Construction Co., Inc., S236765.*** (9th Cir. No. 14-56120; \_\_\_ F.3d \_\_\_, 2016 WL 4434589; Central District of California; No. 2:12-cv-00900-RGK-SP.) Request under California Rules of Court, rule 8.548, that this court decide questions of California law presented in a matter pending in the United States Court of Appeals for the Ninth Circuit. The question presented is: “Whether there is an ‘occurrence’ under an employer’s commercial general liability policy when an injured third party brings claims against the employer for the negligent hiring, retention, and supervision of the employee who intentionally injured the third party.”

**#16-364 *People v. Abarca, S237106.*** (E063687; 2 Cal.App.5th 475; Riverside County Superior Court; RIF1303009.) Petition for review after the Court of Appeal affirmed an order granting a petition to recall sentence.

**#16-365 *People v. Castillo, S237104;*** unpublished opinion; Riverside County Superior Court; RIF1303920.) Petition for review after the Court of Appeal affirmed an order granting a petition to recall sentence.

The court ordered briefing in *Abarca* and *Castillo* deferred pending decision in *People v. Gonzales*, S231171 (#16-39), which presents the following issue: Was defendant entitled to resentencing under Penal Code section 1170.18 on his conviction for second degree burglary either on the ground that it met the definition of misdemeanor shoplifting (Pen. Code, § 459.5) or on the ground that section 1170.18 impliedly includes any second degree burglary involving property valued at \$950 or less?

**#16-366 *In re Ana C.*, S237208.** (A145411; 2 Cal.App.5th 333; San Mateo County Superior Court; JV83891.) Petition for review after the Court of Appeal modified and affirmed orders in a juvenile wardship proceeding. The court ordered briefing deferred pending decision in *People v. Hall*, S227193 (#15-157), which presents the following issues: (1) Are probation conditions prohibiting defendant from: (a) “owning, possessing or having in his custody or control any handgun, rifle, shotgun or any firearm whatsoever or any weapon that can be concealed on his person”; and (b) “using or possessing or having in his custody or control any illegal drugs, narcotics, narcotics paraphernalia without a prescription,” unconstitutionally vague? (2) Is an explicit knowledge requirement constitutionally mandated?

**#16-367 *People v. Burris*, S237188.** (B264170; nonpublished opinion; San Luis Obispo County Superior Court; F213809.) Petition for review after the Court of Appeal affirmed an order denying a petition to recall sentence.

**#16-368 *People v. Knight*, S236684.** (C077468; nonpublished opinion; Sacramento County Superior Court; 10F04539.) Petition for review after the Court of Appeal affirmed an order denying a petition to recall sentence.

The court ordered briefing in *Burris* and *Knight* deferred pending decision in *People v. Chaney*, S223676 (#15-13), and *People v. Valencia*, S223825 (#15-14), which present the following issue: Does the definition of “unreasonable risk of danger to public safety” (Pen. Code, § 1170.18, subd. (c)) under Proposition 47 (“the Safe Neighborhoods and Schools Act”) apply on retroactivity or other grounds to resentencing under the Three Strikes Reform Act of 2012 (Pen. Code, § 1170.126)?

**#16-369 *People v. Martinez*, S237197.** (B264206; nonpublished opinion; Los Angeles County Superior Court; LA067027.) Petition for review after the Court of Appeal reversed an order denying a petition to recall sentence. The court ordered briefing deferred pending decision in *People v. Romanowski*, S231405 (#16-24), which present the following issue: Does Proposition 47 (“the Safe Neighborhoods and Schools Act”), which reclassifies as a misdemeanor any grand theft involving property valued at \$950 or less (Pen. Code, § 490.2), apply to theft of access card information in violation of Penal Code section 484e, subdivision (d)?

**#16-370 *People v. McCaw, S236618.*** (B266497; 1 Cal.App.5th 471; Los Angeles County Superior Court; GA082595.) Petition for review after the Court of Appeal affirmed in part and reversed in part a judgment of conviction of a criminal offense. The court ordered briefing deferred pending decision in *People v. Gallardo, S231260* (#16-38), which present the following issue: Was the trial court's decision that defendant's prior conviction constituted a strike incompatible with *Descamps v. U.S.* (2013) 570 U.S. \_\_\_ (133 S.Ct. 2276) because the trial court relied on judicial fact-finding beyond the elements of the actual prior conviction?

**#16-371 *People v. Sanders, S237227.*** (E064996; nonpublished opinion; San Bernardino County Superior Court; FVI902568.) Petition for review after the Court of Appeal affirmed an order denying a motion for resentencing.

**#16-372 *People v. Stout, S237209.*** (C079411; nonpublished opinion; Siskiyou County Superior Court; MCYKCRBF111664.) Petition for review after the Court of Appeal affirmed an order denying a petition to recall sentence.

The court ordered briefing in *Sanders* and *Stout* deferred pending decision in *People v. Valenzuela, S232900* (#16-97), which presents the following issue: Is a defendant eligible for resentencing on the penalty enhancement for serving a prior prison term on a felony conviction after the superior court has reclassified the underlying felony as a misdemeanor under the provisions of Proposition 47?

## DISPOSITIONS

Review in the following case, which was granted and held for *People v. Moran* (2016) 1 Cal.5th 398, was dismissed:

**#14-106 *People v. Rose, S219821.***

Review in the following case, which was granted and held for *City of Montebello v. Vasquez* (2016) 1 Cal.5th 409, was dismissed:

**#15-105 *FTR International v. Board of Trustees, S226521.***

The following case was transferred for reconsideration in light of *Property Reserve, Inc. v. Superior Court* (2016) 1 Cal.5th 151:

**#16-18 *Young's Market Co. v. Superior Court, S230808.***

The following case was transferred for reconsideration in light of *Baral v. Schnitt* (2016) 1 Cal.5th 376:

**#16-264 Crossroads Investors, L.P. v. Federal National Mortgage Assn., S234737.**

The Reporter of Decisions was directed not to publish in the Official Appellate Reports the Court of Appeal opinion in this matter filed April 14, 2016, which appears at 246 Cal.App.4th 529.

**STATUS**

**#14-111 In re A.S., S220280.** In this case in which review was previously granted, the court ordered further action deferred pending decision in *People v. Hall*, S227193 (#15-157), which presents the following issues: (1) Are probation conditions prohibiting defendant from: (a) “owning, possessing or having in his custody or control any handgun, rifle, shotgun or any firearm whatsoever or any weapon that can be concealed on his person”; and (b) “using or possessing or having in his custody or control any illegal drugs, narcotics, narcotics paraphernalia without a prescription,” unconstitutionally vague? (2) Is an explicit knowledge requirement constitutionally mandated?

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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.*