

ANNOUNCEMENTS
COLORADO COURT OF APPEALS
May 4, 2017

“Slip opinions” are the opinions as filed by the judges with the clerk. Slip opinions are subject to modification, rehearing, withdrawal, or clerical corrections. A link to any modifications to previously posted opinions will appear in the Petition for Rehearing section of the announcement document the day the changes are announced.

PUBLISHED OPINIONS

[2017COA56](#)

Court of Appeals No. [09CA2784](#)
Arapahoe County District Court No. 07CR1483
Honorable Valeria N. Spencer, Judge
Honorable William B. Sylvester, Judge

The People of the State of Colorado,

Plaintiff-Appellee,

v.

Aaron Duane Thompson,

Defendant-Appellant.

JUDGMENT AFFIRMED

Division III

Opinion by JUDGE BERNARD

Webb, J., concurs in part and specially concurs in part

Dunn, J., concurs in part and dissents in part

[2017COA40M](#)

Court of Appeals No. [14CA0842](#)
Mesa County District Court No. 13CR443
Honorable Valerie J. Robison, Judge

The People of the State of Colorado,

Plaintiff-Appellee,

v.

Kelly Gene Davis,

Defendant-Appellant.

JUDGMENT AFFIRMED

Division II
Opinion by JUDGE J. JONES
Dailey and Berger, JJ., concur

Prior Opinion Announced April 6, 2017, WITHDRAWN

[2017COA57](#)

Court of Appeals No. [15CA0128](#)
Jefferson County District Court No. 13CR1081
Honorable Christie B. Phillips, Judge

The People of the State of Colorado,

Plaintiff-Appellee,

v.

Breck Torrell Higgins,

Defendant-Appellant.

ORDER REVERSED AND CASE
REMANDED WITH DIRECTIONS

Division VI
Opinion by JUDGE FURMAN
Welling and Davidson*, JJ., concur

[2017COA58](#)

Court of Appeals No. [16CA0104](#)
Douglas County District Court No. 14CR754
Honorable Paul A. King, Judge

The People of the State of Colorado,

Plaintiff-Appellee,

v.

Steven Thomas Heisler,

Defendant-Appellant.

JUDGMENT AND SENTENCE AFFIRMED

Division V
Opinion by CHIEF JUDGE LOEB
Rothenberg* and Casebolt*, JJ., concur

[2017COA59](#)

Court of Appeals No. [16CA0766](#)
City and County of Denver District Court No. 15CV33990
Honorable Michael A. Martinez, Judge

John Cox,

Plaintiff-Appellant,

v.

Sage Hospitality Resources, LLC,

Defendant-Appellee.

JUDGMENT REVERSED AND CASE
REMANDED WITH DIRECTIONS

Division V
Opinion by JUDGE FOX
Román and Booras, JJ., concur

[2017COA60](#)

Court of Appeals No. [16CA1082](#)
Mesa County District Court No. 14JV135
Honorable Valerie J. Robison, Judge

The People of the State of Colorado,

Petitioner-Appellee,

In the Interest of M.S., a Child,

and Concerning C.S.,

Respondent-Appellant.

JUDGMENT VACATED AND CASE
REMANDED WITH DIRECTIONS

Division V
Opinion by JUDGE LICHTENSTEIN
Román and Freyre, JJ., concur

[2017COA61](#)

Court of Appeals No. [16CA1366](#)
Chaffee County District Court No. 15JV7
Honorable Patrick W. Murphy, Judge

The People of the State of Colorado,

Petitioner-Appellee,

In the Interest of A.D. and Tr.D., Children,

and Concerning M.D. and T.D.,

Respondents-Appellants.

JUDGMENT REVERSED AND CASE
REMANDED WITH DIRECTIONS

Division IV
Opinion by JUDGE FREYRE
Hawthorne and Ashby, JJ., concur

UNPUBLISHED OPINIONS

Court of Appeals No. 13CA2189
Arapahoe County District Court No. 12CR2564
Honorable Gerald J. Rafferty, Judge

The People of the State of Colorado,

Plaintiff-Appellee,

v.

Carlos Andres Quijada-Lara,

Defendant-Appellant.

JUDGMENT AFFIRMED IN PART, VACATED IN PART,
AND CASE REMANDED WITH DIRECTIONS

Division VII
Opinion by JUDGE LICHTENSTEIN
Richman and Harris, JJ., concur

NOT PUBLISHED PURSUANT TO C.A.R. 35(e)

Court of Appeals No. 14CA0377
El Paso County District Court No. 12CR4461
Honorable David S. Prince, Judge

The People of the State of Colorado,

Plaintiff-Appellee,

v.

