

**CASE ANNOUNCEMENTS
COLORADO SUPREME COURT
MONDAY, JUNE 11, 2018**

"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

[2018 CO 51](#)

[Supreme Court Case No. 17SA113](#)

Original Proceeding Pursuant to C.A.R. 21
Adams County District Court Case No. 16CV32106
Honorable Emily E. Anderson, Judge

In Re

Plaintiff:

The People of the State of Colorado,

v.

Defendants:

Alyse Elaine Shank and Six Thousand Fourteen Dollars in United States Currency.

Rule Made Absolute

en banc

JUSTICE BOATRIGHT delivered the Opinion of the Court.

COLORADO SUPREME COURT CASE ANNOUNCEMENTS

[2018 CO 52](#)

[Supreme Court Case No. 16SC814](#)

Certiorari to the Colorado Court of Appeals
Court of Appeals Case No. 15CA1252

Petitioners:

Colorow Health Care, LLC; QP Health Care Services, LLC, d/b/a Vivage; Travis Young; Beverly Cole; and Michael Reinhardt,

v.

Respondents:

Amy Fischer and Roger Fischer.

Judgment Reversed

en banc

JUSTICE HOOD delivered the Opinion of the Court.

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

JUSTICE MÁRQUEZ does not participate.

COLORADO SUPREME COURT CASE ANNOUNCEMENTS

[2018 CO 53](#)

[Supreme Court Case No. 15SC931](#)
Certiorari to the Colorado Court of Appeals
Court of Appeals Case No. 12CA2069

Petitioner:

Kimberlie Deann Verigan,

v.

Respondent:

The People of the State of Colorado.

Judgment Affirmed
en banc

JUSTICE GABRIEL delivered the Opinion of the Court.

COLORADO SUPREME COURT CASE ANNOUNCEMENTS

[2018 CO 54](#)

[Supreme Court Case No. 16SC305](#)

Certiorari to the Colorado Court of Appeals
Court of Appeals Case Nos. 14CA1483 & 15CA216

Petitioners:

Rocky Mountain Exploration, Inc. and RMEI Bakken Joint Venture Group,

v.

Respondents:

Davis Graham & Stubbs LLP and Gregory Danielson.

Judgment Affirmed

en banc

JUSTICE GABRIEL delivered the Opinion of the Court.

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

JUSTICE HART does not participate.

COLORADO SUPREME COURT CASE ANNOUNCEMENTS

2018 CO 55

Supreme Court Case No. 18SA19

Original Proceeding Pursuant to C.A.R. 21
Arapahoe County District Court Case No. 06CR705
Honorable Christopher Munch, Senior Judge

In Re

Plaintiff:

The People of the State of Colorado,

v.

Defendant:

Sir Mario Owens.

Rule Discharged
en banc

JUSTICE HART delivered the Opinion of the Court.

COLORADO SUPREME COURT CASE ANNOUNCEMENTS

PETITIONS FOR REHEARING

2018 CO 38M

Supreme Court Case No. 17SA5

Appeal from the District Court

Weld County District Court, Water Division 1, Case No. 15CW3018

Honorable James F. Hartmann, Water Judge

Plaintiff-Appellant:

The Jim Hutton Educational Foundation, a Colorado non-profit corporation,

v.

Defendants-Appellees:

Kevin Rein, in his capacity as the Colorado State Engineer; David Nettles, in his capacity as Division Engineer in and for Water Division No. 1, State of Colorado; Colorado Division of Water Resources; and Colorado Division of Parks and Wildlife,

and

Defendants-Intervenors-Appellees:

Yuma County Water Authority Public Improvement District; Colorado Ground Water Commission; and Marks Butte, East Cheyenne, Frenchman, Sandhills, Central Yuma, Plains, W-Y, and Arikaree Ground Water Management Districts,

and

Defendants-Well Owners-Appellees:

Republican River Water Conservation District; City of Wray; City of Holyoke; Harvey Colglazier; Lazier, Inc.; Marjorie Colglazier Trust; Mariane U. Ortner; Timothy E. Ortner; Protect Our Local Community's Water, LLC; Saving Our Local Economy, LLC; the "North Well Owners"; Tri-State Generation and Transmission Association, Inc.; Dirks Farms Ltd;

Julie Dirks; David L. Dirks; Don Andrews; Myrna Andrews; Nathan Andrews; Happy Creek, Inc.; J&D Cattle, LLC; 4M Feeders, Inc.; May Brothers, Inc.; May Family Farms; 4M Feeders, LLC; May Acres, Inc.; Thomas R. May; James J. May; Steven D. Kramer; Kent E.

Ficken; Carlyle James as Trustee of the Chester James Trust; Colorado Agriculture Preservation Association; Colorado State Board of Land Commissioners; and the City of Burlington.

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

COLORADO SUPREME COURT CASE ANNOUNCEMENTS

RULE CHANGES

[RULE CHANGE 2018\(07\)](#)

COLORADO APPELLATE RULES

Rule 10. Appendix to Chapter 32, Form 8, Designation of Transcripts

Rules 21, 21.1, 49, 50, 51, 51.1, 52, 53, 54, 56 and 57

Amended and Adopted by the Court, En Banc, June 7, 2018, effective July 1, 2018.

