



# NEWS RELEASE

Release Number: **S.C. 43/07**

Release Date: **October 29, 2007**

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## Summary of Cases Accepted During the Week of October 22, 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.]*

**#07-425 *People v. Arias, S155571.*** (A112810; 153 Cal.App.4th 848; Contra Costa County Superior Court; 5-051079-2.) Petition for review after the Court of Appeal affirmed in part and reversed in part a judgment of conviction of criminal offenses. This case presents the following issue: Does Health & Safety Code section 11366.8, which prohibits the possession or use of a “false compartment” in a vehicle for the purpose of storing, concealing, or transporting controlled substances, require an addition to or modification of the original factory equipment of the vehicle, as opposed to using the glove compartment or secreting contraband behind a panel in the vehicle?

**#07-426 *In re Gomez, S155425.*** (B197980; 153 Cal.App.4th 1516; Los Angeles County Superior Court; KA064573.) Petition for review after the Court of Appeal denied a petition for writ of habeas corpus. This case presents the following issue: Is a habeas corpus petitioner whose conviction became final after *Blakely v. Washington* (2004) 542 U.S. 296 but before *Cunningham v. California* (2007) 549 U.S. \_\_\_, 127 S.Ct. 865, entitled to the benefit of the high court’s decision in *Blakely*?

**#07-427 *Morongo Band of Mission Indians v. State Water Resources Control Bd., S155589.*** (C052177; 153 Cal.App.4th 202; Sacramento County Superior Court; 04CS00535.) Petition for review after the Court of Appeal affirmed the judgment in an action for writ of administrative mandate. This case presents the following issue: May a staff attorney for an administrative agency attorney serve as a prosecutor in one matter while simultaneously serving as an advisor to the agency as decision

maker in an unrelated matter, without violating the due process rights of parties that appear before the agency?

**#07-428 *In re Shaputis, S155872.*** (D049895; unpublished opinion; San Diego County Superior Court; HC180007.) Petition for review after the Court of Appeal granted a petition for writ of habeas corpus. This case presents the following issues: (1) In assessing whether “some evidence” supports a decision by the Governor to deny parole, is the inquiry limited to whether the reasons stated have a factual basis or should a reviewing court also examine whether the evidence supports a finding that the inmate presents an unreasonable current risk of danger to the public? (2) When a reviewing court determines that a gubernatorial parole decision is not supported by sufficient evidence, should it remand the matter to the executive branch to proceed in accordance with due process, or should it order the inmate’s immediate release?

**#07-429 *In re Antonio P., S156335.*** (F051743; 153 Cal.App.4th 1540; Kern County Superior Court; JS102520.) Petition for review after the Court of Appeal affirmed orders in a wardship proceeding. The court ordered briefing deferred pending decision in *People v. Nguyen*, S154847 (#07-416), which presents the following issue: Can a prior juvenile adjudication of a criminal offense in California constitutionally subject a defendant to the provisions of the three strikes law (Pen. Code, §§ 667, subds. (b)-(i), 1170.12) although there is no right to a jury trial in juvenile wardship proceedings in this state?

**#07-430 *People v. Ashton, S155749.*** (E041793; nonpublished opinion; San Bernardino County Superior Court; FSB057558.) Petition for review after the Court of Appeal affirmed a judgment of conviction of a criminal offense. The court ordered briefing deferred pending decision in *People v. Lopez*, S149364 (#07-107), and *People v. Olguin*, S149303 (#07-108), which present the following issue: May a trial court impose a condition of probation requiring a probationer to obtain permission from his or her probation officer in order to own any pet?

**#07-431 *In re Cooper, S155130.*** (A116437; 153 Cal.App.4th 1043; San Mateo County Superior Court; SC-17378A.) Petition for review after the Court of Appeal granted a petition for writ of habeas corpus. The court ordered briefing deferred pending decision in *In re Lawrence*, S154018 (#07-399), which includes the following issue: In making parole suitability determinations for life prisoners, to what extent should the Board of Parole Hearings, under Penal Code section 3041, and the Governor, under Article V, section 8(b) of the California Constitution and Penal Code section 3041.2, consider the prisoner’s current dangerousness, and at what point, if ever, is the gravity of the commitment offense and prior criminality insufficient to deny parole when the prisoner otherwise appears rehabilitated?

## DISPOSITIONS

Review in the following case was dismissed in light of *People v. Allen* (2007) 42 Cal.4th 91:

**#06-83 *McQuarters v. Superior Court, S143777.***

Review in the following case was dismissed in light of Statutes 2007, chapter 302:

**#07-364 *People v. Chavez, S153920.***

## STATUS

**#06-36 *Environmental Protection Information Center v. Department of Forestry & Fire Protection, S140547.*** The court requested the parties to file supplemental letter briefs addressing the following questions: With respect to the Sustained Yield Plan, what is the significance of the Director of the California Department of Forestry and Fire Prevention's approval of "Alternative 25" with an estimated long-term sustained yield of 178.8 million board feet per year in the first decade? To what extent may Timber Harvest Plans (THPs) or other subsequent environmental documents and future environmental decisions rely or presumptively rely on this figure? Is the extent of the reliance affected by the fact that some environmental analysis was deferred to the THP stage?

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