Tommy Anthony Sirvent,

Defendant-Appellant.

JUDGMENT REVERSED AND CASE
REMANDED WITH DIRECTIONS

Division IV
Opinion by JUDGE HAWTHORNE
Nieto* and Vogt*, JJ., concur

NOT PUBLISHED PURSUANT TO C.A.R. 35(e)

Court of Appeals No. 14CA0387
Weld County District Court No. 08CR514
Honorable Julie C. Hoskins, Judge

The People of the State of Colorado,

Plaintiff-Appellee,

v.

Mark J. Strodtman,

Defendant-Appellant.

JUDGMENT AFFIRMED IN PART, VACATED IN PART,
SENTENCE VACATED, AND CASE REMANDED WITH DIRECTIONS

Division VII
Opinion by JUDGE LICHTENSTEIN
Richman and Harris, JJ., concur

NOT PUBLISHED PURSUANT TO C.A.R. 35(e)

Court of Appeals No. 14CA0767
El Paso County District Court No. 13CR3232
Honorable David L. Shakes, Judge

The People of the State of Colorado,

Plaintiff-Appellee,

v.

Billy R. Rodriguez,

Defendant-Appellant.

JUDGMENT AFFIRMED

Division III
Opinion by JUDGE BERNARD
Webb and Dunn, JJ., concur

NOT PUBLISHED PURSUANT TO C.A.R. 35(e)

Court of Appeals No. 14CA0872
Elbert County District Court No. 11CR13
Honorable Jeffrey K. Holmes, Judge

The People of the State of Colorado,

Plaintiff-Appellee,

v.

Kent Evan Privette,

Defendant-Appellant.

ORDER AFFIRMED

Division II
Opinion by JUDGE DAILEY
J. Jones and Berger, JJ., concur

NOT PUBLISHED PURSUANT TO C.A.R. 35(e)

Court of Appeals No. 14CA1171
Adams County District Court No. 13CR2452
Honorable Thomas Richard Ensor, Judge

The People of the State of Colorado,

Plaintiff-Appellee,

v.

Stephen Paul Apodaca,

Defendant-Appellant.

JUDGMENT AFFIRMED AND CASE
REMANDED WITH DIRECTIONS

Division IV
Opinion by JUDGE HAWTHORNE
Freyre and Plank*, JJ., concur

NOT PUBLISHED PURSUANT TO C.A.R. 35(e)

Court of Appeals No. 14CA2128
Boulder County District Court No. 13CR1502
Honorable Patrick D. Butler, Judge

The People of the State of Colorado,

Plaintiff-Appellee,

v.

Grover Cleveland Floyd, IV,

Defendant-Appellant.

JUDGMENT AND SENTENCE AFFIRMED

Division III
Opinion by JUDGE BERNARD
Webb and Dunn, JJ., concur

NOT PUBLISHED PURSUANT TO C.A.R. 35(e)

Court of Appeals No. 15CA0690
City and County of Denver District Court No. 13CR5260
Honorable J. Eric Elliff, Judge

The People of the State of Colorado,

Plaintiff-Appellee,

v.

John J. Madrid,

Defendant-Appellant.

JUDGMENT AFFIRMED

Division IV
Opinion by JUDGE PLANK*
Hawthorne and Freyre, JJ., concur

NOT PUBLISHED PURSUANT TO C.A.R. 35(e)

Court of Appeals No. 15CA0739
Arapahoe County District Court No. 13CR2293
Honorable Kurt A. Horton, Judge

The People of the State of Colorado,

Plaintiff-Appellee,

v.

Tammy Marie Pimble,

Defendant-Appellant.

JUDGMENT AFFIRMED

Division III
Opinion by JUDGE WEBB
Bernard and Dunn, JJ., concur

NOT PUBLISHED PURSUANT TO C.A.R. 35(e)

Court of Appeals No. 15CA1444
Jefferson County District Court No. 11CR3314
Honorable Christopher J. Munch, Judge

The People of the State of Colorado,

Plaintiff-Appellee,

v.

Daniel DeWild,

Defendant-Appellant.

ORDER AFFIRMED

Division VI
Opinion by JUDGE WELLING
Terry and Rothenberg*, JJ., concur

NOT PUBLISHED PURSUANT TO C.A.R. 35(e)

Court of Appeals No. 15CA1532
Boulder County District Court No. 13CV31107
Honorable Judith L. Labuda, Judge

Cary St. Onge,

Plaintiff-Appellant and Cross-Appellee,

v.

Carol Landis Grasse,

Defendant-Appellee and Cross-Appellant.

