COURT OF APPEAL
STATE OF CALIFORNIA
THIRD APPELLATE DISTRICT

The Minutes

March 29, 2004

At 9:32 a.m., the court met in the Library and Courts Building to begin its court calendar session. Present were Scotland, Presiding Justice; Sims, Associate Justice; Butz, Associate Justice and Rios, bailiff.

C043510 **SMITH v. AREA DEVELOPERS et al.**

Cause called. Robert P. Biegler argued for appellant. Michael R. Barrette argued for respondents. Cause submitted.

At 9:50 a.m., the court recessed. At 9:55 a.m., the court reconvened with Sims, Associate Justice; Nicholson, Associate Justice; and Hull, Associate Justice.

C041978 **THE PEOPLE v. BUTTE**

Cause called. Mark Christianson, court appointed counsel, argued for appellant. James Ching, Deputy Attorney General, argued for respondent. Cause submitted.

At 10:22 a.m., the court recessed until 9:30 a.m., Monday April 19, 2004.

C043152 **THE PEOPLE v. SUMAHIT** **(Certified for Partial Publication)**

The judgment (order of commitment) is affirmed.

MORRISON, J.
We concur: Sims, Acting P.J.
Raye, J.

C042209 **AMEX CONSTRUCTION, INC. v. HART et al.**
(Not for Publication)

The judgment is affirmed. Amex's request for judicial notice, dated October 24, 2003, is granted. Amex's motion to augment the record is denied as unnecessary. Amex shall recover its costs on appeal. (Cal. Rules of Court, rule 27(a).)

NICHOLSON, J.
We concur: Sims, Acting P.J.
Hull, J.

March 30, 2004

C041980 **THE PEOPLE v. WRIGHT** **(Not for Publication)**

The judgment is affirmed.

NICHOLSON, J.
We concur: Blease, Acting P.J.
Hull, J.

COURT OF APPEAL
STATE OF CALIFORNIA
THIRD APPELLATE DISTRICT

The Minutes

March 30, 2004, continued

C042875 **THE PEOPLE v. ALLEN** **(Not for Publication)**

The judgment is affirmed.

MORRISON, J.
We concur: Sims, Acting P.J.
Hull, J.

C044200 **THE PEOPLE v. PEPPER** **(Not for Publication)**

The judgment is affirmed.

MORRISON, J.
We concur: Scotland, P.J.
Sims, J.

C044355 **THE PEOPLE v. TERUEL** **(Not for Publication)**

The judgment is modified...As modified, the judgment is affirmed... The court is further directed to forward a certified copy of the amended abstract to the Department of Corrections.

MORRISON, J.
We concur: Sims, Acting P.J.
Raye, J.

C045191 **THE PEOPLE v. PERCELLE** **(Not for Publication)**

The judgment is affirmed.

MORRISON, J.
We concur: Blease, Acting P.J.
Butz, J.

C042066 **ROBRECHT v. L.K. HOLLENBEAK LOGGING CORPORATION et al.** **(Not for Publication)**

The order of dismissal is affirmed. The parties shall bear their own costs on appeal. (Rule 27(a).)

SCOTLAND, P.J.
We concur: Hull, J.
Robie, J.

C042172 **CAVANAGH v. CALIFORNIA UNEMPLOYMENT INSURANCE APPEALS BOARD et al.** **(Not for Publication)**

The judgment is affirmed. The Departmen shall recover costs on appeal. (Cal. Rules of Court, rule 27(a).)

RAYE, J.
We concur: Scotland, P.J.
Hull, J.

COURT OF APPEAL
STATE OF CALIFORNIA
THIRD APPELLATE DISTRICT

The Minutes

March 30, 2004, continued

C042493 SACRAMENTO POLICE OFFICERS ASSOCIATION v. CITY OF
C043377 SACRAMENTO et al. (Not for Publication)

The judgment in case No. C042493 is reversed and remanded; the trial court is directed to enter judgment for the City. The appeal in case No. C043377 is dismissed as moot. The City shall recover its costs in both appeals.

DAVIS, J.
We concur: Scotland, P.J.
Sims, J.

C042918 WANLAND, JR. et al. v. LAW OFFICES OF MASTAGNI, HOLSTEDT & CHIURAZZI et al. (Not for Publication)

The judgment is affirmed. The matter is remanded for a determination of defendants' attorney fees on appeal. Defendants are awarded costs on appeal.

HULL, J.
We concur: Sims, Acting P.J.
Davis, J.

C044357 CANAL INSURANCE COMPANY v. TACKETT LEWIS v. M.T.C. et al. (Certified for Publication)

The judgment is reversed. Defendant is awarded her costs on appeal. (CERTIFIED FOR PUBLICATION.)

HULL, J.
We concur: Sims, Acting P.J.
Davis, J.

C043978 In re SEMAJ M.; SACRAMENTO COUNTY DEPARTMENT OF HEALTH AND HUMAN SERVICES v. EVELYN B. (Not for Publication)

The judgment is affirmed.

MORRISON, J.
We concur: Scotland, P.J.
Butz, J.

COURT OF APPEAL
STATE OF CALIFORNIA
THIRD APPELLATE DISTRICT

The Minutes

March 30, 2004, continued

C044988 **In re A.G. et al.; SAN JOAQUIN COUNTY HUMAN SERVICES AGENCY v. VICTORIA M.** **(Not for Publication)**

The orders of the juvenile court are reversed. The case is remanded to the juvenile court for a hearing in which appellant may express her reasons for dissatisfaction with her trial counsel. The court shall determine her request for new counsel and shall have discretion to consider appellant's complaints in light of the manner in which her counsel actually performed subsequent to her request for substitute counsel. If the juvenile court, in the exercise of its discretion, determines that good cause for appointment of new counsel has been shown, it shall schedule a new review hearing to determine whether further services should be provided to appellant. If the juvenile court determines good cause has not been shown, it shall reinstate the orders terminating parental rights.

