

**CASE ANNOUNCEMENTS
COLORADO SUPREME COURT
MONDAY, FEBRUARY 8, 2016**

"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

[2016 CO 9](#)

[Supreme Court Case No. 13SC339](#)
Certiorari to the Colorado Court of Appeals
Court of Appeals Case No. 11CA1851

Petitioner:

Laura A. Newman, LLC d/b/a Herb's and Herb's Jazz & Blues,

v.

Respondent:

T. Lawton Roberts.

Order Reversed

en banc

JUSTICE EID delivered the Opinion of the Court.

JUSTICE GABRIEL dissents, and **JUSTICE HOOD** joins in the dissent.

**CASE ANNOUNCEMENTS
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PETITIONS FOR REHEARING

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

2015 CO 68

Supreme Court Case No. 13SC495
Certiorari to the Colorado Court of Appeals
Court of Appeals Case No. 11CA1206

Petitioner:

The People of the State of Colorado,

v.

Respondent:

Shannon Nelson.

Petition for Rehearing DENIED. EN BANC.
JUSTICE HOOD would grant the petition.
JUSTICE GABRIEL does not participate.

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

2015 CO 69

Supreme Court Case No. 13SC496
Certiorari to the Colorado Court of Appeals
Court of Appeals Case No. 09CA2081

Petitioner:

The People of the State of Colorado,

v.

Respondent:

Louis Alonzo Madden.

Petition for Rehearing DENIED. EN BANC.
JUSTICE HOOD would grant the petition.
JUSTICE GABRIEL does not participate.

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

2016 CO 5

Supreme Court Case No. 13SC554
Certiorari to the Colorado Court of Appeals
Court of Appeals Case Nos. 12CA907 and 12CA1702

Petitioners:

Merridy Kay Baker and Sue Carol Kunda,

v.

Respondents:

Wood, Ris & Hames, Professional Corporation, a Colorado professional corporation;
Donald L. Cook; and Barbara L. Brundin.

Petition for Rehearing DENIED. EN BANC.

**CASE ANNOUNCEMENTS
COLORADO SUPREME COURT
MONDAY, FEBRUARY 8, 2016**

PETITIONS FOR WRIT OF CERTIORARI

No. 14SC282
Court of Appeals Case No. 11CA225

Petitioner:

Johnny Maurice Melton,

v.

Respondent:

The People of the State of Colorado.

Petition for Writ of Certiorari GRANTED. EN BANC.

Summary of Issues:

[REFRAMED] Whether a drug possession conviction constitutes a grave or serious offense.

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.

Whether a twenty-four year sentence is cruel and unusual punishment for a drug possession conviction enhanced under the habitual criminal statute where, based upon revisions to the drug statutes and habitual criminal statute, the defendant would not be eligible for habitual sentencing and would receive a two year maximum sentence.

[REFRAMED] Whether a theft conviction constitutes a grave or serious offense.

DENIED AS TO ALL OTHER ISSUES.

**CASE ANNOUNCEMENTS
COLORADO SUPREME COURT
MONDAY, FEBRUARY 8, 2016**

No. 14SC997
Court of Appeals Case No. 09CA2536

Petitioner/Cross-Respondent:

Mark Alton Friend,

v.

Respondent/Cross-Petitioner:

The People of the State of Colorado.

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

Summary of Issues:

Whether child abuse causing death as part of a pattern of conduct under section 18-6-401(1)(a), (7)(a)(I), C.R.S. (2015), merges into first-degree murder child abuse under section 18-3-102(1)(f), C.R.S. (2015), when they are based on identical evidence and the death results solely from accumulated injuries.

Whether the court of appeals erred when it held that the defendant's double jeopardy claim was not waived and the trial court's failure to sua sponte merge the defendant's child abuse convictions constituted plain error.

Whether the court of appeals erred when it held that Colorado's child abuse statute, section 18-6-401, C.R.S. (2015), only provides alternative means of committing a single offense of child abuse; and the defendant may only be convicted of a single count of child abuse for numerous acts of torture and abuse that took place at different times over several days.

DENIED AS TO ALL OTHER ISSUES.

CASE ANNOUNCEMENTS
COLORADO SUPREME COURT
MONDAY, FEBRUARY 8, 2016

No. 15SC183
Court of Appeals Case No. 12CA1646

Petitioner:

The People of the State of Colorado,
v.