JUDGMENT AFFIRMED

Division VI
Opinion by JUDGE ROTHENBERG*
Terry and Welling, JJ., concur

NOT PUBLISHED PURSUANT TO C.A.R. 35(e)

Court of Appeals Nos. 15CA1574 & 16CA0288
City and County of Denver District Court No. 03CV2768
Honorable Andrew P. McCallin, Judge
Honorable J. Eric Elliff, Judge

Tania LaBerenz and Lindsay Sullivan, Personal Representatives of the Estate of
Dr. J. Bradley Gibson, on behalf of themselves and all others similarly situated,

Plaintiffs-Appellants,

v.

American Family Mutual Insurance Company, a Wisconsin corporation,

Defendant-Appellee.

JUDGMENT AFFIRMED IN PART, REVERSED IN PART,
ORDER VACATED, AND CASE REMANDED WITH DIRECTIONS

Division V
Opinion by JUDGE FOX
Román and Booras, JJ., concur

NOT PUBLISHED PURSUANT TO C.A.R. 35(e)

Court of Appeals No. 15CA1850
Elbert County District Court No. 13CR61
Honorable Jeffrey K. Holmes, Judge

The People of the State of Colorado,

Plaintiff-Appellee,

v.

Albert Lee Alvarez-Guzman,

Defendant-Appellant.

JUDGMENT AFFIRMED

Division I
Opinion by JUDGE NAVARRO
Graham, J., concurs
Taubman, J., dissents

NOT PUBLISHED PURSUANT TO C.A.R. 35(e)

Court of Appeals No. 15CA1882
City and County of Denver District Court No. 05CR2672
Honorable Edward D. Bronfin, Judge
Honorable Kandace C. Gerdes, Judge
Honorable Morris B. Hoffman, Judge
Honorable Elizabeth A. Starrs, Judge

The People of the State of Colorado,

Plaintiff-Appellee,

v.

Timothy Trujillo,

Defendant-Appellant.

ORDER AFFIRMED

Division II
Opinion by JUDGE BERGER
Dailey and J. Jones, JJ., concur

NOT PUBLISHED PURSUANT TO C.A.R. 35(e)

Court of Appeals No. 15CA1929
Adams County District Court No. 10CR3184
Honorable Francis C. Wasserman, Judge

The People of the State of Colorado,

Plaintiff-Appellee,

v.

Michael Bradley McCullar,

Defendant-Appellant.

ORDER AFFIRMED IN PART, REVERSED IN PART,
AND CASE REMANDED WITH DIRECTIONS

Division III
Opinion by JUDGE DUNN
Webb and Bernard, JJ., concur

NOT PUBLISHED PURSUANT TO C.A.R. 35(e)

Court of Appeals No. 15CA2125
City and County of Denver District Court No. 15CV30725
Honorable John W. Madden, IV, Judge

Franklin D. Azar & Associates, P.C.,

Plaintiff-Appellee,

v.

Habteab Meharezghi,

Defendant-Appellant.

JUDGMENT AFFIRMED

Division IV
Opinion by JUDGE PLANK*
Hawthorne and Freyre, JJ., concur

NOT PUBLISHED PURSUANT TO C.A.R. 35(e)

Court of Appeals No. 16CA0033
Arapahoe County District Court No. 08CR1221
Honorable Carol Glowinsky, Judge
Honorable Larry J. Naves, Judge

The People of the State of Colorado,

Plaintiff-Appellee,

v.

Colin Lucas McGuire,

Defendant-Appellant.

ORDER AFFIRMED

Division VI
Opinion by JUDGE TERRY
Welling and Rothenberg*, JJ., concur

NOT PUBLISHED PURSUANT TO C.A.R. 35(e)

Court of Appeals No. 16CA0170
Fremont County District Court No. 15CV95
Honorable Robert Freeman, Magistrate

Jerome Sisneros,

Plaintiff-Appellant,

v.

Executive Director, Colorado Department of Corrections; and Warden, Fremont
Correctional Facility,

Defendants-Appellees.

JUDGMENT AFFIRMED

Division VI
Opinion by JUDGE FURMAN
Terry and Kapelke*, JJ., concur

NOT PUBLISHED PURSUANT TO C.A.R. 35(e)

Court of Appeals No. 16CA0194
El Paso County District Court No. 15JD487
Honorable G. David Miller, Judge

The People of the State of Colorado,

Plaintiff-Appellee,

In the Interest of D.A.M.,

Juvenile-Appellant.

