

Cases Announced May 17, 1999

OPINIONS

No. 98SA434

ORIGINAL PROCEEDING IN DISCIPLINE  
IN THE MATTER OF NANCY L. MYERS,  
EN BANC  
PER CURIAM

Attorney-Respondent.  
ATTORNEY SUSPENDED

**Attorney Regulation – Making False or Misleading Statements – Giving Advice to Unrepresented Persons - Attorney Suspended**

The supreme court suspended Nancy L. Myers for ninety days for making misleading statements and giving legal advice to the unrepresented victims in a criminal case. Myers represented the defendant in the case. The ninety-day suspension was to run consecutively to the one year and one day suspension that Myers is currently serving for unrelated misconduct.

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No. 97SC355

DR. FRED PIERCE,

Petitioner,

v.

ST. VRAIN VALLEY SCHOOL DISTRICT RE-1J,  
DR. MILTON ETTER, KATHY HALL, MARTIN BLOCK,  
SANDRA MANLY, MICHAEL SHAW and JIM MARTINSEN,

Respondents.

Certiorari to the Colorado Court of Appeals

EN BANC

JUDGMENT REVERSED  
AND CASE REMANDED

JUSTICE KOURLIS delivered the Opinion of the Court.

JUSTICE SCOTT does not participate.

**Contracts – Confidential Settlement Agreements – Contracts that Incidentally Affect First Amendment Rights – Unenforceability of Contracts in Contravention of Public Policy – Boards of Education – Open Records**

Petitioner Dr. Fred Pierce, a former school district superintendent, seeks review of the court of appeals' decision affirming the trial court's dismissal of his claims for breach of a settlement agreement he entered into with the school district at the time of his resignation. The Colorado Supreme Court reverses the decision of the court of appeals.

First, the court concludes that application of the First Amendment does not automatically invalidate the confidentiality provisions of this settlement agreement, when enforcement is sought by and against the very parties to the agreement. Second, the court holds that the parties' promises to one another to keep the terms of the agreement confidential are not so clearly contrary to the public policy of Colorado as to become unenforceable. Specifically, the promises do not contravene the Open Records Act or the Colorado Constitution, and they can be harmonized with laws concerning the operation of school districts.

Accordingly, the court reverses and remands the case for further proceedings

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PETITIONS FOR REHEARING

No. 99SA108

SUBMISSION OF INTERROGATORIES ON HOUSE BILL 99-1325

Opinion Modified and, as Modified, Petition for Rehearing DENIED.

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PETITIONS FOR WRIT OF CERTIORARI

No. 98SC816

Court of Appeals No. 96CA1515 (10/1/98)

THE PEOPLE OF THE STATE OF COLORADO,

Petitioner/Cross-Respondent,

v.

FRANK MELILLO,

Respondent/Cross-Petitioner.

Petition and Cross-Petition for Writ of Certiorari GRANTED. EN BANC.

SUMMARY OF ISSUES:

Whether the prosecution may “open the door” to evidence which is presumptively irrelevant under the rape shield statute, when the defense, knowing that the evidence will be relevant to rebut part of the prosecution’s case, deliberately withdraws it from the trial court’s consideration at the rape shield hearing.

Whether the rule of completeness, as codified in CRE 106, supports admission of [the defendant’s] unrecorded, untranscribed conversation with a police officer.

Whether the evidence was insufficient to support the sexual assault - pattern of abuse conviction.

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No. 98SC821

Court of Appeals No. 97CA0280 (10/1/98)

THOMAS J. McINERNEY,

Petitioner,

v.

PUBLIC EMPLOYEES’ RETIREMENT ASSOCIATION,

Respondent.

Petition for Writ of Certiorari DENIED. EN BANC.

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No. 98SC855

Court of Appeals No. 97CA0887 (10/8/98)

FREUND INVESTMENTS, LLC; KENNETH FREUND; and RAY KASEL,

Petitioners,

v.

CONTINENTAL GRAIN COMPANY,

Respondent.

Petition for Writ of Certiorari DENIED. EN BANC.

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No. 98SC860

Court of Appeals No. 97CA1517 (10/15/98)

NEAL CARRON, JIM JOHNNIE, SHIRLEY JOHNNIE, ROGER  
LOPER, ANN LOPER, ROGER SMITH, and LINDA SMITH,

Petitioners,

v.