Respondent:

Kendra Joyce Delsordo.

Petition for Writ of Certiorari DENIED. EN BANC.

No. 15SC194
Court of Appeals Case No. 09CA1717

Petitioner:

Damon Dares Keys,
v.

Respondent:

The People of the State of Colorado.

Petition for Writ of Certiorari DENIED. EN BANC.

No. 15SC212
Court of Appeals Case No. 11CA2082

Petitioner:

Vernon Vernellnicolas Pate,
v.

Respondent:

The People of the State of Colorado.

Petition for Writ of Certiorari DENIED. EN BANC.

CASE ANNOUNCEMENTS
COLORADO SUPREME COURT
MONDAY, FEBRUARY 8, 2016

No. 15SC219
Court of Appeals Case No. 11CA1225

Petitioner:

Elrick Wayne Gilman,

v.

Respondent:

The People of the State of Colorado.

Petition for Writ of Certiorari DENIED. EN BANC.

No. 15SC352
Court of Appeals Case No. 12CA853

Petitioner:

Shane James Mitchell,

v.

Respondent:

The People of the State of Colorado.

Petition for Writ of Certiorari DENIED. EN BANC.

No. 15SC362
Court of Appeals Case No. 08CA1765

Petitioner:

Sheila Trapp,

v.

Respondent:

The People of the State of Colorado.

Petition for Writ of Certiorari DENIED. EN BANC.

**CASE ANNOUNCEMENTS
COLORADO SUPREME COURT
MONDAY, FEBRUARY 8, 2016**

No. 15SC409
Court of Appeals Case No. 12CA132

Petitioner:

Garry A. Brewster,

v.

Respondent:

The People of the State of Colorado.

Petition for Writ of Certiorari DENIED. EN BANC.
JUSTICE HOOD and JUSTICE GABRIEL do not participate.

No. 15SC415
Court of Appeals Case No. 11CA1036

Petitioner:

Thomas Freeman Bagley,

v.

Respondent:

The People of the State of Colorado.

Petition for Writ of Certiorari DENIED. EN BANC.

No. 15SC449
Court of Appeals Case No. 12CA542

Petitioner:

Kristina Marie Carpenter,

v.

Respondent:

The People of the State of Colorado.

Petition for Writ of Certiorari DENIED. EN BANC.

**CASE ANNOUNCEMENTS
COLORADO SUPREME COURT
MONDAY, FEBRUARY 8, 2016**

No. 15SC465
Court of Appeals Case No. 12CA1282

Petitioner:

Elijah Belizare Daniel Bravo,

v.

Respondent:

The People of the State of Colorado.

Petition for Writ of Certiorari DENIED. EN BANC.

No. 15SC474
Court of Appeals Case No. 14CA1160

Petitioner:

Robert Cikraji,

v.

Respondents:

Daniel Snowberger, Superintendent, Durango Colorado District 9-R Public Schools; Andrew Burns, President, Durango Colorado District 9-R Public Schools; Roxanne Perrin, Athletic Director, Durango Colorado High School; David McMillan, Coach, Cross Country and Track and Field, Owner Operator of Running Organization d/b/a COHIPAC; Paul Angelico, Commissioner, Colorado High School Activities Association; and Curt Wilson, President, Colorado High School Activities Association.

Petition for Writ of Certiorari DENIED. EN BANC.

CASE ANNOUNCEMENTS
COLORADO SUPREME COURT
MONDAY, FEBRUARY 8, 2016

No. 15SC490
Court of Appeals Case No. 12CA108

Petitioner:

Lloyd Edwin Neal,

v.

Respondent:

The People of the State of Colorado.

Petition for Writ of Certiorari DENIED. EN BANC.

JUSTICE HOOD would grant as to the following issues:

Whether possession of a small amount of a controlled substance is a per se grave or serious offense, and, considering all of petitioner's offenses together, whether they are so lacking in gravity or seriousness as to suggest petitioner's sixty-four year prison sentence is grossly disproportionate.

Whether the district court erred and violated petitioner's rights to a fair trial by an impartial jury and to a unanimous verdict by a jury of twelve by failing to declare a mistrial when Juror B disclosed for the first time during the polling of the jury that he had a mental disability that rendered him incapable of performing satisfactory jury service.

No. 15SC512
Court of Appeals Case No. 14CA790

Petitioner:

John J. Rosko,

v.

