

CASE ANNOUNCEMENTS
COLORADO SUPREME COURT
MONDAY, JUNE 1, 2015

"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.

RULE CHANGE

The Colorado Supreme Court has adopted the proposed amendments to the Colorado Rules of Civil Procedure, Rules 1, 12, 16, 16.1, 26, 30, 31, 33, 34, 37, 54, and 121 §1-22, and the Proposed Case Management Order, JDF 622. These changes are adopted May 28, 2015, effective July 1, 2015. The adopted rules are available at https://www.courts.state.co.us/Courts/Supreme_Court/Rule_Changes/2015.cfm

OPINIONS

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

2015 CO 36

Supreme Court Case No. 12SC236

Certiorari to the Colorado Court of Appeals
Court of Appeals Case No. 07CA1955

Petitioner/Cross-Respondent:

The People of the State of Colorado,

v.

Respondent/Cross-Petitioner:

Rashaim Malique Davis.

Judgment Reversed

en banc

CHIEF JUSTICE RICE delivered the Opinion of the Court.

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

[2015 CO 37](#)

[Supreme Court Case No. 11SC554](#)
Certiorari to the Colorado Court of Appeals
Court of Appeals Case No. 09CA1073

Petitioner:

Douglas E. Wilson,

v.

Respondent:

The People of the State of Colorado.

Judgment Affirmed
en banc

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[Supreme Court Case No. 11SC868](#)
Certiorari to the Colorado Court of Appeals
Court of Appeals Case No. 10CA742

Petitioner:

William Beaty,

v.

Respondent:

The People of the State of Colorado.

Judgment Affirmed
en banc

CHIEF JUSTICE RICE delivered the Opinion of the Court.

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

[2015 CO 38](#)

[Supreme Court Case No. 14SC50](#)
Certiorari to the Colorado Court of Appeals
Court of Appeals Case No. 12CA453

Petitioner:

Gary S. Roup,

v.

Respondent:

Commercial Research, LLC.

Judgment Affirmed
en banc

JUSTICE HOBBS delivered the Opinion of the Court.

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

[2015 CO 39](#)

[Supreme Court Case No. 14SA234](#)

Appeal from District Court

Alamosa County District Court, Water Division 3, Case No. 10CW31
Honorable Pattie P. Swift, Water Judge

Concerning the Application for Water Rights of Charles W. Tidd and Barbara T. Tidd

Plaintiffs-Appellants:

David L. Frees, George A. Frees, Delmer E. Frees, and Shirley A. Frees,

v.

Applicants-Appellees:

Charles W. Tidd and Barbara T. Tidd,

and

Appellee Pursuant to C.A.R. 1(e):

Craig Cotton, Division Engineer.

Judgment Affirmed

en banc

JUSTICE HOBBS delivered the Opinion of the Court.

JUSTICE MÁRQUEZ dissents, and **JUSTICE COATS** joins in the dissent.

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

[2015 CO 40](#)

[Supreme Court Case No. 13SC131](#)
Certiorari to the Colorado Court of Appeals
Court of Appeals Case No. 11CA1829

Petitioners:

Christopher Boyer and Patrick Singson,

v.

Respondent:

Health Grades, Inc., a Colorado corporation.

Judgment Reversed
en banc

JUSTICE COATS delivered the Opinion of the Court.

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

[2015 CO 41](#)

[Supreme Court Case No. 12SC671](#)
Certiorari to the Colorado Court of Appeals
Court of Appeals Case No. 11CA1005

Petitioners:

Colorado Medical Society, a Colorado Nonprofit Corporation, and the Colorado Society of Anesthesiologists, a Colorado Nonprofit Corporation,

v.

Respondent:

John Hickenlooper, in his official capacity as the Governor of Colorado,
and

Intervenors-Respondents:

Colorado Association of Nurse Anesthetists, Colorado Nurses Association, and Colorado Hospital Association.

Judgment Affirmed
en banc

JUSTICE EID delivered the Opinion of the Court.
JUSTICE MÁRQUEZ does not participate.

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

[2015 CO 42](#)

[Supreme Court Case No. 12SC932](#)
Certiorari to the Colorado Court of Appeals
Court of Appeals Case No. 07CA2467

Petitioner:

The People of the State of Colorado,

v.