JUDGMENT AFFIRMED

Division III
Opinion by JUDGE WEBB
Bernard and Dunn, JJ., concur

NOT PUBLISHED PURSUANT TO C.A.R. 35(e)

Court of Appeals No. 16CA0333
Garfield County District Court No. 14DR30058
Honorable Denise K. Lynch, Judge

In re the Marriage of

Rebecca S. Ciani,

Appellee and Cross Appellant,

and

Carl J. Ciani,

Appellant and Cross Appellee.

JUDGMENT AFFIRMED IN PART, REVERSED IN PART,
AND CASE REMANDED WITH DIRECTIONS

Division III
Opinion by JUDGE DUNN
Webb and Bernard, JJ., concur

NOT PUBLISHED PURSUANT TO C.A.R. 35(e)

Court of Appeals No. 16CA0357
City and County of Denver District Court No. 15CV288
Honorable Michael A. Martinez, Judge

Rita R. Lewis,

Plaintiff-Appellant,

v.

Denise Phillips,

Defendant-Appellee.

ORDERS AND JUDGMENT AFFIRMED

Division V
Opinion by JUDGE BOORAS
Román and Fox, JJ., concur

NOT PUBLISHED PURSUANT TO C.A.R. 35(e)

Court of Appeals No. 16CA0478
Arapahoe County District Court No. 15CV31503
Honorable Kurt A. Horton, Judge

John H. Walter,

Plaintiff-Appellee,

v.

Owners Insurance Company, a Michigan insurance company,

Defendant-Appellant.

JUDGMENT AFFIRMED

Division II
Opinion by JUDGE J. JONES
Dailey and Berger, JJ., concur

NOT PUBLISHED PURSUANT TO C.A.R. 35(e)

Court of Appeals No. 16CA0707
Douglas County District Court No. 07CV1705
Honorable Paul A. King, Judge

Gregory Bartee and Carol Bartee,

Plaintiffs-Appellants,

v.

CBDG, LLC, a Colorado limited liability company; and Timothy Tin Tu Cao,
individually,

Defendants-Appellees.

ORDER AFFIRMED AND CASE
REMANDED WITH DIRECTIONS

Division II
Opinion by JUDGE DAILEY
J. Jones and Berger, JJ., concur

NOT PUBLISHED PURSUANT TO C.A.R. 35(e)

Court of Appeals No. 16CA0774
Jefferson County District Court No. 12CR979
Honorable Dennis J. Hall, Judge

The People of the State of Colorado,

Plaintiff-Appellee,

v.

Spencer Brewer,

Defendant-Appellant.

ORDER AFFIRMED

Division V
Opinion by JUDGE FOX
Román and Booras, JJ., concur

NOT PUBLISHED PURSUANT TO C.A.R. 35(e)

Court of Appeals No. 16CA0832
City and County of Denver District Court No. 15CV30091
Honorable A. Bruce Jones, Judge

Colorado Citizens Against ToxicWaste, Inc.,

Plaintiff-Appellant,

v.

Dr. Larry Wolk, in his official capacity as Executive Director of Colorado Department of Public Health and Environment; Dr. Jennifer Opila, in her official capacity as the person issuing a license on behalf of the Colorado Department of Public Health and Environment; and Colorado Department of Public Health and Environment,

Defendants-Appellees,

and

Cotter Corporation,

Appellee.

JUDGMENT AFFIRMED

Division IV
Opinion by JUDGE FREYRE
Hawthorne and Plank*, JJ., concur

NOT PUBLISHED PURSUANT TO C.A.R. 35(e)

Court of Appeals No. 16CA0938
Montrose County District Court No. 15CV30151
Honorable James S. Patrick, Judge

AMG & Associates, LLC, a California limited liability company,

Plaintiff-Appellant,

v.

City of Montrose, Colorado, a political subdivision; and CBC West Range I, LLC,
a Colorado limited liability company,

Defendants-Appellees.

JUDGMENT AFFIRMED AND CASE
REMANDED WITH DIRECTIONS

Division II
Opinion by JUDGE DAILEY
J. Jones and Berger, JJ., concur

NOT PUBLISHED PURSUANT TO C.A.R. 35(e)

Court of Appeals No. 16CA0993
Weld County District Court No. 14DR30402
Honorable Dinsmore Tuttle, Judge

In re the Marriage of

Mirus Juarez,

Appellee,

and

Abel Cisneros,

Appellant.

JUDGMENT AFFIRMED

Division I
Opinion by JUDGE NAVARRO
Taubman and Graham, JJ., concur

NOT PUBLISHED PURSUANT TO C.A.R. 35(e)

Court of Appeals No. 16CA1631
Industrial Claim Appeals Office of the State of Colorado
DD No. 1907-2016

Barbara Johnson,

Petitioner,

v.

