

**CASE ANNOUNCEMENTS
COLORADO SUPREME COURT
MONDAY, MARCH 17, 2014**

“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

The Supreme Court of the State of Colorado
2 East 14th Avenue • Denver, Colorado 80203

[2014 CO 17](#)

[Supreme Court Case No. 12SC672](#)

Certiorari to the Colorado Court of Appeals
Court of Appeals Case No. 11CA622

Petitioner:

Milton Michael Trujillo, Insurance Producer with Bail Bond Authority,
License No. 60267,

v.

Respondent:

Colorado Division of Insurance.

Judgment Reversed
en banc

JUSTICE HOBBS delivered the Opinion of the Court.

**CASE ANNOUNCEMENTS
COLORADO SUPREME COURT
MONDAY, MARCH 17, 2014**

The Supreme Court of the State of Colorado
2 East 14th Avenue • Denver, Colorado 80203

[2014 CO 18](#)

[Supreme Court Case No. 10SC377](#)
Certiorari to the Colorado Court of Appeals
Colorado Court of Appeals Case No. 06CA2204

Petitioner:

The People of the State of Colorado,

v.

Respondent:

Martin Novotny.

* * * * *

Supreme Court Case No. 11SC509
Certiorari to the Colorado Court of Appeals
Colorado Court of Appeals Case No. 08CA1748

Petitioner:

The People of the State of Colorado,

v.

Respondent:

Edward Arthur Vigil.

Judgments Reversed
en banc

JUSTICE COATS delivered the Opinion of the Court.
JUSTICE HOOD concurs in part and dissents in part, and **JUSTICE HOBBS** joins in
the concurrence in part and the dissent in part.

**CASE ANNOUNCEMENTS
COLORADO SUPREME COURT
MONDAY, MARCH 17, 2014**

The Supreme Court of the State of Colorado
2 East 14th Avenue • Denver, Colorado 80203

[2014 CO 19](#)

[Supreme Court Case No. 11SC422](#)
Certiorari to the Colorado Court of Appeals
Colorado Court of Appeals Case No. 06CA314

Petitioner:

The People of the State of Colorado,

v.

Respondent:

Matthew Francisco Alfaro.

Judgment Reversed

en banc

JUSTICE COATS delivered the Opinion of the Court.
JUSTICE HOOD dissents, and **JUSTICE HOBBS** joins in the dissent.
JUSTICE MÁRQUEZ does not participate.

**CASE ANNOUNCEMENTS
COLORADO SUPREME COURT
MONDAY, MARCH 17, 2014**

PETITIONS FOR REHEARING

NONE

PETITIONS FOR WRIT OF CERTIORARI

No. 13SC42
Court of Appeals Case No. 09CA1347

Petitioner:

Allen Paul Allman,

v.

Respondent:

The People of the State of Colorado.

Petition for Writ of Certiorari DENIED. EN BANC.

No. 13SC121
Court of Appeals Case No. 09CA1089

Petitioner:

Samuel Kase White,

v.

Respondent:

The People of the State of Colorado.

Petition for Writ of Certiorari DENIED. EN BANC.

**CASE ANNOUNCEMENTS
COLORADO SUPREME COURT
MONDAY, MARCH 17, 2014**

No. 13SC214
Court of Appeals Case No. 10CA1278

Petitioner:

Gabriel Feliciano Diaz,

v.

Respondent:

The People of the State of Colorado.

Petition for Writ of Certiorari DENIED. EN BANC.

No. 13SC233
Court of Appeals Case Nos. 11CA1856 & 11CA1857

Petitioners:

Taxpayers for Public Education; Cindra S. Barnard; Marson S. Barnard; James Larue; Suzanne T. Larue; Interfaith Alliance of Colorado; Rabbi Joel R. Schwartzman; Reverend Malcolm Himschoot; Kevin Leung; Christian Moreau; Maritza Carrera; and Susan McMahon,

v.

Respondents:

Douglas County School District; Douglas County Board of Education; Colorado State Board of Education; and Colorado Department of Education,
Defendants-Appellants
and

Intervenor-Respondents:

Florence and Derrick Doyle, on their own behalf and as next friends of their children, Alexandra and Donovan; Diana and Mark Oakley, on their own behalf and as next friends of their child, Nathaniel; Jeanette Strohm-Anderson and Mark Anderson, on their own behalf and as next friends of their child, Max,
Intervenors-Appellants.

