

**CASE ANNOUNCEMENTS
COLORADO SUPREME COURT
MONDAY, JULY 3, 2017**

"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

[2017 CO 80](#)

[Supreme Court Case No. 14SC870](#)
Certiorari to the Colorado Court of Appeals
Court of Appeals Case No. 11CA1271

Petitioner:

The People of the State of Colorado,

v.

Respondent:

Susan Leigh Stock.

Judgment Reversed

en banc

JUSTICE MÁRQUEZ delivered the Opinion of the Court.
JUSTICE GABRIEL dissents.

COLORADO SUPREME COURT CASE ANNOUNCEMENTS

[2017 CO 81](#)

[Supreme Court Case No. 15SC502](#)

Certiorari to the Colorado Court of Appeals
Court of Appeals Case No. 14CA268

Petitioner:

Julie Keim,

v.

Respondent:

Douglas County School District.

Judgment Affirmed

en banc

JUSTICE MÁRQUEZ delivered the Opinion of the Court.

JUSTICE GABRIEL does not participate.

[2017 CO 82](#)

[Supreme Court Case No. 17SA14](#)

Interlocutory Appeal from the District Court
El Paso County District Court Case No. 15CR2069
Honorable Jann P. DuBois, Judge

Plaintiff-Appellant:

The People of the State of Colorado,

v.

Defendant-Appellee:

Maurice Dee Kendrick.

Order Reversed

en banc

JUSTICE GABRIEL delivered the Opinion of the Court.

COLORADO SUPREME COURT CASE ANNOUNCEMENTS

PETITIONS FOR REHEARING

[2017 CO 58W](#)

Supreme Court Case No. 14SC699
Certiorari to the Colorado Court of Appeals
Court of Appeals Case No. 11CA1936

Petitioner:

The People of the State of Colorado,

v.

Respondent:

Priscilla Ann Rock.

Petition for Rehearing GRANTED. EN BANC.
2017 CO 58 released on June 5, 2017 is withdrawn.

2017 CO 68

Supreme Court Case No. 14SC890
Certiorari to the Colorado Court of Appeals
Court of Appeals Case No. 13CA752

Petitioner:

State Farm Mutual Automobile Insurance Company,

v.

Respondent:

Brian K. Johnson.

Petition for Rehearing DENIED. EN BANC.

COLORADO SUPREME COURT CASE ANNOUNCEMENTS

GRANTED PETITIONS FOR WRIT OF CERTIORARI

No. 15SC787, Court of Appeals Case No. 12CA1546

Petitioner/Cross-Respondent:

The People of the State of Colorado,

v.

Respondent/Cross-Petitioner:

Jordan Lee Ellis.

Petition for Writ of Certiorari GRANTED as to the following issues. Cross-Petition for Writ of Certiorari DENIED.

Whether the court of appeals incorrectly extended the narrow holdings in Miller v. Alabama, 132 S. Ct. 2455 (2012), and People v. Tate, 2015 CO 42, by applying them to term-of-years sentences.

Whether the court of appeals erred by extending Graham v. Florida, 130 S. Ct. 2011 (2010), and Miller v. Alabama, 132 S. Ct. 2455 (2012) to invalidate a consecutive term-of-years sentence imposed on a juvenile convicted of multiple murder offenses.

DENIED AS TO ALL OTHER ISSUES.

The judgment of the Colorado Court of Appeals is VACATED, and the case is REMANDED to the Colorado Court of Appeals for reconsideration in light of Lucero v. People, 2017 CO 49, __ P.3d __. EN BANC.

JUSTICE GABRIEL does not participate.

COLORADO SUPREME COURT CASE ANNOUNCEMENTS

No. 15SC965, Court of Appeals Case No. 14CA523

Petitioner:

The People of the State of Colorado,

v.

Respondent:

Alexander Naves-Millan.

Petition for Writ of Certiorari GRANTED. The judgment of the Colorado Court of Appeals is VACATED, and the case is REMANDED to the Colorado Court of Appeals for reconsideration in light of People v. Corrales-Castro, 2017 CO 60, __ P.3d __.
EN BANC.

COLORADO SUPREME COURT CASE ANNOUNCEMENTS

No. 16SC592, Court of Appeals Case No. 13CA1216

Petitioner:

Belinda May Wells-Yates,

v.

Respondent:

The People of the State of Colorado.

Petition for Writ of Certiorari GRANTED as to the following issues:

Whether a 72 year prison sentence based on a defendant's habitual offender status is grossly disproportionate when the defendant has only three prior felony drug possession convictions, which the legislature has re-classified and which could no longer be used to quadruple a defendant's sentence.

Whether a court, when conducting an abbreviated proportionality review of a habitual sentence, can consider the General Assembly's subsequent reclassification of a crime or amendment of the habitual criminal statute that made an underlying crime inapplicable for purposes of a habitual criminal adjudication.

