

**CASE ANNOUNCEMENTS
COLORADO SUPREME COURT
MONDAY, SEPTEMBER 10, 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 68](#)

[Supreme Court Case No. 17SC247](#)
Certiorari to the Colorado Court of Appeals
Court of Appeals Case No. 16CA416

Petitioner:

Joel Munoz,

v.

Respondent:

American Family Mutual Insurance Company.

Judgment Affirmed
en banc

JUSTICE BOATRIGHT delivered the Opinion of the Court.

COLORADO SUPREME COURT CASE ANNOUNCEMENTS

[2018 CO 69](#)

[Supreme Court Case No. 17SC15](#)
Certiorari to the Colorado Court of Appeals
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.

Judgment Affirmed
en banc

JUSTICE HART delivered the Opinion of the Court.

COLORADO SUPREME COURT CASE ANNOUNCEMENTS

[2018 CO 70](#)

[Supreme Court Case No. 15SC163](#)

Certiorari to the Colorado Court of Appeals
Court of Appeals Case No. 11CA2316

Petitioner:

Matthew J. Zoll,

v.

Respondent:

The People of the State of Colorado.

Judgment Affirmed in Part and Reversed in Part
en banc

JUSTICE SAMOUR delivered the Opinion of the Court.

COLORADO SUPREME COURT CASE ANNOUNCEMENTS

[2018 CO 71](#)

[Supreme Court Case No. 18SA56](#)

Interlocutory Appeal from the District Court
Las Animas County District Court Case No. 17CR193
Honorable Leslie J. Gerbracht, Judge

Plaintiff-Appellant:

The People of the State of Colorado,

v.

Defendant-Appellee:

Michael Andrew Pappan.

Order Reversed

en banc

JUSTICE SAMOUR delivered the Opinion of the Court.
JUSTICE GABRIEL dissents, and **JUSTICE HART** joins in the dissent.

COLORADO SUPREME COURT CASE ANNOUNCEMENTS

GRANTED PETITIONS FOR WRIT OF CERTIORARI

No. 16SC951, Court of Appeals Case No. 15CA393

Petitioner:

Janet Lynn Gonzalez-Trujillo,

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. Stellabotte, 2018 CO 66, 421 P.3d 174. EN BANC.

[REFRAMED] Whether an amendment to a statute that does not specify whether it applies prospectively or retroactively applies retroactively to cases that are pending when the amendment was enacted.

DENIED AS TO ALL OTHER ISSUES.

No. 17SC182, Court of Appeals Case No. 15CA811

Petitioner:

Thomas Phil Merchant,

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. Stellabotte, 2018 CO 66, 421 P.3d 174. EN BANC.

[REFRAMED] Whether an amendment to a statute that does not specify whether it applies prospectively or retroactively applies retroactively to cases that are pending when the amendment was enacted.

DENIED AS TO ALL OTHER ISSUES.

COLORADO SUPREME COURT CASE ANNOUNCEMENTS

18SC225, Court of Appeals Case No. 15CA126

Petitioner:

The People of the State of Colorado,

v.

Respondent:

Brooke E. Rojas.

Petition for Writ of Certiorari GRANTED. EN BANC.

Whether the court of appeals erred by concluding section 26-2-305 of the Public Assistance Act created an independent criminal offense for food stamp theft that abrogated the State's authority to prosecute under the general theft statute.

DENIED PETITIONS FOR WRIT OF CERTIORARI

No. 17SC113, Court of Appeals Case No. 14CA2087

Petitioner:

The People of the State of Colorado,

v.

Respondent:

James Edward Patton.

Petition for Writ of Certiorari DENIED. EN BANC.

No. 17SC590, Court of Appeals Case No. 10CA1476

Petitioner:

Sandra L. Jacobson,

v.

Respondent:

The People of the State of Colorado.

Petition for Writ of Certiorari DENIED. EN BANC.

JUSTICE GABRIEL would grant as to the following issue:

Whether the court of appeals erred when it held the trial court did not need to instruct the jury on the statutory affirmative defense to DUI and DUI related offenses under C.R.S. § 42-4-1301(2)(a) because it erroneously characterized the defense as an element negating traverse under the rationale of People v. Huckleberry, 768 P.2d 1235 (Colo. 1989) and People v. Pickering, 276 P.3d 553 (Colo. 2011).