Respondent:

Marian Black.

Petition for Writ of Certiorari DENIED. EN BANC.

**CASE ANNOUNCEMENTS
COLORADO SUPREME COURT
MONDAY, FEBRUARY 8, 2016**

No. 15SC538
Court of Appeals Case No. 12CA2374

Petitioner:

Guadalupe Chavez-Rezendis,

v.

Respondent:

The People of the State of Colorado.

Petition for Writ of Certiorari DENIED. EN BANC.

No. 15SC574
Court of Appeals Case No. 13CA1624

Petitioner:

Larry Osmin Saavedra,

v.

Respondent:

The People of the State of Colorado.

Petition for Writ of Certiorari DENIED. EN BANC.

No. 15SC582
Court of Appeals Case No. 14CA549

Petitioners:

Felix A. DeJean, III and Carolyne DeJean,

v.

Respondent:

Colleen A. Grosz.

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

CASE ANNOUNCEMENTS
COLORADO SUPREME COURT
MONDAY, FEBRUARY 8, 2016

No. 15SC619
Court of Appeals Case No. 14CA900

Petitioner:

The Boulders at Escalante, LLC, a Colorado limited liability company,

v.

Respondent:

Otten, Johnson, Robinson, Neff & Ragonetti P.C., a Colorado professional corporation.

Petition for Writ of Certiorari DENIED. EN BANC.

No. 15SC622
Court of Appeals Case No. 12CA1763

Petitioner:

Anthony Jahmar Gillespie,

v.

Respondent:

The People of the State of Colorado.

Petition for Writ of Certiorari DENIED. EN BANC.

JUSTICE GABRIEL does not participate.

No. 15SC641
Court of Appeals Case No. 14CA956

Petitioner:

Edna Ella Stoesz,

v.

Respondent:

State Farm Mutual Automobile Insurance Company.

Petition for Writ of Certiorari DENIED. EN BANC.

**CASE ANNOUNCEMENTS
COLORADO SUPREME COURT
MONDAY, FEBRUARY 8, 2016**

No. 15SC663
Court of Appeals Case No. 13CA1119

Petitioner:

Christian T. Venegas-Silva,

v.

Respondent:

The People of the State of Colorado.

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

No. 15SC664
Court of Appeals Case No. 12CA789

Petitioner:

Randy Steven Keesee,

v.

Respondent:

The People of the State of Colorado.

Petition for Writ of Certiorari DENIED. EN BANC.

No. 15SC679
Court of Appeals Case No. 15CA681

Petitioner:

Marites G. Tracy,

v.

Respondents:

Industrial Claim Appeals Office and Pine Ridge Extended Care Center, LLC.

Petition for Writ of Certiorari DENIED. EN BANC.

**CASE ANNOUNCEMENTS
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No. 15SC683
Court of Appeals Case No. 14CA420

Petitioner:

United Water and Sanitation District,
v.

Respondent:

River Canyon Real Estate Investments, LLC, a Colorado limited liability company.

Petition for Writ of Certiorari DENIED. EN BANC.

No. 15SC688
Court of Appeals Case No. 12CA1940

Petitioner:

Steven Eugene Vigil,
v.

Respondent:

The People of the State of Colorado.

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

No. 15SC690
Court of Appeals Case No. 13CA1075

Petitioners:

Amanda R. Oldham; Ashley E. Oldham; and Sandra L. Oldham, as Personal
Representative of the Estate of Lorna Oldham a/k/a Lorna E. Oldham,
v.

Respondents:

Donald L. Pedrie and Georgia L. Follansbee.

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

**CASE ANNOUNCEMENTS
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No. 15SC691

District Court, City and County of Denver, Case No. 14CV32275

Petitioner:

Larry Mingo Murphy,

v.

Respondent:

The People of the State of Colorado.

Petition for Writ of Certiorari DENIED. EN BANC.

No. 15SC702

District Court, City and County of Denver, Case No. 14CV33846

Petitioner:

Gloria Swift,

v.

Respondent:

The People of the State of Colorado.

Petition for Writ of Certiorari DENIED. EN BANC.

No. 15SC703

District Court, City and County of Denver, Case No. 14CV33822

Petitioner:

Yonathan Palacio-Torres,

v.

Respondent:

The People of the State of Colorado.

Petition for Writ of Certiorari DENIED. EN BANC.