Whether this Court in Rutter v. People, 2015 CO 71, 363 P.3d 183, intended to overrule its prior precedent establishing that courts must look at both the triggering conviction and prior convictions in combination when assessing whether a sentence is disproportionate under the Eighth Amendment.

Whether this Court's announcement in People v. Deroulet, 48 P.3d 520 (Colo. 2002), that all narcotics-related offenses are per se grave and serious should be revisited in light of recent legislative amendments to our drug laws.

Whether convictions for drug possession or drug possession-with-intent are grave and serious.

DENIED AS TO ALL OTHER ISSUES. EN BANC.

COLORADO SUPREME COURT CASE ANNOUNCEMENTS

No. 16SC753, Court of Appeals Case No. 15CA545

Petitioner:

The People of the State of Colorado,

v.

Respondent:

Clifton Eugene McRae.

Petition for Writ of Certiorari GRANTED. EN BANC.

Whether a court, when conducting an abbreviated proportionality review of a habitual criminal sentence for convictions and offenses which all pre-date July 2, 2013, can consider the General Assembly's subsequent reclassification of a crime and/or amendment of the habitual criminal statute to significantly reduce a sentence on a habitual criminal adjudication even though the statute applied to drug felony offenses committed on or after October 1, 2013.

Whether the court of appeals erred in remanding the Defendant's case for an extended proportionality review rather than ordering entry of a 64-year habitual offender sentence, applicable at the time the defendant committed the triggering offense and the per se grave and serious controlled substance-related convictions.

No. 16SC864, Court of Appeals Case No. 14CA1779

Petitioner:

The People of the State of Colorado,

v.

Respondent:

Alejandro Ceja-Valderas.

Petition for Writ of Certiorari GRANTED. The judgment of the Colorado Court of Appeals is VACATED, and the case is REMANDED to the Colorado Court of Appeals for reconsideration in light of People v. Corrales-Castro, 2017 CO 60, __ P.3d __. EN BANC.

COLORADO SUPREME COURT CASE ANNOUNCEMENTS

No. 16SC922, Court of Appeals Case No. 14CA959

Petitioner:

The People of the State of Colorado,

v.

Respondent:

Carl A. Brown.

Petition for Writ of Certiorari GRANTED. EN BANC.

Whether a police officer's decision to impound the vehicle of a driver driving with a suspended license violates the Fourth Amendment where the officer had discretion to impound following standardized departmental policies.

No. 17SC15, Court of Appeals Case No. 15CA1327

Petitioner:

Jared J. Przekurat, by and through his Parent, Co-Guardian, Co-Conservator, and next friend, Jerome Przekurat

v.

Respondents:

Christopher Torres, Samuel S. Stimson, Peter Stimson, and Mitchell Davis.

Petition for Writ of Certiorari GRANTED. EN BANC.

Whether the court of appeals negated the duty imposed by H.B. 05-1183 (C.R.S. §12-47-801(4)(a)(I)) upon social hosts not to provide "a place" for underage drinking where the hosts threw a party and opened the venue to anyone of any age by requiring "actual knowledge" of a specific guest's age.

DENIED AS TO ALL OTHER ISSUES.

JUSTICE EID would grant as to the following issue:

Whether the General Assembly intended that "willful ignorance" be a defense to a social host's liability for providing "a place" for underage drinking imposed by H.B. 05-1183.

COLORADO SUPREME COURT CASE ANNOUNCEMENTS

No. 17SC246, Court of Appeals Case No. 16CA102

Petitioner:

Chris Bermel,

v.

Respondent:

BlueRadios, Inc.

Petition for Writ of Certiorari GRANTED. EN BANC.

Whether the economic loss rule bars Respondent’s simultaneous recovery for its breach of contract claim and for its civil theft claim under section 18-4-405, C.R.S. (2016), (the “civil theft statute”) based on Petitioner’s single act of breach of contract.

DENIED PETITIONS FOR WRIT OF CERTIORARI

No. 14SC805, Court of Appeals Case No. 11CA562

Petitioner:

Shakiel Madden-Vaughn,

v.

Respondent:

The People of the State of Colorado.

Petition for Writ of Certiorari DENIED. EN BANC.

No. 15SC1067, Court of Appeals Case No. 13CA2284

Petitioner:

Jammie Lee Prince,

v.

Respondent:

The People of the State of Colorado.

Petition for Writ of Certiorari DENIED. EN BANC.

COLORADO SUPREME COURT CASE ANNOUNCEMENTS

No. 16SC47, Court of Appeals Case No. 13CA2201

Petitioner:

Keegan Scott Redler,

v.

Respondent:

The People of the State of Colorado.

Petition for Writ of Certiorari DENIED. EN BANC.