COLORADO SUPREME COURT CASE ANNOUNCEMENTS

No. 17SC811, Court of Appeals Case No. 15CA2004

Petitioner:

Douglas Trent Burns,

v.

Respondent:

The People of the State of Colorado.

Petition for Writ of Certiorari DENIED. EN BANC.

No. 17SC843, Court of Appeals Case No. 15CA471

Petitioner/Cross-Respondent:

The People of the State of Colorado,

v.

Respondent/Cross-Petitioner:

Terri Sue Potter.

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

No. 17SC849, Court of Appeals Case No. 14CA1287

Petitioner:

Alexander Joseph Donovan Martinez,

v.

Respondent:

The People of the State of Colorado.

Petition for Writ of Certiorari DENIED. EN BANC.

COLORADO SUPREME COURT CASE ANNOUNCEMENTS

18SC132, Court of Appeals Case No. 14CA2479

Petitioner:

Brandon D. Campbell,

v.

Respondent:

The People of the State of Colorado.

Petition for Writ of Certiorari DENIED. EN BANC.

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

Whether the district court erroneously denied the petitioner’s motion to suppress evidence of global positioning satellite (GPS) data, in violation of the petitioner’s state and federal constitutional right against unreasonable search and seizure.

No. 18SC226, Court of Appeals Case No. 17CA859

Petitioner:

The City of Boulder, Colorado,

v.

Respondent:

Cody Taylor.

Petition for Writ of Certiorari DENIED. EN BANC.

JUSTICE BOATRIGHT would grant as to the following issue:

Whether this court’s longstanding rule from City & Cty. of Denver v. Gallegos, 916 P.2d 509 (Colo. 1996), that a public entity is immune from liability for injury resulting from a water meter pit located on private property, still applies following the 2003 amendment to the Colorado Governmental Immunity Act adding a definition of a “public water facility”.

COLORADO SUPREME COURT CASE ANNOUNCEMENTS

18SC269, Court of Appeals Case No. 14CA477

Petitioner:

The People of the State of Colorado,

v.

Respondent:

Jesus Aguilar-Sanchez.

Petition for Writ of Certiorari DENIED. EN BANC.

No. 18SC277, Court of Appeals Case No. 15CA2081

Petitioner:

Kenny Ray Sanchez,

v.

Respondent:

The People of the State of Colorado.

Petition for Writ of Certiorari DENIED. EN BANC.

No. 18SC319, Court of Appeals Case No. 17CA212

Petitioner:

CAW Equities, L.L.C., a Colorado limited liability company,

v.

Respondent:

City of Greenwood Village, Colorado, a home rule municipality.

Petition for Writ of Certiorari DENIED. EN BANC.

No. 18SC328, Court of Appeals Case No. 2016CA2071

Petitioner:

Concept Companies, LLC, a/k/a Concept Companies Ltd. Liability Co., a Colorado limited liability company,

v.

Respondent:

Crispin Paniagua Salas.

Petition for Writ of Certiorari DENIED. EN BANC.

COLORADO SUPREME COURT CASE ANNOUNCEMENTS

No. 18SC339, Court of Appeals Case No. 15CA1449

Petitioner:

Kenneth Mackey,

v.

Respondent:

The People of the State of Colorado.

Petition for Writ of Certiorari DENIED. EN BANC.

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

Whether the district court erroneously denied the petitioner’s motion to suppress evidence of global positioning satellite (GPS) data in this matter, in violation of the petitioner’s state and federal constitutional right against unreasonable search and seizure.

No. 18SC375, Court of Appeals Case No. 12CA1546

Petitioner:

Jordan Lee Ellis,

v.

Respondent:

The People of the State of Colorado.

Petition for Writ of Certiorari DENIED. EN BANC.

No. 18SC589, Court of Appeals Case No. 17CA350

Petitioner:

B. H.,

v.

Respondent:

The People of the State of Colorado,

In the Interest of Minor Child:

I. H.,

and Concerning

Intervenors:

S. H. and G. H.

Petition for Writ of Certiorari DENIED. EN BANC.