Petition for Writ of Certiorari GRANTED. EN BANC.

**CASE ANNOUNCEMENTS
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Summary of the Issues:

[REFRAMED ISSUE] Whether the court of appeals erred by restricting Colorado's standing doctrine when it held that the Public School Finance Act of 1994's ("the Act") mere grant of authority to the State Board to issue rules and regulations necessarily deprives the plaintiffs of standing and precludes any private action to enjoin the Douglas County School District ("the District") from violating the Act.

[REFRAMED ISSUE] Whether the Choice Scholarship Program violates the Act by including 500 Program students "enrolled" in an illusory Charter School who actually attend private schools in the District and elsewhere in the District's student count for funding.

[REFRAMED ISSUE] Whether the court of appeals erred in ruling that the Choice Scholarship Program is entitled to a presumption of constitutionality under Article IX, Section 3, that can only be rebutted by proof of unconstitutionality "beyond a reasonable doubt," and therefore in concluding that fund monies were not spent on the Choice Scholarship Program, notwithstanding the trial court's factual finding to the contrary.

Whether the Choice Scholarship Program violates Article IX, Section 7, of the Colorado Constitution by diverting state educational funds intended for Douglas County public school students to private elementary and secondary schools controlled by churches and religious organizations.

Whether the Choice Scholarship Program violates the compelled-support and compelled-attendance clauses of Article II, Section 4, of the Colorado Constitution by directing taxpayer funds to churches and religious organizations, and by compelling students enrolled in a public charter school to attend religious services.

Whether the Choice Scholarship Program violates Article IX, Section 8, of the Colorado Constitution by requiring students who are enrolled in a public charter school, and counted by Douglas County as public school students, to be taught religious tenets, submit to religious admission tests, and attend religious services.

DENIED AS TO ALL OTHER ISSUES.

**CASE ANNOUNCEMENTS
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MONDAY, MARCH 17, 2014**

No. 13SC239
Court of Appeals Case No. 10CA241

Petitioner:

Richard Joseph McCallum,

v.

Respondent:

The People of the State of Colorado.

Petition for Writ of Certiorari DENIED. EN BANC.

No. 13SC295
Court of Appeals Case No. 12CA838

Petitioner:

Robert E. Zeigler, Sr.,

v.

Respondent:

The People of the State of Colorado.

Petition for Writ of Certiorari DENIED. EN BANC.

No. 13SC366
Court of Appeals Case No. 09CA366

Petitioner:

Martin Lee Cisneros,

v.

Respondent:

The People of the State of Colorado.

Petition for Writ of Certiorari DENIED. EN BANC.

**CASE ANNOUNCEMENTS
COLORADO SUPREME COURT
MONDAY, MARCH 17, 2014**

No. 13SC367
Court of Appeals Case No. 11CA2413

Petitioner:

Rudy Joseph Chick,
v.

Respondent:

The People of the State of Colorado.

Petition for Writ of Certiorari DENIED. EN BANC.

No. 13SC384
Court of Appeals Case No. 10CA1876

Petitioner:

Genaro Lozano-Salazar,
v.

Respondent:

The People of the State of Colorado.

Petition for Writ of Certiorari DENIED. EN BANC.

No. 13SC396
Court of Appeals Case No. 10CA2293

Petitioner:

Miguel Cadenas-Martinez,
v.

Respondent:

The People of the State of Colorado.

Petition for Writ of Certiorari DENIED. EN BANC.

**CASE ANNOUNCEMENTS
COLORADO SUPREME COURT
MONDAY, MARCH 17, 2014**

No. 13SC406
Court of Appeals Case No. 12CA671

Petitioner:

David P. Lorentzen,
v.

Respondent:

Elly Just.

Petition for Writ of Certiorari DENIED. EN BANC.

No. 13SC415
Court of Appeals Case No. 12CA1194

Petitioner:

Joseph P. Cotter,
v.

Respondent:

Law Offices of Paul Gertz, PC.

Petition for Writ of Certiorari DENIED. EN BANC.

No. 13SC426
Court of Appeals Case No. 13CA219

Petitioner:

Gregory Joe Sparks,
v.

