

**CASE ANNOUNCEMENTS
COLORADO SUPREME COURT
MONDAY, OCTOBER 2, 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 90](#)

[Supreme Court Case No. 15SC912](#)
Certiorari to the Colorado Court of Appeals
Court of Appeals Case No. 13CA453

Petitioner:

The People of the State of Colorado,

v.

Respondent:

Stephen J. Ahuero.

Judgment Reversed

en banc

CHIEF JUSTICE RICE delivered the Opinion of the Court.
JUSTICE GABRIEL does not participate.

COLORADO SUPREME COURT CASE ANNOUNCEMENTS

[2017 CO 91](#)

[Supreme Court Case No. 12SC448](#)

Certiorari to the Colorado Court of Appeals
Court of Appeals Case No. 09CA511

Petitioner/Cross-Respondent:

The People of the State of Colorado,

v.

Respondent/Cross-Petitioner:

Amber Lee Torrez.

Judgment Affirmed in Part and Reversed in Part

en banc

JUSTICE EID delivered the Opinion of the Court.

JUSTICE MÁRQUEZ dissents.

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

[2017 CO 92](#)

[Supreme Court Case No. 17SA37](#)

Interlocutory Appeal from the District Court
Denver District Court Case No. 16CR3757
Honorable Brian Whitney, Judge

Plaintiff-Appellant:

The People of the State of Colorado,

v.

Defendant-Appellee:

Hung Van Nguyen.

Order Reversed

en banc

JUSTICE EID delivered the Opinion of the Court.

JUSTICE MÁRQUEZ dissents, and JUSTICE HOOD and JUSTICE GABRIEL join in the dissent.

COLORADO SUPREME COURT CASE ANNOUNCEMENTS

[2017 CO 93](#)

[Supreme Court Case No. 16SC134](#)

Certiorari to the Colorado Court of Appeals
Court of Appeals Case No. 14CA2033

Petitioners:

Khalil Laleh and Ali Laleh,

v.

Respondents:

Gary C. Johnson and Gary C. Johnson and Associates, LLC.

Judgment Affirmed

en banc

JUSTICE MÁRQUEZ delivered the Opinion of the Court.

[2017 CO 94](#)

[Supreme Court Case No. 17SA62](#)

Original Proceeding Pursuant to C.A.R. 21
Broomfield County District Court Case No. 16CV30055
Honorable Edward Charles Moss, Judge

In Re:

Plaintiff:

Catholic Health Initiatives Colorado d/b/a Centura Health – St. Anthony North Hospital,

v.

Defendant:

Earl Swenson Associates, Inc.

Rule Made Absolute

en banc

JUSTICE BOATRIGT delivered the Opinion of the Court.

COLORADO SUPREME COURT CASE ANNOUNCEMENTS

[2017 CO 95](#)

[Supreme Court Case No. 15SC374](#)

Certiorari to the Colorado Court of Appeals

Court of Appeals Case No. 14CA286

Petitioner:

Karla Pineda-Liberato,

v.

Respondent:

The People of the State of Colorado.

Order Affirmed in Part and Reversed in Part

en banc

JUSTICE GABRIEL delivered the Opinion of the Court.

JUSTICE COATS concurs in part and dissents in part, and JUSTICE EID joins the concurrence in part and dissent in part.

[2017 CO 96](#)

[Supreme Court Case No. 16SC599](#)

Certiorari to the Colorado Court of Appeals

Court of Appeals Case No. 15CA1370

Petitioner:

Ann Hardegger,

v.

Respondent:

Daniel Clark and Cheryl Clark.

Judgment Affirmed

en banc

JUSTICE GABRIEL delivered the Opinion of the Court.

COLORADO SUPREME COURT CASE ANNOUNCEMENTS

PETITIONS FOR REHEARING

2017 CO 84

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 DENIED. EN BANC.