BOARD OF COUNTY COMMISSIONERS, OURAY COUNTY;  
DON A. CADY; JOE MATTIVI; ALAN STAEHLE; RON BELL;  
ROBERT J. JEPSEN; and MYRNA L. JEPSEN,

Respondents.

Petition for Writ of Certiorari DENIED. EN BANC.

JUSTICE KOURLIS would grant as to the following issues:

Whether county planning and zoning authority is limited to the manner legislatively provided by  
the planning and zoning enabling statutes.

Whether the Ouray County Zoning Delineation provisions are in the manner provided by the  
planning and zoning enabling statutes.

Whether the delineation procedure violates due process by failing to provide adequate notice  
regarding limitations on use of neighboring lands.

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No. 99SC45

Court of Appeals No. 95CA2040 (11/13/98)

JOHN EDWARDS,

Petitioner,

v.

THE PEOPLE OF THE STATE OF COLORADO,  
Petition for Writ of Certiorari DENIED. EN BANC.

Respondent.

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No. 98SC784

Court of Appeals No. 97CA0400 (8/6/98)

LAWRENCE BIELECKI,

Petitioner,

v.

THE PEOPLE OF THE STATE OF COLORADO,  
Petition for Writ of Certiorari DENIED. EN BANC.

Respondent.

JUSTICE MARTINEZ and JUSTICE BENDER would grant as to the following issue:

Whether it was error for the court of appeals to uphold the trial court's instruction to the jury  
precluding them from finding the defendant not guilty by reason of insanity.

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No. 99SC96

Court of Appeals No. 97CA0316 (11/5/98)

ANTHONY GEAN FORD,

Petitioner,

v.

THE PEOPLE OF THE STATE OF COLORADO,  
Petition for Writ of Certiorari DENIED. EN BANC.

Respondent.

No. 98SC547  
Court of Appeals No. 96CA2158 (6/11/98)  
TOWN OF TELLURIDE, COLORADO, a municipal corporation, Petitioner,  
v.  
LOT THIRTY-FOUR VENTURE, L.L.C., Respondent.  
Petition for Writ of Certiorari GRANTED. EN BANC.

SUMMARY OF ISSUES:

Whether the court of appeals erred in finding that Ordinance 1011 constitutes a form of “rent control” prohibited by section 38-12-301, 10 C.R.S. (1998).

Whether the court of appeals erred in affirming the trial court’s opinion that Ordinance 1011 is superceded by section 38-12-301.

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No. 98SC607  
Court of Appeals No. 97CA0636 (7/23/98)  
LUANNE WELLS, Petitioner,  
v.  
LODGE PROPERTIES, INC.; and THE TOWN OF VAIL, COLORADO, and  
its agents, in their official capacities, namely, THE TOWN COUNCIL, TOWN  
MANAGER, TOWN ATTORNEY, PLANNING AND ENVIRONMENTAL  
COMMISSION, DESIGN REVIEW BOARD, ANDY KNUDTSEN, in his official  
capacity as THE BUILDING ADMINISTRATOR, and DAN SPANECK,  
in his official capacity as the BUILDING ADMINISTRATOR, Respondents.  
Petition for Writ of Certiorari DENIED. EN BANC.

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No. 98SC789  
Court of Appeals No. 96CA1667 (9/3/98)  
FERNANDO ROY WILSON, Petitioner,  
v.  
THE PEOPLE OF THE STATE OF COLORADO, Respondent.  
Petition for Writ of Certiorari DENIED. EN BANC.

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No. 98SC793  
Court of Appeals No. 97CA1740 (8/17/98)  
CESAR DEANDA, Petitioner,  
v.  
THE PEOPLE OF THE STATE OF COLORADO, Respondent.  
Petition for Writ of Certiorari DENIED. EN BANC.

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No. 98SC807  
Court of Appeals No. 96CA1312 (8/13/98)  
DOUGLAS THAMES, Petitioner,  
v.  
THE PEOPLE OF THE STATE OF COLORADO, Respondent.  
Petition for Writ of Certiorari DENIED. EN BANC.

No. 98SC809  
Court of Appeals No. 96CA0023 (9/24/98)  
ROBERTO CASTILLO, Petitioner,  
v. Respondent.  
THE PEOPLE OF THE STATE OF COLORADO,  
Petition for Writ of Certiorari DENIED. EN BANC.

