NEWS

Judicial Council of California
ADMINISTRATIVE OFFICE OF THE COURTS
Public Information Office
(415) 865-7740
Lynn Holton, Public Information Officer

Release Date: October 21, 2002 Release Number: S.C. 43/02

SUMMARY OF CASES ACCEPTED DURING THE WEEK OF OCTOBER 14, 2002

[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 description or descriptions set out below do not necessarily reflect the view of the court, or define the specific issues that will be addressed by the court.]

#02-166 Burris v. Superior Court, S109746. (G028636; 100 Cal.App.4th 1006.) Petition for review after the Court of Appeal denied a petition for peremptory writ of prohibition. This case presents the following issue: When the prosecution initially files a complaint charging driving under the influence as a misdemeanor and then, after discovering that the defendant has a prior conviction for driving under the influence, dismisses the misdemeanor complaint and files a new complaint charging the same offense as a felony, is the felony complaint valid or does the prior dismissal of the misdemeanor complaint bar the filing of the felony complaint? (See Pen. Code, § 1387.)

#02-167 People v. Canty, S109537. (C039187; 100 Cal.App.4th 903. Petition for review after the Court of Appeal affirmed a judgment of conviction of criminal offenses. This case presents the following issue: Was defendant entitled to have the disposition of her conviction for transportation of a controlled substance set in accordance with the provisions of the Substance Abuse and Crime Prevention Act of 2000 (Prop. 36, General Elec. (Nov. 7, 2000)), or was that enactment inapplicable because defendant was also convicted of misdemeanor driving under the influence of a controlled substance? (See Pen. Code, § 1210.1, subd. (b)(2).)

(over)

#02-168 People v. Wollschlager, S109223. (B145828; 99 Cal.App.4th 1303, mod. 100 Cal.App.4th 1303a.) Petition for review after the Court of Appeal affirmed an order of commitment as a sexually violent predator. The court ordered briefing deferred pending decision in People v. Williams, S107266 (#02-120), which presents the following issue: In an action for civil commitment of an alleged sexually violent predator, does CALJIC No. 4.19 adequately instruct on the need for a finding of "serious difficulty in controlling behavior" as mandated by Kansas v. Crane (2002) 534 U.S. 407?

DISPOSITIONS

#01-23 People v. Reay, S093980, was transferred to the Court of Appeal for reconsideration in light of People v. Anderson (2002) 28 Cal.4th 767.

The following cases were dismissed and remanded to the Court of Appeal:

#01-45 People v. Bowin, S095856.

#01-111 People v. Chavez, S098775.

#00-121 People v. Miller, S090239.

#01-79 People v. Mounsaveng, S096988.

#01-96 People v. Williams, S098153.

STATUS

#02-106 Jarrow Formulas, Inc. v. LaMarche, S106503. The court ordered briefing in this case, in which briefing was previously deferred pending decision in Equilon v. Consumer Cause, S094877 (#01-36), Navellier v. Sletten, S095000 (#01-37), and City of Cotati v. Cashman, S099999 (#01-136). The case presents the following issue: Is a cause of action for malicious prosecution subject to a special motion to strike under the anti-SLAPP statute (Code Civ. Proc., § 425.16)?

#

G:\Jc_serv\comm.\mayo\ws02\ws101402