**CASE ANNOUNCEMENTS
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No. 15SC745
Court of Appeals Case No. 14CA982

Petitioner:

Donald Lane Betts,

v.

Respondent:

Melanie Parkerhaase.

Petition for Writ of Certiorari DENIED. EN BANC.

No. 15SC748
Court of Appeals Case No. 14CA508

Petitioner:

Jonathan Mark Ehredt,

v.

Respondent:

The People of the State of Colorado.

Petition for Writ of Certiorari DENIED. EN BANC.

No. 15SC751
Court of Appeals Case No. 14CA1453

Petitioner:

Gary Gilbert Salazar,

v.

Respondent:

The People of the State of Colorado.

Petition for Writ of Certiorari DENIED. EN BANC.

CASE ANNOUNCEMENTS
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No. 15SC758
Court of Appeals Case No. 12CA2140

Petitioner:

Clifford Lloyd Lacoce,

v.

Respondent:

The People of the State of Colorado.

Petition for Writ of Certiorari DENIED. EN BANC.

No. 15SC764
Court of Appeals Case No. 11CA2025

Petitioner:

David A. Hehn,

v.

Respondent:

The People of the State of Colorado.

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

No. 15SC765
Court of Appeals Case No. 13CA176

Petitioner:

Gabriel Eduardo Pineda,

v.

Respondent:

The People of the State of Colorado.

Petition for Writ of Certiorari DENIED. EN BANC.

**CASE ANNOUNCEMENTS
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MONDAY, FEBRUARY 8, 2016**

No. 15SC769
Court of Appeals Case No. 14CA117

In re the Marriage of

Petitioner:

Cheryl Cusick,
and

Respondent:

James M. Cusick.

Petition for Writ of Certiorari DENIED. EN BANC.

No. 15SC771
Court of Appeals Case No. 13CA1884

Petitioner:

Owen Scott Busam,
v.

Respondent:

The People of the State of Colorado.

Petition for Writ of Certiorari DENIED. EN BANC.

No. 15SC772
Court of Appeals Case No. 12CA1677

Petitioner:

Robert Lee Loepp,
v.

Respondent:

The People of the State of Colorado.

Petition for Writ of Certiorari DENIED. EN BANC.

**CASE ANNOUNCEMENTS
COLORADO SUPREME COURT
MONDAY, FEBRUARY 8, 2016**

No. 15SC775
Court of Appeals Case No. 15CA230

Petitioner:

David Jackson,

v.

Respondents:

Honorable Carlos Armondo Samour, Jr., Chief Judge of the 18th Judicial District Court;
Tammy L. Herivel, Clerk of Court, Arapahoe County 18th Judicial District Court; and
Vera Jackson.

Petition for Writ of Certiorari DENIED. EN BANC.

No. 15SC793
Court of Appeals Case No. 14CA617

Petitioner:

Jill Diane Semmler,

v.

Respondent:

The People of the State of Colorado.

Petition for Writ of Certiorari DENIED. EN BANC.

No. 15SC803
Court of Appeals Case No. 14CA804

Petitioner:

James Ciric,

v.

Respondent:

The People of the State of Colorado.

Petition for Writ of Certiorari DENIED. EN BANC.

**CASE ANNOUNCEMENTS
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No. 15SC804
Court of Appeals Case No. 14CA1839

Petitioner:

John Peter Daucunas,

v.

Respondent:

The People of the State of Colorado.

Petition for Writ of Certiorari DENIED. EN BANC.

No. 15SC805
Court of Appeals Case No. 14CA604

Petitioner:

Keith George Gosselin,

v.

Respondent:

The People of the State of Colorado.

Petition for Writ of Certiorari DENIED. EN BANC.

No. 15SC807
Court of Appeals Case No. 14CA1627

Petitioner:

William F. Chinnock,

v.

Respondent:

Debra Seebauer.

Petition for Writ of Certiorari DENIED. EN BANC.

**CASE ANNOUNCEMENTS
COLORADO SUPREME COURT
MONDAY, FEBRUARY 8, 2016**

No. 15SC809
Court of Appeals Case No. 12CA1342

Petitioner:

Angel Ray Montoya,

v.

Respondent:

The People of the State of Colorado.

Petition for Writ of Certiorari DENIED. EN BANC.

No. 15SC819
Court of Appeals Case No. 15CA397

Petitioner:

Janice vonDrehle-Turner,

v.