Respondent:

Michael Quinn Tate.

Judgment Reversed in Part and Affirmed in Part
en banc

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[Supreme Court Case No. 12SC1022](#)
Certiorari to the Colorado Court of Appeals
Court of Appeals Case No. 08CA105

Petitioner:

Tenarro Banks,

v.

Respondent:

The People of the State of Colorado.

Judgment Reversed in Part and Affirmed in Part
en banc

**CASE ANNOUNCEMENTS
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[Supreme Court Case No. 13SC211](#)

C.A.R. 50 Certiorari to the Colorado Court of Appeals
Court of Appeals Case No. 12CA634
Douglas County District Court Case No. 98CR422
Honorable Richard Caschette, Judge

Petitioner:

Erik Brendan Jensen,

v.

Respondent:

The People of the State of Colorado.

Order Affirmed

en banc

JUSTICE EID delivered the Opinion of the Court.

CHIEF JUSTICE RICE concurs in part and dissents in part.

JUSTICE HOBBS concurs in part and dissents in part.

JUSTICE COATS concurs in part and dissents in part.

JUSTICE HOOD concurs in part and dissents in part, and **JUSTICE MÁRQUEZ** joins in the concurrence in part and the dissent in part.

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

[2015 CO 43](#)

[Supreme Court Case No. 14SC495](#)

C.A.R. 50 Certiorari to the Colorado Court of Appeals
Court of Appeals Case No. 13CA2046
Jefferson County District Court Case No. 97CR1195
Honorable Tamara Russell, Judge

Petitioner:

The People of the State of Colorado,

v.

Respondent:

Frank Vigil, Jr.

Judgment Reversed

en banc

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

**CASE ANNOUNCEMENTS
COLORADO SUPREME COURT
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PETITIONS FOR REHEARING

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

[2015 CO 30M](#)

[Supreme Court Case No. 14SA179](#)

Appeal from the District Court

Weld County District Court, Water Division 1, Case No. 06CW40
Honorable James F. Hartmann, Water Judge

Concerning the Application for Water Rights of East Cherry Creek Valley Water and Sanitation District and Colorado Water Network, Inc. in Adams, Arapahoe, Denver, Douglas, Elbert, Larimer, Morgan, and Weld Counties

Applicant-Appellant/Cross-Appellees:

East Cherry Creek Valley Water and Sanitation District and Colorado Water Network, Inc.,

v.

Opposer-Appellants:

Greeley Irrigation Company, City of Greeley, Central Colorado Water Conservancy District, Groundwater Management Subdistrict of the Central Colorado Water Conservancy, Well Augmentation Subdistrict of the Central Colorado Water Conservancy District, Cache la Poudre Water Users Association, Lower Latham Reservoir Company, and Ogilvy Irrigating and Land Company,

v.

Cross-Appellants:

Dick Wolfe, P.E. State Engineer, and David L. Nettles, P.E. Division Engineer, Water Division 1; and City of Aurora,

Opposer-Appellees:

City of Englewood, Centennial Water and Sanitation District, City of Boulder, City of Thornton, Colorado Division of Wildlife, Equus Farms, Inc., Irrigationists Association

**CASE ANNOUNCEMENTS
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Water District, Northern Colorado Water Conservancy District, and Public Service
Company of Colorado.

Opinion modified, and as modified, Petition for Rehearing DENIED. EN BANC.

PETITIONS FOR WRIT OF CERTIORARI

No. 14SC147
Court of Appeals Case No. 10CA1835

Petitioner:

David Trujillo,

v.

Respondent:

The People of the State of Colorado.

Petition for Writ of Certiorari DENIED. EN BANC.

No. 14SC424
Court of Appeals Case No. 11CA2416

Petitioner:

David Mario Griego,

v.

Respondent:

The People of the State of Colorado.

Petition for Writ of Certiorari DENIED. EN BANC.

CASE ANNOUNCEMENTS
COLORADO SUPREME COURT
MONDAY, JUNE 1, 2015

No. 14SC432
Court of Appeals Case No. 13CA285

Petitioner:

Qwest Corporation,

v.

Respondents:

City of Thornton, Colorado, a home rule city, and City of Northglenn, Colorado, a home rule city.