Respondents:

Vista TD LLC and Industrial Claim Appeals Office.

Petition for Writ of Certiorari DENIED. EN BANC.

**CASE ANNOUNCEMENTS
COLORADO SUPREME COURT
MONDAY, MARCH 17, 2014**

No. 13SC478
Court of Appeals Case No. 09CA2386

Petitioner:

Lynne Ann White,
v.

Respondent:

The People of the State of Colorado.

Petition for Writ of Certiorari DENIED. EN BANC.

No. 13SC479
Court of Appeals Case No. 10CA1731

Petitioner:

Stetson Bustos,
v.

Respondent:

The People of the State of Colorado.

Petition for Writ of Certiorari DENIED. EN BANC.

No. 13SC513
Court of Appeals Case No. 11CA1010

Petitioner:

Mark Miller,
v.

Respondent:

The People of the State of Colorado.

Petition for Writ of Certiorari DENIED. EN BANC.

**CASE ANNOUNCEMENTS
COLORADO SUPREME COURT
MONDAY, MARCH 17, 2014**

No. 13SC514
Court of Appeals Case No. 12CA596

Petitioners:

Leslie R. Evans and Esther H. Evans,
v.

Respondents:

BCB Properties, LLC, a Colorado limited liability company and Alan Towbin,
individually.

Petition for Writ of Certiorari DENIED. EN BANC.

No. 13SC517
Weld County District Court Case No. 12CV673

Petitioner:

Lauren Dougherty,
v.

Respondent:

The People of the State of Colorado.

Petition for Writ of Certiorari DENIED. EN BANC.

No. 13SC518
Court of Appeals Case No. 12CA1923

Petitioner:

James David Taylor,
v.

Respondent:

The People of the State of Colorado.

Petition for Writ of Certiorari DENIED. EN BANC.

**CASE ANNOUNCEMENTS
COLORADO SUPREME COURT
MONDAY, MARCH 17, 2014**

No. 13SC519
Court of Appeals Case No. 12CA315

In re the Marriage of

Petitioner:

Gary Martin Perrin,
and

Respondent:

Kathleen Raye Perrin.

Petition for Writ of Certiorari DENIED. EN BANC.

No. 13SC521
Arapahoe County District Court Case No. 12CV649

Petitioner:

Richard Moore,
v.

Respondent:

The People of the State of Colorado.

Petition for Writ of Certiorari DENIED. EN BANC.

**CASE ANNOUNCEMENTS
COLORADO SUPREME COURT
MONDAY, MARCH 17, 2014**

No. 13SC523
Court of Appeals Case No. 10CA992

Petitioner:

Jarrold Ralph Rutter,
v.

Respondent:

The People of the State of Colorado.

Petition for Writ of Certiorari GRANTED. EN BANC.

Summary of the Issue:

[REFRAMED ISSUE] Whether a court, when conducting an abbreviated proportionality review of a habitual criminal sentence, can consider the general assembly's subsequent reclassification of a crime and/or amendment of the habitual criminal statute that made an underlying crime inapplicable for purposes of a habitual criminal adjudication.

DENIED AS TO ALL OTHER ISSUES.

No. 13SC532
Court of Appeals Case No. 12CA573

Petitioners:

Daniel C. Zook and David H. Zook,
v.

Respondents:

El Paso County Retirement Plan; El Paso County Retirement Board; Sandra Damron, member of the El Paso County Retirement Board; Robert Balink; Nicola Sapp; Joseph Breister; Julie Johnson; Brian Larson, as members of said Board; and Howard Miller, as Plan Administrator.

Petition for Writ of Certiorari DENIED. EN BANC.

**CASE ANNOUNCEMENTS
COLORADO SUPREME COURT
MONDAY, MARCH 17, 2014**

No. 13SC538
Court of Appeals Case No. 10CA1729

Petitioner:

Barbara Sue Hemker,
v.

Respondent:

The People of the State of Colorado.

Petition for Writ of Certiorari DENIED. EN BANC.

No. 13SC540
Court of Appeals Case No. 11CA1489

Petitioner:

Billie L. Champion,
v.

Respondents:

Barbara B. Carol and Casa Del Norte, LLC.

Petition for Writ of Certiorari DENIED. EN BANC.

No. 13SC541
Court of Appeals Case No. 10CA2308

Petitioner:

Yonas Ande,
v.

