

**CASE ANNOUNCEMENTS  
COLORADO SUPREME COURT  
MONDAY, NOVEMBER 25, 2013**

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"Slip opinions" are the opinions delivered by the Supreme Court Justices and are subject to modification, rehearing, withdrawal, or clerical corrections. Modifications to previously posted opinions will be linked to the case number in the petition for rehearing section the day the changes are announced.

Click on the case number to view the opinion in pdf format.

**OPINIONS**

**Supreme Court of the State of Colorado**  
2 East 14<sup>th</sup> Avenue • Denver, Colorado 80203

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**[2013 CO 67](#)**

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**[Supreme Court Case No. 12SA13](#)**  
*Appeal from the District Court*  
Water Division 1, Case No. 10CW89  
Honorable James F. Hartmann, Judge

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**Plaintiffs-Appellees:**

Pawnee Well Users, Inc.; The Harmony Ditch Company; City of Boulder; Centennial Water and Sanitation District; Natural Soda, Inc.; Purgatoire River Water Conservancy District; City of Sterling; William S. Vance, Jr.; Elizabeth S. Vance; James G. Fitzgerald; Mary Theresa Fitzgerald; San Juan Citizen's Alliance; Oil and Gas Accountability Project; Vista Pacifica, LLC; Dale Bell; Simon Land & Cattle Co.; James Benesch; Diane Benesch; Mike Meschke; LLH Operations, LLLP; Sheryl Cantalano; and Earthworks Oil and Gas Accountability,

and

**Plaintiffs-Appellees-Intervenors:**

David C. Black; Lallie Lee Black; Margaret Kral; Bruce Baizel; Lucy Baizel; Jim Jefferson; Big Stick Ditch Company; Colonel Alfred Wagstaff & Associates, LLC; and Huntington Ranches, LLC,

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v.

**Defendant-Appellant:**

Dick Wolfe, in his capacity as State Engineer,

and

**Defendant-Appellant-Intervenor:**

Southern Ute Indian Tribe,

and

**Defendants-Appellants-Intervenors:**

BP America Production Company; XTO Energy Inc.; ConocoPhillips Company;  
Chevron U.S.A., Inc. and its Affiliates Chevron Midcontinent, L.P. and Four Star Oil &  
Gas Company; Samson Resources Company; Energen Resources Corporation; Colorado  
Oil and Gas Association; and Colorado Petroleum Association,

and

**Defendants-Appellees-Intervenors:**

El Paso E&P Company, L.P.; Anadarko Petroleum Corporation; EOG Resources, Inc.; K.  
P. Kauffman Company, Inc.; Petroleum Development Corporation; EnCana Oil & Gas  
(U.S.A.) Inc.; Noble Energy, Inc.; Diamond Operating, Inc.; Gunnison Energy  
Corporation; and Pioneer Natural Resources USA, Inc.

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**Order Reversed**

*en banc*

**JUSTICE EID** delivered the Opinion of the Court.

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**PETITIONS FOR REHEARING**

**Supreme Court of the State of Colorado**  
2 East 14<sup>th</sup> Avenue • Denver, Colorado 80203

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**2013 CO 60**

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**Supreme Court Case No. 12SC139**  
*Certiorari to the Colorado Court of Appeals*  
Court of Appeals Case No. 10CA2039

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**Petitioner:**

Bristol Bay Productions, LLC, f/k/a Crusader Entertainment, LLC,

v.

**Respondents:**

Peter Lampack; The Peter Lampack Agency, Inc.; Simon & Schuster, Inc.;  
and Penguin Group USA, Inc.

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Petition for Rehearing DENIED. EN BANC.

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**PETITIONS FOR WRIT OF CERTIORARI**

No. 12SC854  
Court of Appeals Case No. 10CA690

**Petitioner:**

Linwood Richard Halliburton,

v.

**Respondent:**

The People of the State of Colorado.

Petition for Writ of Certiorari DENIED. EN BANC.

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No.12SC914  
Court of Appeals Case No. 10CA2541

**Petitioner:**

Alexander Grant Poe,

v.

**Respondent:**

The People of the State of Colorado.

Petition for Writ of Certiorari DENIED. EN BANC.