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

JUSTICE EID and JUSTICE MÁRQUEZ would grant as to the following issues:

Whether statutes of limitations limit or affect the ability to assert a defense against relief sought.

Whether section 29-2-106.1, C.R.S. (2014), which the General Assembly enacted as a matter of statewide concern, preempts home rule ordinances.

Whether taxpayers bear the burden of correcting a local government's error in receiving mistakenly-paid taxes.

Whether section 29-2-106.1(5), C.R.S. (2014), which gives a taxpayer credit for paying tax to one local government that the taxpayer previously paid to another local government, is a defense to an assessment of taxes.

CASE ANNOUNCEMENTS
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No. 14SC504
Court of Appeals Case No. 12CA2518

Petitioner:

Chinou Vue,

v.

Respondent:

The People of the State of Colorado.

Petition for Writ of Certiorari DENIED. EN BANC.

JUSTICE MÁRQUEZ and JUSTICE BOATRIGHT would grant as to the following issue:

Whether a defendant is entitled to written notice regarding the conditions of probation before his probation may be revoked.

No. 14SC565
Court of Appeals Case No. 10CA2014

Petitioner:

William Joe Garcia,

v.

Respondent:

The People of the State of Colorado.

Petition for Writ of Certiorari DENIED. EN BANC.

No. 14SC593
Court of Appeals Case No. 10CA947

Petitioner:

Albert Lee Boone,

v.

Respondent:

The People of the State of Colorado.

Petition for Writ of Certiorari DENIED. EN BANC.

CASE ANNOUNCEMENTS
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No. 14SC598
Court of Appeals Case No. 12CA2239

Petitioner:

Brenda Lee Vargas,

v.

Respondent:

The People of the State of Colorado.

Petition for Writ of Certiorari DENIED. EN BANC.

No. 14SC711
Court of Appeals Case No. 10CA1042

Petitioner:

Thomas Edward Burghardt,

v.

Respondent:

The People of the State of Colorado.

Petition for Writ of Certiorari DENIED. EN BANC.

No. 14SC745
Court of Appeals Case No. 10CA2610

Petitioner:

Conway B. Johnson,

v.

Respondent:

The People of the State of Colorado.

Petition for Writ of Certiorari DENIED. EN BANC.

CASE ANNOUNCEMENTS
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No. 14SC761
Court of Appeals Case No. 11CA338

Petitioner:

Dandy Lee Vickery,

v.

Respondent:

The People of the State of Colorado.

Petition for Writ of Certiorari DENIED. EN BANC.

No. 14SC764
Court of Appeals Case No. 13CA995

Petitioners:

Jeffrey L. Wainscott, Personal Representative of the Estate of Donald L. Wainscott, and
Rena Wainscott,

v.

Respondent:

Centura Health Corporation, d/b/a Centura Health.

Petition for Writ of Certiorari DENIED. EN BANC.

No. 14SC784
Court of Appeals Case No. 10CA2485

Petitioner:

Jerry Nemnich,

v.

Respondent:

The People of the State of Colorado.

Petition for Writ of Certiorari DENIED. EN BANC.

CASE ANNOUNCEMENTS
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No. 14SC806
Court of Appeals Case No. 13CA985

Petitioner:

L.C. Jackson Jr.,

v.

Respondent:

The People of the State of Colorado.

Petition for Writ of Certiorari DENIED. EN BANC.

No. 14SC829
Court of Appeals Case No. 12CA966

Petitioner:

Tyrone J. Martinez,

v.

Respondent:

The People of the State of Colorado.

Petition for Writ of Certiorari DENIED. EN BANC.

No. 14SC968
Court of Appeals Case No. 13CA1421

Petitioner:

Marcello Maldonado Perez,

v.

Respondent:

The People of the State of Colorado.

Petition for Writ of Certiorari DENIED. EN BANC.

CASE ANNOUNCEMENTS
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No. 14SC969
Court of Appeals Case No. 13CA691

Petitioner:

Gregory Paul Frye,

v.

Respondent:

The People of the State of Colorado.

Petition for Writ of Certiorari DENIED. EN BANC.

No. 14SC996
Court of Appeals Case No. 13CA641

Petitioner:

Eric Benjamin Hines,

v.