GRANTED PETITIONS FOR WRIT OF CERTIORARI

No. 16SC250, Court of Appeals Case No. 13CA979

Petitioner:

Roberto Monroy-Enriquez,

v.

Respondent:

The People of the State of Colorado.

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. Rediger, 15SC326, 2018 CO 32. EN BANC.

Whether the court of appeals erred in finding that petitioner waived his claim that the trial court failed to define essential elements of forgery where defense counsel did not object or submit any additional jury instructions, and where there was no evidence that defense counsel was aware of this omission.

DENIED AS TO ALL OTHER ISSUES.

COLORADO SUPREME COURT CASE ANNOUNCEMENTS

No. 16SC311, Court of Appeals Case No. 13CA783

Petitioner:

Roderick Laron Elam, Jr.,

v.

Respondent:

The People of the State of Colorado.

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. Rediger, 15SC326, 2018 CO 32. EN BANC.

Whether the court of appeals erred in declining to review two instructional errors raised on appeal by holding that the defendant “waived” these specific instructional errors because, when asked about the jury instructions as a whole, defense counsel said he had “no objection.”

DENIED AS TO ALL OTHER ISSUES.

No. 16SC520, Court of Appeals Case No. 14CA1178

Petitioner:

Donald Jon Riley,

v.

Respondent:

The People of the State of Colorado.

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. Rediger, 15SC326, 2018 CO 32. EN BANC.

Whether defense counsel waived for appellate review the district court’s failure to instruct the jury on the definition of “public place” where the district court asked if there were any definitions that needed to be given for public indecency and defense counsel responded, “I don’t believe so.”

DENIED AS TO ALL OTHER ISSUES.

COLORADO SUPREME COURT CASE ANNOUNCEMENTS

No. 16SC824, Court of Appeals Case No. 14CA823

Petitioner:

Kurt Alan Kristl,

v.

Respondent:

The People of the State of Colorado.

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. Rediger, 15SC326, 2018 CO 32. EN BANC.

Whether counsel invited an error in the identity theft instruction by failing to object to it.

DENIED AS TO ALL OTHER ISSUES.

No. 17SC671, Court of Appeals Case No. 14CA2242

Petitioner:

Christopher Wesley Welborne

v.

Respondent:

The People of the State of Colorado

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 Page v. People, 2017 CO 88, 402 P.3d 468, and People v. Rock, 2017 CO 84, 402 P.3d 472. EN BANC.

Whether based on the strict elements test clarified in this court's decision in Reyna-Abarca v. People, 390 P.3d 816, 2017 CO 15, criminal mischief is a lesser included offense of first degree arson requiring the two offenses merge.

DENIED AS TO ALL OTHER ISSUES.

COLORADO SUPREME COURT CASE ANNOUNCEMENTS

No. 17SC823, Court of Appeals Case No. 14CA1795

Petitioner:

The People of the State of Colorado,

v.

Respondent:

Marcus Lee Robinson.

Petition for Writ of Certiorari GRANTED. EN BANC.

Whether the court of appeals erred in concluding that the prosecutor in a sexual assault trial committed plain error when she commented in opening statement on a race-based fact (the contrasting skin tones of the accused and the alleged victim) that was relevant to both an element of the crime charged and a material fact in dispute.

DENIED AS TO ALL OTHER ISSUES.

DENIED PETITIONS FOR WRIT OF CERTIORARI

No. 16SC801, Court of Appeals Case No. 13CA1735

Petitioner:

William L. Collins,

v.

Respondent:

The People of the State of Colorado.

Petition for Writ of Certiorari DENIED. EN BANC.

No. 18SC6, Court of Appeals Case No. 15CA191

Respondent:

The People of the State of Colorado,

In the Interest of

Petitioner:

T. A. T.

Petition for Writ of Certiorari DENIED. EN BANC.

COLORADO SUPREME COURT CASE ANNOUNCEMENTS

No. 18SC134, Court of Appeals Case No. 15CA1395

Petitioner:

Jose Palacios,

v.

Respondent:

The People of the State of Colorado.

Petition for Writ of Certiorari DENIED. EN BANC.

No. 18SC138, Court of Appeals Case No. 17CA1775

Respondent:

The People of the State of Colorado,

In the Interest of

Petitioner:

Robert Lewis Dear.

Petition for Writ of Certiorari DENIED. EN BANC.

No. 18SC334, Court of Appeals Case No. 17CA1175

Petitioner:

C.C.G. a/k/a K.A.T.,

v.

Respondent:

The People of the State of Colorado,

In the Interest of Minor Children:

C.M.L.G., A.J.G.G., M.D.G.G., C.A. C.T., and L.A.C.T.

Petition for Writ of Certiorari DENIED. EN BANC.

COLORADO SUPREME COURT CASE ANNOUNCEMENTS

No. 18SC360, Court of Appeals Case No. 17CA1734

Petitioner:

J. F.,

v.

Respondent:

The People of the State of Colorado,

In the Interest of Minor Child:

R.F.

Petition for Writ of Certiorari DENIED. EN BANC.

CHIEF JUSTICE RICE and **JUSTICE BOATRIGHT** would grant as to the following issue:

Whether a written termination order lacking the applicable legal and factual criteria is sufficient to sustain a termination of parental rights.