No. 16SC462, Court of Appeals Case No. 14CA2295

Petitioner:

Nielson Casias,

v.

Respondent:

The People of the State of Colorado.

Petition for Writ of Certiorari DENIED. EN BANC.

No. 16SC700, Court of Appeals Case No. 15CA35

Petitioner:

Niall Charles Bouzon,

v.

Respondent:

The People of the State of Colorado.

Petition for Writ of Certiorari DENIED. EN BANC.

No. 16SC782, Court of Appeals Case No. 13CA228

Petitioner:

Jorge Alberto Soto,

v.

Respondent:

The People of the State of Colorado.

Petition for Writ of Certiorari DENIED. EN BANC.

COLORADO SUPREME COURT CASE ANNOUNCEMENTS

No. 16SC911, El Paso County District Court Case No. 16CV31311

Petitioner:

Leonor Enriquez,

v.

Respondent:

The People of the State of Colorado.

Petition for Writ of Certiorari DENIED. EN BANC.

No. 16SC919, Court of Appeals Case No. 15CA818

Petitioner:

Bongil Ho,

v.

Respondents:

Hyun Joo Kim and U.S. Anpmedia, Inc., a Colorado corporation d/b/a Weekly Focus.

Petition for Writ of Certiorari DENIED. EN BANC.

No. 16SC932, Court of Appeals Case No. 14CA643

Petitioner:

Gabriel Lee Martin,

v.

Respondent:

The People of the State of Colorado.

Petition for Writ of Certiorari DENIED. EN BANC.

No. 16SC959, Court of Appeals Case No. 15CA1421

In the Matter of the Estate of: Calvin Shimizu a/k/a Calvin Kiyoshi Shimizu a/k/a Calvin K. Shimizu

Petitioner:

Jamie Szoke, a/k/a Jamie Lee Shimizu, a/k/a Jamie Lee Tomie-Szoke, as Personal Representative of the Estate of Calvin Shimizu, and individually,

v.

Respondents:

Bonnie Rae Trujillo-Dickson, James Gillen Dickson, and Ann Kathleen May.

Petition for Writ of Certiorari DENIED. EN BANC.

COLORADO SUPREME COURT CASE ANNOUNCEMENTS

No. 16SC961, Court of Appeals Case No. 14CA740

Petitioner:

Allonhill, L.L.C.

v.

Respondent:

Aurora Commercial Corporation f/k/a Aurora Bank, F.S.B.

Petition for Writ of Certiorari DENIED. EN BANC.

No. 16SC975, Court of Appeals Case No. 14CA1029

Petitioner:

David Emmett Fahrig,

v.

Respondent:

The People of the State of Colorado.

Petition for Writ of Certiorari DENIED. EN BANC.

No. 17SC21, Court of Appeals Case No. 14CA441

Petitioner:

Donna Raylene Kaiser-Anderson,

v.

Respondent:

The People of the State of Colorado.

Petition for Writ of Certiorari DENIED. EN BANC.

No. 17SC28, Court of Appeals Case No. 14CA1960

Petitioner:

The People of the State of Colorado,

v.

Respondent:

Paul Acuna.

Petition for Writ of Certiorari DENIED. EN BANC.

COLORADO SUPREME COURT CASE ANNOUNCEMENTS

No. 17SC68, Court of Appeals Case No. 15CA1835

Petitioners:

Reggie D. Delponte Residence Trust No. 1 and Reggie D. Delponte Residence Trust No. 2,

v.

Respondent:

Town of Vail, Colorado.

Petition for Writ of Certiorari DENIED. EN BANC.

No. 17SC71, Court of Appeals Case No. 14CA1623

Petitioners:

William Brinkerhoff and Renee Brinkerhoff,

v.

Respondents:

Mark Thurber and Robyne Thurber.

Petition for Writ of Certiorari DENIED. EN BANC.

No. 17SC85, Court of Appeals Case No. 14CA1925

Petitioner:

Parker Conrad Thompson,

v.

Respondent:

The People of the State of Colorado.

Petition for Writ of Certiorari DENIED. EN BANC.

No. 17SC106, Court of Appeals Case No. 15CA2074

Petitioners:

Lindquist-Kleissler & Company, LLC, a Colorado limited liability company and Arthur Lindquist-Kleissler,

v.

Respondent:

Winter Park Station LLC, a Colorado limited liability company.

Petition for Writ of Certiorari DENIED. EN BANC.

COLORADO SUPREME COURT CASE ANNOUNCEMENTS

No. 17SC109, Pueblo County District Court Case No. 16CV30520

Petitioner:

Ryan Edens,

v.

Respondent:

The People of the State of Colorado.

Petition for Writ of Certiorari DENIED. EN BANC.