Respondent:

The People of the State of Colorado.

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

No. 14SC999
Court of Appeals Case No. 14CA1441

Petitioner:

George E. Girardi,

v.

Respondent:

The People of the State of Colorado.

Petition for Writ of Certiorari DENIED. EN BANC.

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No. 14SC1001
Court of Appeals Case No. 12CA1341

Petitioner:

Abel Martinez-Sanchez,

v.

Respondent:

The People of the State of Colorado.

Petition for Writ of Certiorari DENIED. EN BANC.

No. 14SC1002
Court of Appeals Case No. 12CA1770

Petitioner:

Christine Caroline Arnold,

v.

Respondent:

The People of the State of Colorado.

Petition for Writ of Certiorari DENIED. EN BANC.

No. 14SC1003
Court of Appeals Case No. 13CA436

Petitioner:

Roy Pena,

v.

Respondent:

The People of the State of Colorado.

Petition for Writ of Certiorari DENIED. EN BANC.

CASE ANNOUNCEMENTS
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No. 14SC1004
Court of Appeals Case No. 12CA813

Petitioner:

Keaton Schaefer,

v.

Respondent:

The People of the State of Colorado.

Petition for Writ of Certiorari DENIED. EN BANC.

No. 14SC1005
Court of Appeals Case No. 13CA366

Petitioner:

Suzanne Marie Garcia,

v.

Respondent:

The People of the State of Colorado.

Petition for Writ of Certiorari DENIED. EN BANC.

JUSTICE BOATRRIGHT would grant as to the following issue:

Whether the trial court abused its discretion, reversibly erred, and violated the petitioner's due process right to a fair trial when, pursuant to the Victim's Rights Act and despite a sequestration order, it allowed a victim who had not yet testified to remain in the courtroom during testimony.

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No. 14SC1011
Court of Appeals Case No. 13CA507

Petitioner:

Philip E. Stetzel,

v.

Respondents:

Executive Director of the CDOC; James Lander, MH Supervisor; Stephanie Engler, Therapist; and Jason Walker, Therapist.

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

No. 14SC1014
Court of Appeals Case No. 13CA1787

Petitioner/Cross-Respondent:

Keith J. Gilmartin,

v.

Respondents/Cross-Petitioners:

Investments in Allied Mortgage, LLC, and Security Services, Limited.

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

No. 14SC1017
Court of Appeals Case No. 10CA760

Petitioner:

Salvador Marujo,

v.

Respondent:

The People of the State of Colorado.

Petition for Writ of Certiorari DENIED. EN BANC.

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No. 14SC1020
Court of Appeals Case No. 14CA494

Petitioner:

James Darron McDaniel,

v.

Respondent:

The People of the State of Colorado.

Petition for Writ of Certiorari DENIED. EN BANC.

No. 14SC1024
Court of Appeals Case No. 13CA1169

Petitioner:

Katherine Jo Motto,

v.

Respondent:

Theresa Elaine Keiser, Personal Representative.

Petition for Writ of Certiorari DENIED. EN BANC.

No. 14SC1025
Court of Appeals Case No. 14CA317

Petitioner:

Lawrence A. Martinez,

v.

Respondent:

Albertsons, LLC, and Industrial Claim Appeals Office of the State of Colorado.

Petition for Writ of Certiorari DENIED. EN BANC.

CASE ANNOUNCEMENTS
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No. 14SC1028
Court of Appeals Case No. 13CA1615

Petitioner:

Louis A. Romero,

v.

Respondent:

The People of the State of Colorado.

Petition for Writ of Certiorari DENIED. EN BANC.

No. 14SC1033
Court of Appeals Case No. 13CA72

Petitioner:

Christopher Abraham Diaz,

v.

Respondent:

The People of the State of Colorado.

Petition for Writ of Certiorari DENIED. EN BANC.

No. 14SC1034
Court of Appeals Case No. 13CA2215

Petitioner:

Michael Wayne Bingham,

v.

Respondent:

The People of the State of Colorado.

Petition for Writ of Certiorari DENIED. EN BANC.

**CASE ANNOUNCEMENTS
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No. 14SC1037
Court of Appeals Case No. 12CA2533

Petitioner:

Shawnee Ryan,

v.