ORIGINAL PROCEEDING PURSUANT TO C.A.R. 21

No. 17SA248, In re Rains v Barber
Weld County District Court Case No. 15CV30227
Order to Show Cause issued on September 29, 2017

COLORADO SUPREME COURT CASE ANNOUNCEMENTS

RULE CHANGE

[RULE CHANGE 2017\(08\)](#)

COLORADO RULES OF CRIMINAL PROCEDURE

Rules 4 & 9

Amended and Adopted by the Court, En Banc, September 11, 2017, effective immediately.

[Correction to RULE CHANGE 2017\(08\) issued September 27, 2017.](#)

[RULE CHANGE 2017\(09\)](#)

COLORADO RULES OF PROFESSIONAL CONDUCT

Rule 8.4

Amended and Adopted by the Court, En Banc, September 28, 2017, effective immediately.

GRANTED PETITIONS FOR WRIT OF CERTIORARI

No. 16SC939, Court of Appeals Case No. 13CA1114

Petitioner/Cross-Respondent:

Fernando Leyva,

v.

Respondent/Cross Petitioner:

The People of the State of Colorado.

Petition for Writ of Certiorari DENIED. Cross-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. Clemens, 14SC49, 2017 CO 89. EN BANC.

Whether a prospective juror who has indicated a preconceived opinion can be rehabilitated by silence following a question or questions to the entire venire.

DENIED AS TO ALL OTHER ISSUES.

COLORADO SUPREME COURT CASE ANNOUNCEMENTS

No. 17SC61, Court of Appeals Case No. 15CA1507

Petitioner:

The People of the State of Colorado,

v.

Respondent:

Israel Chavez-Torres.

Petition for Writ of Certiorari GRANTED. EN BANC.

[REFRAMED] Whether the court of appeals erred when it held that a non-citizen defendant's allegation that plea counsel failed to advise him of the adverse immigration consequences of a guilty plea was sufficient to warrant a hearing on whether he established justifiable excuse or excusable neglect for the untimely filing of his Crim. P. 35(c) motion.

DENIED AS TO ALL OTHER ISSUES.

No. 17SC139, Court of Appeals case No. 15CA965

Petitioner/Cross-Respondent:

Denver Classroom Teachers Association,

v.

Respondents/Cross-Petitioners:

School District No. 1 in the County of Denver and State of Colorado and Board of Education of School District No. 1 in the County of Denver and State of Colorado.

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

Whether the court of appeals improperly narrowed this Court's decision in City and County of Denver v. Denver Firefighters Local No. 858, 320 P.3d 354 (Colo. 2014), by failing to credit expansive management rights clauses and finding ambiguity where collective bargaining agreements did not expressly limit the authority to require teachers to complete ELA training as a job condition without additional compensation.

DENIED AS TO ALL OTHER ISSUES.

COLORADO SUPREME COURT CASE ANNOUNCEMENTS

No. 17SC241, Court of Appeals Case No. 13CA239

Petitioner:

C. Randel Lewis, solely in his capacity as Receiver,

v.

Respondent:

Steve Taylor.

Petition for Writ of Certiorari GRANTED. EN BANC.

[REFRAMED] Whether, as a matter of first impression in Colorado, the court of appeals erred by holding that Colorado’s Uniform Fraudulent Transfer Act permits an innocent investor who profited from his investment in a Ponzi scheme to keep some of the profit based on the time value of money as “reasonably equivalent value” for the profit.

DENIED AS TO ALL OTHER ISSUES.

No. 17SC346, Court of Appeals Case No. 15CA852

Petitioner:

James C. Mason,

v.

Respondents:

Farm Credit of Southern Colorado, ACA and Farm Credit of Southern Colorado, FLCA.

Petition for Writ of Certiorari GRANTED. EN BANC.

[REFRAMED] Whether the court of appeals erred in considering only the claims in respondent’s original complaint, ignoring its amended complaint, to determine whether petitioner, a party joined as a defendant in the amended complaint, was entitled to a jury trial under C.R.C.P 38(a).