Industrial Claim Appeals Office of the State of Colorado and Concrete Express,
Inc.,

Respondents.

ORDER AFFIRMED

Division III
Opinion by JUDGE WEBB
Bernard and Dunn, JJ., concur

NOT PUBLISHED PURSUANT TO C.A.R. 35(e)

Court of Appeals No. 16CA1737
Jefferson County District Court No. 15JV331
Honorable Ann Gail Meinster, Judge

The People of the State of Colorado,

Petitioner-Appellee,

In the Interest of M.D. and D.D., Children,

and Concerning D.C.,

Respondent-Appellant.

JUDGMENT AFFIRMED

Division VI
Opinion by JUDGE WELLING
Furman and Terry, JJ., concur

NOT PUBLISHED PURSUANT TO C.A.R. 35(e)

P E T I T I O N S F O R R E H E A R I N G

[2017COA40M](#)

Court of Appeals No. [14CA0842](#)

The People of the State of Colorado,

Plaintiff-Appellee,

v.

Kelly Gene Davis,

Defendant-Appellant.

Prior Opinion Announced April 6, 2017, WITHDRAWN
Petition for Rehearing DENIED

Court of Appeals No. 15CA1277

F&K Investments, a Colorado partnership, and Eugene Pomeroy, a/k/a Gene Pomeroy, individually and as members and on behalf of Pomeroy Auto Sales, LLC,

Plaintiffs-Appellees and Cross-Appellants,

v.

Mark Pomeroy and Larry Pomeroy,

Defendants-Appellants and Cross-Appellees,

and

Pomeroy Auto Sales, LLC,

Appellee.

Petition for Rehearing DENIED

NOT PUBLISHED PURSUANT TO C.A.R. 35(e)

[2017COA52M](#)

Court of Appeals No. [15CA1352](#)

The People of the State of Colorado,

Plaintiff-Appellee,

v.

Jimmy Aruther Perez,

Defendant-Appellant.

Opinion Modified and
Petition for Rehearing DENIED

Court of Appeals No. 15CA2017

National Federation of Independent Business,

Plaintiff-Appellant,

v.

Wayne W. Williams, in his official capacity as the Colorado Secretary of State;
Colorado Department of State; and the State of Colorado,

Defendants-Appellees.

Opinion Modified and
Petition for Rehearing DENIED

NOT PUBLISHED PURSUANT TO C.A.R. 35(e)

Court of Appeals No. 16CA0075

Colorado Custom Maid, LLC,

Petitioner,

v.

Industrial Claim Appeals Office of the State of Colorado and Division of
Unemployment Insurance,

Respondents.

Petition for Rehearing DENIED

NOT PUBLISHED PURSUANT TO C.A.R. 35(e)

Court of Appeals No. 16CA0920

City and County of Denver District Court No. 15CV32427

Honorable Shelley I. Gilman, Judge

Arthur Keith Whitelaw, III; John DeRungs; Katherine K. McCrimmon; Laura
Pitmon; Denise Sigon, f/k/a Denise L. Sager; Alan Singer; and Rita Singer,

Plaintiffs-Appellants,

v.

Denver City Council, including the individual Council members in their official
capacity, Albus Brooks, Charlie Brown, Jeanne Faatz, Christopher Herndon,
Robin Kniech, Peggy Lehmann, Paul López, Judy H. Montero, Chris Nevitt,
Debbie Ortega, Jeanne Robb, Susan Shepherd, and Mary Beth Susman;
Manager of Community Planning and Development, Brad Buchanan, in his
official capacity; Denver Planning Board, including the individual Board
members in their official capacity, Andy Baldyga, Jim Bershof, Shannon
Gifford, Renee Martinez-Stone, Brittney Morris Saunders, Joel Noble, Susan
Pearce, Arleen Taniwaki, Julie Underdahl, Frank Schultz, and Chris Smith;
City and County of Denver; and Cedar Metropolitan LLC,

Defendants-Appellees.

Petition for Rehearing DENIED

Court of Appeals No. 16CA2108

Michelle T. Jones,

Petitioner,

v.

Industrial Claim Appeals Office of the State of Colorado and Madison Street
Provider Network, Inc., d/b/a Omni Eye Specialists,

Respondents.

Petition for Rehearing DENIED

NOT PUBLISHED PURSUANT TO C.A.R. 35(e)

*Sitting by assignment of the Chief Justice under provisions of Colo. Const. art. VI, § 5(3), and § 24-51-1105, C.R.S. 2016.