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No. 98SC813  
Court of Appeals No. 98CA0962 (9/10/98)  
MARGRITTE C. LINDSEY, Petitioner,  
v. Respondents.  
THE INDUSTRIAL CLAIM APPEALS OFFICE, DENVER PUBLIC  
SCHOOLS, DENVER SCHOOL DISTRICT #1, GIBBENS COMPANY,  
SCOTT AHOO, PATRICIA MOTZ, and ROSLYN UNDERWOOD-DEE,  
Petition for Writ of Certiorari DENIED. EN BANC.

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No. 98SC836  
Court of Appeals No. 97CA0755 (10/1/98)  
JENNIFER TOMBS, Petitioner,  
v. Respondent.  
THE PEOPLE OF THE STATE OF COLORADO,  
Petition for Writ of Certiorari DENIED. EN BANC.

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No. 99SC117  
Court of Appeals No. 97CA1484 (12/31/98)  
SANDRA JEAN GARCIA, Petitioner,  
v. Respondent.  
THE PEOPLE OF THE STATE OF COLORADO,  
Petition for Writ of Certiorari DENIED. EN BANC.

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No. 99SC122  
Court of Appeals No. 97CA1713 (12/31/98)  
JOSE D. MONTELONGO-PEREZ, Petitioner,  
v. Respondent.  
THE PEOPLE OF THE STATE OF COLORADO,  
Petition for Writ of Certiorari DENIED. EN BANC.

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No. 99SC125  
Court of Appeals No. 97CA1483 (12/17/98)  
TROY M. NORDIC, Petitioner,  
v. Respondent.  
THE PEOPLE OF THE STATE OF COLORADO,  
Petition for Writ of Certiorari DENIED. EN BANC.

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No. 99SC127  
Court of Appeals No. 97CA1350 (12/24/98)  
TERRY WAYNE LOADER, Petitioner,  
v. Respondent.  
THE PEOPLE OF THE STATE OF COLORADO,  
Petition for Writ of Certiorari DENIED. EN BANC.

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No. 99SC128  
Court of Appeals No. 98CA0213 (12/17/98)  
MARVIN SMITH, Petitioner,  
v. Respondent.  
THE PEOPLE OF THE STATE OF COLORADO,  
Petition for Writ of Certiorari DENIED. EN BANC.

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No. 99SC129  
Huerfano County District Court No. 98CR72 (11/13/98)  
HENRY GLENN QUINTANA, III, Petitioner,  
v. Respondent.  
THE PEOPLE OF THE STATE OF COLORADO,  
Petition for Writ of Certiorari DENIED. EN BANC.

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No. 99SC134  
Court of Appeals No. 97CA1736 (11/5/98)  
BRUCE L. SMITH, Petitioner,  
v. Respondent.  
THE PEOPLE OF THE STATE OF COLORADO,  
Petition for Writ of Certiorari DENIED. EN BANC.

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No. 99SC144  
Court of Appeals No. 97CA1345 (12/17/98)  
DAVID DANIEL RANKINS, Petitioner,  
v. Respondent.  
THE PEOPLE OF THE STATE OF COLORADO,  
Petition for Writ of Certiorari DENIED. EN BANC.

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No. 99SC155  
Court of Appeals No. 97CA2138 (1/21/99)  
ROBERT PAKISER, Petitioner,  
v. Respondent.  
THE PEOPLE OF THE STATE OF COLORADO,  
Petition for Writ of Certiorari DENIED. EN BANC.  
JUSTICE RICE does not participate.

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No. 99SC158  
Jefferson County District Court No. 98CR59 (1/27/99)  
JOSEF ERNER,

Petitioner,

v.

THE PEOPLE OF THE STATE OF COLORADO,  
Petition for Writ of Certiorari DENIED. EN BANC.

Respondent.

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No. 99SC159  
Court of Appeals No. 98CA0397 (11/27/98)  
JAMES A. TEMPLETON, JR.,

Petitioner,

v.

THE PEOPLE OF THE STATE OF COLORADO,  
Petition for Writ of Certiorari DENIED. EN BANC.

Respondent.

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No. 99SC174  
Court of Appeals No. 97CA2251 (12/10/98)  
JOHN HENRY BROWN,

Petitioner,

v.

THE PEOPLE OF THE STATE OF COLORADO,  
Petition for Writ of Certiorari DENIED. EN BANC.

Respondent.

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