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No. 12SC924  
Court of Appeals Case No. 08CA2175

**Petitioner:**

Darrell Anderson,

v.

**Respondent:**

The People of the State of Colorado.

Petition for Writ of Certiorari DENIED. EN BANC.

CHIEF JUSTICE BENDER and JUSTICE MÁRQUEZ would grant as to the following issues:

Whether the court of appeals erred by affirming the district court's ruling based on the procedural default rule of Crim. P. 35(c)(VII), when the pro se litigant was never appointed counsel in the district court to assist in defending against this procedural bar, when 35(c)(VII) was not the basis for the district court's ruling, and when the court of appeals acknowledged the arguable merit of the litigant's actual claim of innocence.

Whether, in the absence of appointed counsel and an evidentiary hearing, the district court erred by denying the indigent, pro se litigant's Crim. P. Rule 35(c) motion arguing that he had no duty to register as a sex offender based on his 1992 offenses, and alleging ineffective assistance of counsel.

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No. 12SC966  
Court of Appeals Case No. 08CA2327

**Petitioner:**

William Costello Scott,  
v.

**Respondent:**

The People of the State of Colorado.

Petition for Writ of Certiorari GRANTED. EN BANC.

Summary of the Issue:

Whether, contrary to this court's decision in Lucero v. People, 272 P.3d 1063 (Colo. 2012), the court of appeals erred by refusing to address whether the menacing conviction was a lesser included offense of aggravated robbery-menaced with a deadly weapon, and failing to order that the menacing conviction be vacated.

DENIED AS TO ALL OTHER ISSUES.

CHIEF JUSTICE BENDER would also grant as to the following issue:

Whether the court of appeals erred in concluding that a mistrial was not required where a police officer testified that his investigation revealed petitioner had an arrest and criminal "history."

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No. 13SC68  
Court of Appeals Case No. 09CA137

**Petitioner:**

Deborah Lee Nicholls,  
v.

**Respondent:**

The People of the State of Colorado.

Petition for Writ of Certiorari GRANTED. EN BANC.

Summary of the Issues:

Whether hearsay statements which shift blame to the accused are admissible as statements against interest.

Whether it was error to admit evidence that petitioner's second child died from SIDS.

DENIED AS TO ALL OTHER ISSUES.

CHIEF JUSTICE BENDER would also grant as to the following issue:

Whether the court erred in allowing witnesses to comment on the veracity of other witnesses.

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No. 13SC211  
Court of Appeals Case No. 12CA634

**Petitioner:**

Erik Jensen,  
v.

**Respondent:**

The People of the State of Colorado.

Petition for Writ of Certiorari Pursuant to C.A.R. 50 GRANTED. EN BANC.

Summary of the Issue:

Whether the district court's determination that petitioner's life without parole sentence was unconstitutional under the Eighth Amendment and Art. II, section 20, Colo. Const., because he was a juvenile when the crime was committed, and, assuming the sentence is invalid, what is the appropriate remedy.

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No. 13SC255  
Court of Appeals Case No. 10CA417

**Petitioner:**

Joseph Ray Bryant,  
v.

**Respondent:**

The People of the State of Colorado.

Petition for Writ of Certiorari DENIED. EN BANC.  
JUSTICE MÁRQUEZ does not participate.

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No. 13SC336  
Court of Appeals Case No. 11CA794

**Petitioner:**

David Robert Chacon,  
v.

**Respondent:**

The People of the State of Colorado.

Petition for Writ of Certiorari DENIED. EN BANC.

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No. 13SC448  
Court of Appeals Case No. 10CA1349

**Petitioner/Cross-Respondent:**

Eric J. Torrez,  
v.

**Respondent/Cross-Petitioner:**

The People of the State of Colorado.

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

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No. 13SC481  
Court of Appeals Case No. 10CA900

**Petitioner:**

Pedro Brian Calzada,  
v.

**Respondent:**

The People of the State of Colorado.

Petition for Writ of Certiorari DENIED. EN BANC.

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No. 13SC861  
Court of Appeals Case No. 13CA764

**Petitioner:**

E.D.S.,

v.

**Respondent:**

The People of the State of Colorado,  
In the Interest of Minor Child: C.F.S.

Petition for Writ of Certiorari DENIED. EN BANC.

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