No. 17SC110, Pueblo County District Court Case No. 16CV30685

Petitioner:

Mark Anthony Anaya,

v.

Respondent:

The People of the State of Colorado.

Petition for Writ of Certiorari DENIED. EN BANC.

No. 17SC111, Pueblo County District Court Case No. 16CV30687

Petitioner:

Mark Anthony Anaya,

v.

Respondent:

The People of the State of Colorado.

Petition for Writ of Certiorari DENIED. EN BANC.

COLORADO SUPREME COURT CASE ANNOUNCEMENTS

No. 17SC136, Court of Appeals Case No. 15CA1494

Petitioners:

Myrtle Ireson; Virginia Hoeckele; Andrew J. Gibbs; and Gibbs Young, LLC;

v.

Respondents:

Belinda A. Begley and Robert K. Hirsch Revocable Trust, Belinda A. Begley, and Robert K. Hirsch.

Petitions for Writ of Certiorari DENIED. EN BANC.

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

Whether the court of appeals erred in holding that the absolute privilege from tort liability for statements made preliminary to judicial proceedings applies only when the prospective judicial proceeding is “contemplated in good faith.”

Whether the court of appeals erred in holding that a Notice of Claim served under the Construction Defect Action Reform Act (“CDARA”) is not absolutely privileged from liability for tortious interference with contract notwithstanding that it is a form of alternative dispute resolution in which the absolute privilege ordinarily applies.

Whether the court of appeals erred in determining that the litigation privilege afforded to statements made by an attorney prior to the commencement of litigation is not an absolute privilege, but only a qualified privilege.

Whether the court of appeals erred in finding that a trial court must determine if proposed litigation is contemplated in good faith in order to determine if prelitigation statements of an attorney fall within the scope of the litigation privilege.

COLORADO SUPREME COURT CASE ANNOUNCEMENTS

No. 17SC140, Court of Appeals Case No. 15CA2037

Petitioner:

State Farm Mutual Automobile Insurance Company, an Illinois corporation,
v.

Respondents:

Neill Smith and Bliss Bishop.

Petition for Writ of Certiorari DENIED. EN BANC.

JUSTICE MÁRQUEZ would grant as to the following issue:

Whether the court of appeals erred, in an issue of first impression, in holding that a farm tractor is a motor vehicle for purposes of underinsured motorist (UIM) insurance coverage.

No. 17SC179, Court of Appeals Case No. 15CA297

Petitioner:

Jacob Lashun Lewis,
v.

Respondent:

The People of the State of Colorado.

Petition for Writ of Certiorari DENIED. EN BANC.

JUSTICE MÁRQUEZ does not participate.

No. 17SC187, Court of Appeals Case No. 13CA1010

Petitioner:

Carlos Francisco Lucero,
v.

Respondent:

The People of the State of Colorado.

Petition for Writ of Certiorari DENIED. EN BANC.

COLORADO SUPREME COURT CASE ANNOUNCEMENTS

No. 17SC188, Court of Appeals Case No. 14CA2355

Petitioner:

Miguel Antonio Rios,

v.

Respondent:

The People of the State of Colorado.

Petition for Writ of Certiorari DENIED. EN BANC.

No. 17SC206, Court of Appeals Case No. 16CA877

Petitioner:

David Alan York,

v.

Respondents:

Industrial Claim Appeals Office of the State of Colorado; Manpower International, Inc.;
and American Insurance Group Plan.

Petition for Writ of Certiorari DENIED. EN BANC.

JUSTICE MÁRQUEZ does not participate.

No. 17SC208, Court of Appeals Case No. 15CA12

Respondent:

The People of the State of Colorado,

In the Interest of

Petitioner:

J.W.

Petition for Writ of Certiorari DENIED. EN BANC.

COLORADO SUPREME COURT CASE ANNOUNCEMENTS

No. 17SC245, Court of Appeals Case No. 15CA1753

Petitioners:

Xtomic, LLC, a Colorado limited liability company; Select Seminar Services, LLC, a Colorado limited liability company; and Jay Ferguson

v.

Respondents:

Active Release Techniques, LLC, a Colorado limited liability company; ART Corporate Solutions, Inc., a Colorado corporation; and ART Business Solutions, LLC, a Colorado limited liability company.

Petition for Writ of Certiorari DENIED. EN BANC.

No. 17SC278, Court of Appeals Case No. 16CA1327

Petitioner:

S.C.,

v.

Respondent:

The People of the State of Colorado
In the Interest of Minor Child: W.M.

Petition for Writ of Certiorari DENIED. EN BANC.

No. 17SC336, Court of Appeals Case No. 16CA1497

Petitioner:

J.D.L.,

v.

Respondent:

The People of the State of Colorado
In the Interest of Minor Children: L.L. and N.L.

Petition for Writ of Certiorari DENIED. EN BANC.