Respondent:

The People of the State of Colorado.

Petition for Writ of Certiorari DENIED. EN BANC.

**CASE ANNOUNCEMENTS
COLORADO SUPREME COURT
MONDAY, MARCH 17, 2014**

No. 13SC542
Court of Appeals Case No. 10CA2123

Petitioner:

Tausha Merwin,

v.

Respondent:

The People of the State of Colorado.

Petition for Writ of Certiorari DENIED. EN BANC.

No. 13SC553
Court of Appeals Case No. 11CA1706

Petitioner:

Jermaine Terrance Calderon,

v.

Respondent:

The People of the State of Colorado.

Petition for Writ of Certiorari DENIED. EN BANC.

No. 13SC558
Court of Appeals Case No. 11CA292

Petitioner:

Miguel Trimble,

v.

Respondent:

The People of the State of Colorado.

Petition for Writ of Certiorari DENIED. EN BANC.

**CASE ANNOUNCEMENTS
COLORADO SUPREME COURT
MONDAY, MARCH 17, 2014**

No. 13SC559
Court of Appeals Case No. 13CA87

Petitioner:

Paul J. Davis,
v.

Respondent:

Kristal Virgues.

Petition for Writ of Certiorari DENIED. EN BANC.

No. 13SC562
Court of Appeals Case No. 11CA2516

Petitioner:

Ebony Shauntae Watson,
v.

Respondent:

The People of the State of Colorado.

Petition for Writ of Certiorari DENIED. EN BANC.

No. 13SC567
Weld County District Court Case No. 13CV30068

Petitioner:

Craig Michael Donahue,
v.

Respondent:

The People of the State of Colorado.

Petition for Writ of Certiorari DENIED. EN BANC.

**CASE ANNOUNCEMENTS
COLORADO SUPREME COURT
MONDAY, MARCH 17, 2014**

No. 13SC644
Court of Appeals Case No. 12CA565

Petitioner:

Cheryl Higham,
v.

Respondent:

Eve Bluestein, M.D., D.D.S.

Petition for Writ of Certiorari DENIED. EN BANC.

CHIEF JUSTICE RICE and JUSTICE BOATRRIGHT would grant as to the following issues:

Whether the district court erred in denying the petitioner's Petition for Review and adopting the Order of the Magistrate dated January 11, 2012.

Whether the district court erred in granting the respondent's Motion to Strike plaintiff's Offer of Proof ordering that the Offer of Proof and all exhibits be stricken from the court record and not considered for any purpose.

Whether the district court erred in granting the respondent's Motion for Summary Judgment.

No. 13SC677
Court of Appeals Case No. 10CA2140

Petitioner:

Gerald Ray MacFarlane,
v.

Respondent:

The People of the State of Colorado.

Petition for Writ of Certiorari DENIED. EN BANC.

**CASE ANNOUNCEMENTS
COLORADO SUPREME COURT
MONDAY, MARCH 17, 2014**

No. 13SC703
Court of Appeals Case No. 12CA167

Petitioner:

The People of the State of Colorado,
v.

Respondent:

Harold Myers.

Petition for Writ of Certiorari DENIED. EN BANC.

No. 13SC706
Court of Appeals Case No. 10CA1482

Petitioner:

Monty Craig Holen,
v.

Respondent:

The People of the State of Colorado.

Petition for Writ of Certiorari DENIED. EN BANC.

No. 13SC727
El Paso County District Court Case No. 12CV365

Petitioner:

Steven Bass,
v.

Respondent:

City of Colorado Springs, by and on behalf of The People of the State of Colorado.

Petition for Writ of Certiorari DENIED. EN BANC.

**CASE ANNOUNCEMENTS
COLORADO SUPREME COURT
MONDAY, MARCH 17, 2014**

No. 13SC730
Court of Appeals Case No. 12CA2437

Petitioner:

Ty Winter,

v.

Respondents:

City of Trinidad Cirsa, and Industrial Claim Appeals Office.

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

No. 14SC133
Court of Appeals Case No. 13CA1545

Petitioner:

L.C.

v.

Respondent:

The People of the State of Colorado,
In the Interest of minor child: L.C., Jr.

Petition for Writ of Certiorari DENIED. EN BANC.