Respondent:

The People of the State of Colorado.

Petition for Writ of Certiorari DENIED. EN BANC.

No. 14SC1038
Court of Appeals Case No. 13CA1048

Petitioners:

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

v.

Respondents:

Gregory Bartee and Carol Bartee.

Petition for Writ of Certiorari DENIED. EN BANC.

No. 14SC1039
Court of Appeals Case No. 13CA2153

Petitioner:

Darrell Duane Osborne,

v.

Respondent:

The People of the State of Colorado.

Petition for Writ of Certiorari DENIED. EN BANC.

CASE ANNOUNCEMENTS
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No. 14SC1040
Court of Appeals Case No. 14CA1668

In the Matter of the Estate of:
William J. Young, IV, Deceased.

Petition for Writ of Certiorari DENIED. EN BANC.

No. 14SC1042
Court of Appeals Case No. 13CA159

Petitioner:
Shawna Nacke,
v.

Respondent:
The People of the State of Colorado.

Petition for Writ of Certiorari DENIED. EN BANC.

No. 14SC1046
Court of Appeals Case No. 13CA1891

Petitioner:
M.C.,
v.

Respondent:
The People of the State of Colorado.

Petition for Writ of Certiorari DENIED. EN BANC.

CASE ANNOUNCEMENTS
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No. 14SC1051
Court of Appeals Case No. 14CA1310

Petitioner:

Laurie A. Weathers,

v.

Respondents:

Wal-Mart Stores, Illinois National Insurance Company, and Industrial Claim Appeals Office.

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

No. 15SC7
Court of Appeals Case No. 13CA1542

Petitioner:

Trenton David Earl,

v.

Respondent:

The People of the State of Colorado.

Petition for Writ of Certiorari DENIED. EN BANC.

No. 15SC12
Court of Appeals Case No. 13CA50

Petitioner:

Stacy Damon Harris,

v.

Respondent:

The People of the State of Colorado.

Petition for Writ of Certiorari DENIED. EN BANC.

CASE ANNOUNCEMENTS
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No. 15SC13
Court of Appeals Case No. 12CA331

Petitioner:

Marcel David McMichael,
v.

Respondent:

The People of the State of Colorado.

Petition for Writ of Certiorari DENIED. EN BANC.

No. 15SC16
Court of Appeals Case No. 14CA272

Petitioner:

Antonio Aguilar,
v.

Respondent:

The People of the State of Colorado.

Petition for Writ of Certiorari DENIED. EN BANC.

No. 15SC20
Court of Appeals Case No. 12CA1847

Petitioner:

Jason Arnold Montgomery,
v.

Respondent:

The People of the State of Colorado.

Petition for Writ of Certiorari DENIED. EN BANC.

CASE ANNOUNCEMENTS
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No. 15SC21
Court of Appeals Case No. 12CA1819

Petitioner:

Brian Keith Rogers,

v.

Respondent:

The People of the State of Colorado.

Petition for Writ of Certiorari DENIED. EN BANC.

No. 15SC22
Court of Appeals Case No. 12CA1772

Petitioner:

Zachary Lee Sullivan,

v.

Respondent:

The People of the State of Colorado.

Petition for Writ of Certiorari DENIED. EN BANC.

No. 15SC26
Court of Appeals Case No. 11CA2037

Petitioner:

Jason Joe Guerrero,

v.

Respondent:

The People of the State of Colorado.

Petition for Writ of Certiorari DENIED. EN BANC.

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No. 15SC27
Court of Appeals Case No. 13SC957

Petitioner:

Donald Jean Scarlett,

v.

Respondent:

The People of the State of Colorado.

Petition for Writ of Certiorari DENIED. EN BANC.

No. 15SC30
Court of Appeals Case No. 13SCA2183

Petitioner:

Kevin L. McKinney,

v.

Respondent:

The People of the State of Colorado.

Petition for Writ of Certiorari DENIED. EN BANC.

No. 15SC374
Court of Appeals Case No. 14CA286

Petitioner:

Karla Pineda-Liberato,

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 a trial court has the authority to continue to collect restitution, costs, and fees when a defendant has completed a deferred judgment and sentence.