DENIED AS TO ALL OTHER ISSUES.

COLORADO SUPREME COURT CASE ANNOUNCEMENTS

DENIED PETITIONS FOR WRIT OF CERTIORARI

No. 16SC146, El Paso County District Court Case No. 15CV30815

Petitioner:

Joseph Johnson,

v.

Respondent:

The People of the State of Colorado.

Petition for Writ of Certiorari DENIED. EN BANC.

No. 16SC696, Court of Appeals Case No. 13CA75

Petitioner:

Diann Heart Adorno,

v.

Respondent:

The People of the State of Colorado.

Petition for Writ of Certiorari DENIED. EN BANC.

No. 16SC863, Court of Appeals Case No. 14CA2132

Petitioner:

David L. Adams,

v.

Respondent:

The People of the State of Colorado.

Petition for Writ of Certiorari DENIED. EN BANC.

No. 16SC910, Court of Appeals Case No. 15CA1218

Petitioner:

Larry W. Martin,

v.

Respondents:

Arapahoe County Court, The Honorable Christina Apostoli, and The Honorable Bonnie Heather McLean.

Petition for Writ of Certiorari DENIED. EN BANC.

COLORADO SUPREME COURT CASE ANNOUNCEMENTS

No. 16SC950, Court of Appeals Case Nos. 14CA1435 and 14CA1436

Petitioner:

Valerie Christine Harris,

v.

Respondent:

The People of the State of Colorado.

Petition for Writ of Certiorari DENIED. EN BANC.

No. 17SC1, Adams County District Court Case No. 16CV31247

Petitioner:

Jose Felix-Castillo,

v.

Respondent:

The People of the State of Colorado.

Petition for Writ of Certiorari DENIED. EN BANC.

No. 17SC48, Court of Appeals Case No. 14CA1383

Petitioner:

Jonathan Ralph Shank,

v.

Respondent:

The People of the State of Colorado.

Petition for Writ of Certiorari DENIED. EN BANC.

No. 17SC54, Court of Appeals Case No. 15CA1093

Petitioner:

Francisco Barragan-Piedra,

v.

Respondent:

The People of the State of Colorado.

Petition for Writ of Certiorari DENIED. EN BANC.

COLORADO SUPREME COURT CASE ANNOUNCEMENTS

No. 17SC92, Court of Appeals Case No. 14CA2127

Petitioner:

Rollin Michael Oliver,

v.

Respondent:

The People of the State of Colorado.

Petition for Writ of Certiorari DENIED. EN BANC.

No. 17SC107, District Court, City and County of Denver, Case No. 16CV30902

Petitioner:

Paul Ray,

v.

Respondent:

The People of the State of Colorado.

Petition for Writ of Certiorari DENIED. EN BANC.

JUSTICE MÁRQUEZ would grant as to the following issue:

Whether the district court erred when it concluded the officers' warrantless entry into Mr. Ray's apartment was justified by the emergency aid exception to the warrant requirement.

JUSTICE BOATRRIGHT would grant as to the following issues:

Whether the appeal bond factors in section 16-4-202(1), C.R.S. apply to bail imposed by a county court granting a stay of execution pending appeal of a county court judgment pursuant to section 16-2-114(6), C.R.S. and Crim. P. 37(f).

Whether the district court erred in affirming the county court's \$100,000 cash only bail order as part of a stay of execution pending appeal because it is tantamount to complete denial of bond and is contrary to People v. Steen, 318 P.3d 487 (Colo. 2014) in which this Court recognized a mandatory stay of execution is necessary to remove "the specter of a useless appeal."

COLORADO SUPREME COURT CASE ANNOUNCEMENTS

No. 17SC154, Court of Appeals Case No. 15CA1159

Petitioners:

Citizens for Quiet Skies, Kimberly Gibbs, Timothy Lim, Suzanne Webel, John Behrens, Carla Behrens, and Richard Dauer,

v.