NICHOLSON, Acting P.J.
We concur: Raye, J.
Hull, J.

C044210 **GREENBRIAR HOMES COMMUNITIES, INC. v. SUPERIOR COURT OF SAN JOAQUIN COUNTY and COURIS et al.** **(Certified for Publication)**

THE COURT:

For good cause it now appears that the opinion in the above-captioned case filed herein on March 8, 2004, as modified by order of this court on March 9, 2004, should be published in the Official Reports and it is so ordered. *(CERTIFIED FOR PUBLICATION.)*

THE COURT:

SCOTLAND, P.J.
DAVIS, J.
NICHOLSON, J.

C045367 **THE PEOPLE v. THE SUPERIOR COURT OF AMADOR COUNTY and HONNOLD et al.** **(Not for Publication)**

We have complied with the procedural prerequisites to the issuance of a peremptory writ of mandate in the first instance... Let a peremptory writ of mandate issue directing respondent court to vacate its order striking counts IX through XII of the information and to enter a new and different order denying defendants' Penal Code section 995 motion in its entirety. Upon this decision becoming final, the stay previously issued is dissolved.

SIMS, Acting P.J.
We concur: Raye, J.
Morrison, J.

March 31, 2004

There were no minutes for this date.

COURT OF APPEAL
STATE OF CALIFORNIA
THIRD APPELLATE DISTRICT

The Minutes

April 1, 2004

C044237 **THE PEOPLE v. LANG** **(Not for Publication)**

The judgment is affirmed.

RAYE, J.

We concur: Scotland, P.J.
Robie, J.

C044494 **THE PEOPLE v. SUMMERS** **(Not for Publication)**

The judgment is affirmed. The trial court is directed to correct the abstract of judgment and to forward a certified copy to the Department of Corrections.

RAYE, J.

We concur: Scotland, P.J.
Robie, J.

C043720 **UGARTE, as Successor Trustee, etc. v. ATLAS SECURITIES, INC.** **(Not for Publication)**

The judgment is affirmed. Atlas shall recover its costs on appeal. (Cal. Rules of Court, rule 27(a).)

ROBIE, J.

We concur: Nicholson, Acting P.J.
Raye, J.

C046311 **In re TRISTIN R.; TRINITY COUNTY HEALTH & HUMAN SERVICES v. SETH R.**

C046321 **In re JONATHON S.; TRINITY COUNTY HEALTH & HUMAN SERVICES v. SETH R.**

BY THE COURT:

On the court's own motion, the above cases are consolidated. The cases are order consolidated for all further appellate procedures except that they will retain their respective case numbers. Whenever documents are submitted for filing by the parties, an original must be presented for each case number; however, if copies of documents are required pursuant to the California Rules of Court, the parties need only submit a maximum of four. The cases will be considered for decision together.

Appellant's combined opening brief is due on or before May 5, 2004.

SCOTLAND, P.J.

April 2, 2004

C042093 **THE PEOPLE v. CAPPS** **(Not for Publication)**

The judgment is affirmed.

NICHOLSON, J.

We concur: Scotland, P.J.
Robie, J.

COURT OF APPEAL
STATE OF CALIFORNIA
THIRD APPELLATE DISTRICT

The Minutes

April 2, 2004, continued

C041673 **BUSHLING v. FREMONT MEDICAL CENTER et al.**
(Certified for Publication)

The judgment is affirmed. Each party shall bear its own costs on appeal. (**Certified for Publication.**)

HULL, J.

I concur: Davis, J.

... I respectfully dissent.

... I concur with the majority's conclusion that the trial court properly denied plaintiff's motion for a continuance because plaintiff's counsel failed to submit an affidavit, which is a procedural requisite to granting a continuance under the summary judgment statute. (*Mahoney v. Southland Mental Health Associates Medical Group* (1990) 223 Cal. App. 3d 167, 170; *American Continental Ins. Co. v. C.& Z. Timber Co.* (1987) 195 Cal. App. 3d 1271, 1280.)

Sims, Acting P.J.

C042271 **ROBERTS v. SACRAMENTO CITY UNIFIED SCHOOL DISTRICT**
(Not for Publication)

The judgment is affirmed.

DAVIS, J.

We concur: Blease, Acting P.J.
Sims, J.

C045035 **In re T.F. et al.; PLACER COUNTY DEPARTMENT OF HEALTH AND HUMAN SERVICES v. CHRISTOPHER W.** **(Not for Publication)**

The appeal as to B.V. in case No. 53-000287 is dismissed. The orders terminating appellant's parental rights as to T.F. and D. W. are affirmed.

NICHOLSON, Acting P.J.

We concur: Raye, J.
Hull, J.

C046200 **JAMESON v. DEPARMENT OF CORRECTIONS et al.**

BY THE COURT:

The court examined the record on appeal and determined that the order appealed from is nonappealable. Therefore, the appeal filed February 19, 2004, is dismissed. (9 Witkin, Cal. Procedure (4th ed. 1997) Appeal, section 102, p. 166 ("In 1963, [Code of Civil Procedure section] 581d was amended to state that all dismissals ordered by the court must be in the form of a written order, signed and filed, and that such orders when filed constutite judgments. [Citations.] The amendment makes a minute entry ineffectual and nonappealable; no appeal can be taken except from the order signed and filed. [Citations.]").)

SCOTLAND, P.J.