

*ANNOUNCEMENTS
COLORADO COURT OF APPEALS
February 28, 2019*

“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.

UNPUBLISHED OPINIONS

Court of Appeals No. 14CA1133
Jefferson County District Court No. 13CR1891
Honorable Margie L. Enquist, Judge

The People of the State of Colorado,

Plaintiff-Appellee,

v.

Derril Rex Vigil, Jr.,

Defendant-Appellant.

JUDGMENT AFFIRMED

Division VII
Opinion by JUDGE DUNN
Ashby and Rothenberg*, JJ., concur

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

Court of Appeals No. 14CA1796
Jefferson County District Court No. 13CR1337
Honorable Margie L. Enquist, Judge

The People of the State of Colorado,

Plaintiff-Appellee,

v.

Sandra Lee Schreiber,

Defendant-Appellant.

JUDGMENT AFFIRMED

Division IV
Opinion by JUDGE FOX
Hawthorne and Nieto*, JJ., concur

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

Court of Appeals No. 14CA2142
Weld County District Court No. 92CR873
Honorable Timothy G. Kerns, Judge
Honorable Ruthanne Polidori, Judge

The People of the State of Colorado,

Plaintiff-Appellee,

v.

Alberto Matias Martinez,

Defendant-Appellant.

ORDERS AFFIRMED

Division I
Opinion by JUDGE TAUBMAN
Berger and Tow, JJ., concur

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

Court of Appeals No. 15CA1593
Arapahoe County District Court No. 14CR2933
Honorable James F. Macrum, Judge

The People of the State of Colorado,

Plaintiff-Appellee,

v.

Chadwick Dean Downie,

Defendant-Appellant.

JUDGMENT AFFIRMED

Division VII
Opinion by JUDGE ASHBY
Dunn and Rothenberg*, JJ., concur

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

Court of Appeals No. 16CA0602
El Paso County District Court No. 15CR3761
Honorable David S. Prince, Judge

The People of the State of Colorado,

Plaintiff-Appellee,

v.

Donnie Mac Edwards, Sr.,

Defendant-Appellant.

JUDGMENT AND SENTENCE AFFIRMED

Division II
Opinion by JUDGE DAILEY
Furman and Lipinsky, JJ., concur

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

Court of Appeals No. 16CA0903
Arapahoe County District Court No. 15CR1893
Honorable F. Stephen Collins, Judge

The People of the State of Colorado,

Plaintiff-Appellee,

v.

Perry Lee Foulks,

Defendant-Appellant.

JUDGMENT AFFIRMED AND CASE
REMANDED WITH DIRECTIONS

Division IV
Opinion by JUDGE NIETO*
Hawthorne and Fox, JJ., concur

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

Court of Appeals No. 16CA1186
Larimer County District Court No. 10CR891
Honorable Devin R. Odell, Judge

The People of the State of Colorado,

Plaintiff-Appellee,

v.

Richard Brent Bradford,

Defendant-Appellant.

SENTENCE AFFIRMED

Division II
Opinion by JUDGE DAILEY
Furman and Lipinsky, JJ., concur

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

Court of Appeals No. 16CA1204
Adams County District Court No. 15CR1760
Honorable Craig R. Welling, Judge

The People of the State of Colorado,

Plaintiff-Appellee,

v.

Emiliano Damacio Urioste,

Defendant-Appellant.

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

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

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

Court of Appeals No. 16CA1266
Adams County District Court No. 02CR18
Honorable Robert W. Kiesnowski, Jr., Judge

The People of the State of Colorado,

Plaintiff-Appellee,

v.

Bradley Raymond Clemens,

Defendant-Appellant.

ORDER AFFIRMED

Division IV
Opinion by JUDGE FOX
Hawthorne and Nieto*, JJ., concur

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

Court of Appeals No. 16CA1441
Larimer County District Court No. 06CR340
Honorable Devin R. Odell, Judge

The People of the State of Colorado,

Plaintiff-Appellee,

v.

Barry Alan Everett,

Defendant-Appellant.

ORDER AFFIRMED

Division II
Opinion by JUDGE DAILEY
Furman and Lipinsky, JJ., concur

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

Court of Appeals No. 17CA0868
El Paso County District Court No. 14CR378
Honorable William B. Bain, Judge

The People of the State of Colorado,

Plaintiff-Appellee,

v.

Terrell Paris Marion,

Defendant-Appellant.