Respondent:

Mile- Hi Skydiving Center, Inc.

Petition for Writ of Certiorari DENIED. EN BANC.

No. 17SC215, Court of Appeals Case No. 15CA746

Petitioner:

Kevin James Bauserman,

v.

Respondent:

The People of the State of Colorado.

Petition for Writ of Certiorari DENIED. EN BANC.

No. 17SC234, Court of Appeals Case No. 14CA109

Petitioner:

Beverly Lurena Quintana,

v.

Respondent:

The People of the State of Colorado.

Petition for Writ of Certiorari DENIED. EN BANC.

No. 17SC311, Court of Appeals Case No. 15CA50

Petitioner:

Randall Eric Leverton,

v.

Respondent:

The People of the State of Colorado.

Petition for Writ of Certiorari DENIED. EN BANC.

COLORADO SUPREME COURT CASE ANNOUNCEMENTS

No. 17SC327, Court of Appeals Case No. 15CA2132

Petitioner:

Michael Woodard,

v.

Respondent:

International Network Inc., a Colorado corporation.

Petition for Writ of Certiorari DENIED. EN BANC.

No. 17SC343, Court of Appeals Case No. 13CA1605

Petitioner:

Daryl Dwayne Thompson,

v.

Respondent:

The People of the State of Colorado.

Petition for Writ of Certiorari DENIED. EN BANC.

No. 17SC365, Court of Appeals Case No. 14CA917

Petitioner:

Darren Wayne English,

v.

Respondent:

The People of the State of Colorado.

Petition for Writ of Certiorari DENIED. EN BANC.

No. 17SC370, Court of Appeals Case No. 16CA539

Petitioner:

John Joseph Espinoza, as father and next friend of John Joseph Espinoza, III, a minor child,

v.

Respondents:

Jerusha Lev, M.D.; Patrick J. Maloney, M.D.; and Amy Starr, M.D.

Petition for Writ of Certiorari DENIED. EN BANC.

COLORADO SUPREME COURT CASE ANNOUNCEMENTS

No. 17SC388, Court of Appeals Case No. 14CA1331

Petitioner:

Leroy Salas,

v.

Respondent:

The People of the State of Colorado.

Petition for Writ of Certiorari DENIED. EN BANC.

No. 17SC396, Court of Appeals Case No. 15CA1747

Petitioner/Cross-Respondent:

Michael Henry Post,

v.

Respondent/Cross-Petitioner:

The People of the State of Colorado.

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

No. 17SC402, Boulder County District Court Case No. 16CV30880

Petitioner:

Joseph Loftin,

v.

Respondent:

The People of the State of Colorado.

Petition for Writ of Certiorari DENIED. EN BANC.

No. 17SC423, Court of Appeals Case No. 16CA488

Respondent:

The People of the State of Colorado,

In the Interest of

Petitioner:

T.M.A.

Petition for Writ of Certiorari DENIED. EN BANC.

COLORADO SUPREME COURT CASE ANNOUNCEMENTS

No. 17SC569, Court of Appeals Case No. 16CA1533

Petitioner:

J.S.,

v.

Respondent:

The People of the State of Colorado,

In the Interest of Minor Child: C.S.

Petition for Writ of Certiorari DENIED. EN BANC.

No. 17SC572, Court of Appeals Case No. 16CA1527

Petitioner:

C.C.G.,

v.

Respondent:

The People of the State of Colorado,

In the Interest of Minor Children: De.C.G. and Do.C.G.

Petition for Writ of Certiorari DENIED. EN BANC.

No. 17SC577, Court of Appeals Case No. 17CA16

Petitioner:

A.T.,

v.

Respondent:

The People of the State of Colorado,

In the Interest of Minor Children: K.T. and D.T.

Petition for Writ of Certiorari DENIED. EN BANC.