Respondent:

Denver Public School District No. 1.

Petition for Writ of Certiorari DENIED. EN BANC.

No. 15SC820
Court of Appeals Case No. 13CA1742

Petitioner:

Gregg J. Savajian,

v.

Respondent:

The People of the State of Colorado.

Petition for Writ of Certiorari DENIED. EN BANC.

**CASE ANNOUNCEMENTS
COLORADO SUPREME COURT
MONDAY, FEBRUARY 8, 2016**

No. 15SC823
Court of Appeals Case No. 15CA1243

Petitioner:

Casey E. Smith,

v.

Respondents:

Wyndham Worldwide Corporation and Industrial Claim Appeals Office.

Petition for Writ of Certiorari DENIED. EN BANC.

No. 15SC824
Court of Appeals Case No. 14CA873

Petitioner:

Michael Christopher Lopez,

v.

Respondent:

The People of the State of Colorado.

Petition for Writ of Certiorari DENIED. EN BANC.

No. 15SC827
Court of Appeals Case No. 14CA1943

Petitioner:

Patrick Santiago Sanchez,

v.

Respondent:

The People of the State of Colorado.

Petition for Writ of Certiorari DENIED. EN BANC.

**CASE ANNOUNCEMENTS
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No. 15SC828
Court of Appeals Case No. 13CA703

Petitioner:

Wendel Robert Wardell, Jr.,

v.

Respondent:

The People of the State of Colorado.

Petition for Writ of Certiorari DENIED. EN BANC.

No. 15SC838
Court of Appeals Case No. 13CA2124

Petitioner:

David R. Morrow,

v.

Respondent:

The People of the State of Colorado.

Petition for Writ of Certiorari DENIED. EN BANC.

No. 15SC840
Court of Appeals Case No. 14CA1804

In re the Marriage of

Petitioner:

Mary J. Orloff,

and

Respondent:

Timothy M. Orloff.

Petition for Writ of Certiorari DENIED. EN BANC.

**CASE ANNOUNCEMENTS
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No. 15SC842
Court of Appeals Case No. 14CA557

Petitioner:

Jeremy Fisher,

v.

Respondent:

The People of the State of Colorado.

Petition for Writ of Certiorari DENIED. EN BANC.

No. 15SC846
Court of Appeals Case No. 12CA1537

Petitioner:

Mario Martinez,

v.

Respondent:

The People of the State of Colorado.

Petition for Writ of Certiorari DENIED. EN BANC.

No. 15SC854
Court of Appeals Case No. 13CA1901

Petitioner:

Michael B. Gibson,

v.

Respondent:

The People of the State of Colorado.

Petition for Writ of Certiorari DENIED. EN BANC.

**CASE ANNOUNCEMENTS
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MONDAY, FEBRUARY 8, 2016**

No. 15SC884
Court of Appeals Case No. 13CA1911

Petitioner:

Donnell Dion Littleton,

v.

Respondent:

The People of the State of Colorado.

Petition for Writ of Certiorari DENIED. EN BANC.

No. 15SC1102
Court of Appeals Case No. 15CA1376

Petitioners:

T.O. and J.G.,

v.

Respondent:

The People of the State of Colorado,

In the Interest of Minor Children:

N.Y, K.C.Y., and O.A.O.

Petition for Writ of Certiorari DENIED. EN BANC.

**CASE ANNOUNCEMENTS
COLORADO SUPREME COURT
MONDAY, FEBRUARY 8, 2016**

No. 16SC17
Court of Appeals Case No. 15CA111

Petitioner:

T.W.,

v.

Respondent:

The People of the State of Colorado,
In the Interest of Minor Children:
G.F.W.-N, G.W.-N, and A.C.W.-N.,
and concerning
J.K.N.

Petition for Writ of Certiorari DENIED. EN BANC.

No. 16SC18
Court of Appeals Case No. 15CA1417

Petitioners:

T.J.,

v.

Respondent:

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

Petition for Writ of Certiorari DENIED. EN BANC.

**CASE ANNOUNCEMENTS
COLORADO SUPREME COURT
MONDAY, FEBRUARY 8, 2016**

No. 16SC19
Court of Appeals Case No. 15CA1418

Petitioners:

T.J.,

v.

Respondent:

The People of the State of Colorado,
In the Interest of Minor Child:

L.C.

Petition for Writ of Certiorari DENIED. EN BANC.