ORDER AFFIRMED

Division VII
Opinion by JUDGE ROTHENBERG*
Dunn and Ashby, JJ., concur

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

Court of Appeals No. 17CA0970
Weld County District Court No. 16CR1111
Honorable Julie C. Hoskins, Judge

The People of the State of Colorado,

Plaintiff-Appellee,

v.

Angelica Rey Chavez,

Defendant-Appellant.

JUDGMENT VACATED

Division III
Opinion by JUDGE ROMÁN
Webb and Freyre, JJ., concur

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

Court of Appeals No. 17CA1162
Weld County District Court No. 04CR406
Honorable Shannon D. Lyons, Judge

The People of the State of Colorado,

Plaintiff-Appellee,

v.

Thomas M. Stewart,

Defendant-Appellant.

ORDER AFFIRMED

Division II
Opinion by JUDGE LIPINSKY
Dailey and Furman, JJ., concur

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

Court of Appeals No. 17CA1566
Arapahoe County District Court No. 07CR1653
Honorable Peter F. Michaelson, Judge

The People of the State of Colorado,

Plaintiff-Appellee,

v.

Joshua Elliot Wingfield,

Defendant-Appellant.

ORDER AFFIRMED

Division I
Opinion by JUDGE TOW
Taubman and Berger, JJ., concur

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

Court of Appeals No. 17CA1737
Weld County District Court No. 15JD504
Honorable Todd L. Taylor, Judge

The People of the State of Colorado,

Petitioner-Appellee,

In the Interest of V.B.,

Juvenile-Appellant.

ORDER AFFIRMED

Division I
Opinion by JUDGE TOW
Taubman and Berger, JJ., concur

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

Court of Appeals No. 17CA1788
Jefferson County District Court No. 16CV31261
Honorable Christopher C. Zenisek, Judge

David M. Williams,

Plaintiff-Appellant,

v.

Carol Fair, f/k/a Carol Liese; and Keith Liese,

Defendants-Appellees.

JUDGMENT AFFIRMED, ORDER VACATED,
AND CASE REMANDED WITH DIRECTIONS

Division III
Opinion by JUDGE WEBB
Román and Freyre, JJ., concur

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

Court of Appeals No. 17CA1879
El Paso County District Court No. 17CV30617
Honorable Thomas K. Kane, Judge

Kyle Johns,

Plaintiff-Appellant,

v.

Rick Raemisch,

Defendant-Appellee.

JUDGMENT REVERSED AND CASE
REMANDED WITH DIRECTIONS

Division V
Opinion by JUDGE TERRY
J. Jones and Davidson*, JJ., concur

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

Court of Appeals No. 17CA2086
El Paso County District Court No. 15CV33306
Honorable Thomas K. Kane, Judge

Country Squire Estates Association, Ronald R. Magnus, Patricia M. Magnus,
Kenneth G. Palmen, David Grunow, Michael P. Pattison, Jennifer S. Pattison,
Randy Redus, Kim Redus, Donald England, and Mark Werner,

Plaintiffs-Appellees,

v.

Chris Schade, a/k/a Chris A. Schade; Betty Milne-Schade, a/k/a Betty C.
Milne-Schade; and Loletta L. Schade,

Defendants-Appellants.

JUDGMENT AFFIRMED

Division I
Opinion by JUDGE TAUBMAN
Berger and Tow, JJ., concur

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

Court of Appeals No. 17CA2155
Arapahoe County District Court No. 16DR30498
Honorable Bonnie H. McLean, Judge

In re the Marriage of

Paola A. Smith,

Appellee,

and

Jason R. Smith,

Appellant.

JUDGMENT AFFIRMED

Division VII
Opinion by JUDGE ROTHENBERG*
Dunn and Ashby, JJ., concur

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

Court of Appeals No. 17CA2175
Mesa County District Court No. 16CV30157
Honorable Brian J. Flynn, Judge

Jamin Tway, as natural parent of Kaidin Tway, a minor child; and Yvette Tway,
as natural parent of Kaidin Tway, a minor child,

Plaintiffs-Appellants,

v.

Joshua Miller and Betty Harper, f/k/a Betty Doty,

Defendants-Appellees.

JUDGMENT AND ORDER AFFIRMED

Division IV
Opinion by JUDGE NIETO*
Hawthorne and Fox, JJ., concur

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

Court of Appeals No. 17CA2193
City and County of Denver District Court No. 17CV30624
Honorable Robert L. McGahey, Jr., Judge

DFW Group LLLP,

Plaintiff-Appellant,

and

Taylor Roberts and Tiffani K. Roberts,

Third-Party Plaintiffs-Appellees,

v.

Wells Fargo Bank, National Association, as Trustee for Citigroup Mortgage
Loan Trust, Series 2004-OPTI, Asset Backed Pass-Through Certificates, Series
2004-OPTI,

Third-Party Defendant-Appellee,

and

Freedom Mortgage Corporation,

Defendant and Third-Party Plaintiff.

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

Division I
Opinion by JUDGE TAUBMAN
Berger and Tow, JJ., concur

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

Court of Appeals No. 18CA0017
El Paso County District Court No. 15CV33306
Honorable Thomas K. Kane, Judge

Country Squire Estates Association, Ronald R. Magnus, Patricia M. Magnus,
Kenneth G. Palmen, David Grunow, Michael P. Pattison, Jennifer S. Pattison,
Randy Redus, Kim Redus, Donald England, and Mark Werner,

Plaintiffs-Appellees,

v.

Chris Schade, a/k/a Chris A. Schade; Betty Milne-Schade, a/k/a Betty C.
Milne-Schade; and Loletta L. Schade,

Defendants-Appellants.

ORDER AFFIRMED

Division I
Opinion by JUDGE TAUBMAN
Berger and Tow, JJ., concur

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

Court of Appeals No. 18CA0134
City and County of Broomfield District Court No. 17CV30215
Honorable F. Michael Goodbee, Judge

Stephen Katsirubas,

Plaintiff-Appellant,

v.

Colorado Department of Revenue,

Defendant-Appellee.

JUDGMENT AFFIRMED

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

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

Court of Appeals No. 18CA0279
Yuma County District Court No. 12CV43
Honorable Michael K. Singer, Judge

Stephen L. Allison and Barry R. Allison,

Plaintiffs-Appellants,

v.

Frank Engel (deceased) and Mary Engel,

Defendants-Appellees.

JUDGMENT AFFIRMED

Division III
Opinion by JUDGE WEBB
Román and Freyre, JJ., concur

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

Court of Appeals No. 18CA0424
Weld County District Court No. 16CV30885
Honorable Todd L. Taylor, Judge

Charles William Struemke and Ricki Struemke,

Plaintiffs-Appellants,

v.

Dan Helmboldt and Lisa Deanne Helmboldt,

Defendants-Appellees.

ORDER AFFIRMED

Division VII
Opinion by JUDGE DUNN
Ashby and Rothenberg*, JJ., concur

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

Court of Appeals No. 18CA0508
Jefferson County District Court No. 15PR31207
Honorable Todd L. Vriesman, Judge

In the Matter of the Estate of Henry Edward Swanson, deceased.

Susan Swanson Braund, as Personal Representative for the Estate of Harry Edward Swanson,

Appellee,

v.

Ann Christopher-Swanson,

Appellant.

ORDER AFFIRMED

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

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

Court of Appeals No. 18CA2449
City and County of Denver Probate Court No. 14MH526
Honorable Beth A. Tomerlin, Magistrate

The People of the State of Colorado,

Petitioner-Appellee,

In the Interest of Richard Eversole,

Respondent-Appellant.

ORDER AFFIRMED

Division V
Opinion by JUDGE TERRY
J. Jones and Grove, 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

Court of Appeals No. 16CA0908

The People of the State of Colorado,

Plaintiff-Appellee,

v.

Everett Edward Weber, Jr.,

Defendant-Appellant.

Petition for Rehearing DENIED

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

Court of Appeals No. 16CA2225

The People of the State of Colorado,

Plaintiff-Appellee,

v.

Lavern G. McKoy,

Defendant-Appellant.

Petition for Rehearing DENIED

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

Court of Appeals No. 17CA0017

In re the Marriage of

Kimberly Scaturro,

Appellee and Cross-Appellant,

and

Pasquale Vincent Scaturro,

Appellant and Cross-Appellee.

Petition for Rehearing DENIED

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

Court of Appeals No. 17CA2206

Dave Brackhahn, Wayne Bryant, Gregory Giehl, Cole Graham, Vernon D. Greenamyre, Bill Gottschalk, Sue Gottschalk, Stephen Keno, Tom Kramer, Jeffrey Maehr, Sharon Parker, and Dennis Spencer,

Plaintiffs-Appellants,

v.

Archuleta County Board of County Commissioner Clifford Lucero; Steve Wadley, Commissioner; Michael Whiting, Commissioner; and Todd Starr, previous Archuleta County Attorney,

Defendants-Appellees.

Opinion Modified and
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. 2018.