

**CASE ANNOUNCEMENTS  
COLORADO SUPREME COURT  
MONDAY, SEPTEMBER 9, 2019**

"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.

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**OPINIONS**

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**[2019 CO 74](#)**

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**[Supreme Court Case No. 18SA215](#)**

*Appeal from the District Court*

Weld County District Court, Water Division 1, Case No. 18CW3063

Honorable James F. Hartmann, Water Judge

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**Plaintiff-Appellant:**

The Luskin Daughters 1996 Trust for the benefit of Lyndell Joy Luskin Ackerman,  
Matthew Riley, Trustee,

v.

**Defendants-Appellees:**

Steve Young a/k/a Stephen W. Young and Heather Young a/k/a Heather A. Young,

and

**Appellee Pursuant to C.A.R. 1(e):**

Corey DeAngelis, Division Engineer, Water Division 1.

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**Judgment Affirmed**

*en banc*

**CHIEF JUSTICE COATS** delivered the Opinion of the Court.

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*COLORADO SUPREME COURT CASE ANNOUNCEMENTS*

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[2019 CO 75](#)

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[Supreme Court Case No. 17SC614](#)

*Certiorari to the Colorado Court of Appeals*  
Court of Appeals Case No. 13CA1750

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**Petitioner:**

Kyle Brooks,

v.

**Respondent:**

The People of the State of Colorado.

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**Judgment Affirmed**

*en banc*

**JUSTICE BOATRIGHT** delivered the Opinion of the Court.

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COLORADO SUPREME COURT CASE ANNOUNCEMENTS

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[2019 CO 76](#)

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[Supreme Court Case No. 17SC284](#)

*Certiorari to the Colorado Court of Appeals*  
Court of Appeals Case No. 16CA267

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**Petitioners:**

Alliance for a Safe and Independent Woodmen Hills and Sarah Brittain Jack,

v.

**Respondent:**

Campaign Integrity Watchdog, LLC.

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**Judgment Reversed**

*en banc*

**JUSTICE GABRIEL** delivered the Opinion of the Court.

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**COLORADO SUPREME COURT CASE ANNOUNCEMENTS**

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**ORIGINAL PROCEEDING**

**19SA191, In Re Hernandez, Priscilla v Sisneros,**  
**Levi Adams County District Court No. 18CV31548**  
[Order issued on August 30, 2019](#)

**GRANTED PETITIONS FOR WRIT OF CERTIORARI**

**No. 18SC78, Court of Appeals Case No. 13CA1713**

**Petitioner:**

Darryl Lewis Lynch,

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 *Garcia v. People*, 17SC147, 2019 CO 64. EN BANC.

JUSTICE MÁRQUEZ does not participate.

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**COLORADO SUPREME COURT CASE ANNOUNCEMENTS**

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**No. 18SC543, Court of Appeals Case No. 14CA1332**

**Petitioner:**

Steven Curtis Thompson,

v.

**Respondent:**

The People of the State of Colorado.

Petition for Writ of Certiorari GRANTED. EN BANC.

[REFRAMED] Whether the court of appeals erred in applying the family resemblance test from *Reves v. Ernst & Young*, 494 U.S. 56 (1990), to conclude that a promissory note was a security.

Whether the court of appeals erred in holding that the instructional error regarding the element of a “security” was not plain even though the error was plain at the time of appeal.

[REFRAMED] Whether the court of appeals erred in finding that the convictions were not based on identical evidence and consecutive sentences were permissible.

DENIED AS TO ALL OTHER ISSUES.

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**No. 18SC624, Court of Appeals Case No. 16CA1010**

**Petitioner:**

The People of the State of Colorado,

v.

**Respondent:**

De Etta Wester-Gravelle.

Petition for Writ of Certiorari GRANTED. EN BANC.

[REFRAMED] Whether a defendant waives any right to election or a special unanimity instruction by failing to make a timely request where evidence of multiple acts was introduced at trial.

[REFRAMED] Whether the trial court plainly erred in failing to give a special unanimity instruction where evidence of multiple acts was introduced at trial.

DENIED AS TO ALL OTHER ISSUES.

*COLORADO SUPREME COURT CASE ANNOUNCEMENTS*

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**No. 18SC814, Court of Appeals Case No. 15CA1078**

**Petitioner/Cross-Respondent:**

The People of the State of Colorado,

v.

**Respondent/Cross-Petitioner:**

Forsythia Eliese Owen.

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

Whether an offense is a lesser included offense of another under section 18-1-408(5)(c), C.R.S. (2019), where the offenses differ in more than one way and where the lesser offense has a higher culpability requirement.

DENIED AS TO ALL OTHER ISSUES.

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*COLORADO SUPREME COURT CASE ANNOUNCEMENTS*

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**No. 19SC251, Court of Appeals Case No. 17CA2304**

**Petitioner/Cross-Respondent:**

Rocky Mountain Planned Parenthood, Inc. a/k/a Planned Parenthood of the Rocky Mountains, Inc.,

v.

**Respondents/Cross-Petitioners:**

Samantha Wagner, Ashley Stewart, A. S. a minor child acting through her mother and next best friend Ashley Stewart, Mandy Davis, and Ammar Laskarwala.

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

[REFRAMED] Whether an individual who acts to cause mass casualties and without regard to his own survival or capture is necessarily the predominant cause of harm to the victims of his attack, such that a landowner cannot be liable under the Colorado Premises Liability Act, § 13-21-115, C.R.S. (2019), for a failure to implement security measures that plaintiffs allege may have prevent harm.

[REFRAMED] Whether the Court of Appeals erred in concluding that Planned Parenthood Federation of America, Inc. did not owe a duty of care to Rocky Mountain Planned Parenthood, Inc.'s invitees.

Whether the Court of Appeals erred in upholding the trial court's finding of fact based on support in the record for its finding rather than determining whether genuine issues of material fact exists.

DENIED AS TO ALL OTHER ISSUES.

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*COLORADO SUPREME COURT CASE ANNOUNCEMENTS*

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**DENIED PETITIONS FOR WRIT OF CERTIORARI**

**No. 18SC635, Court of Appeals Case No. 15CA528**

**Petitioner:**

Michael Christane Murray,

v.

**Respondent:**

The People of the State of Colorado.

Petition for Writ of Certiorari DENIED. EN BANC.

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**No. 18SC673, Court of Appeals Case No. 16CA153**

**Petitioner:**

Nemias Vasquez-Landero,

v.

**Respondent:**

The People of the State of Colorado.

Petition for Writ of Certiorari DENIED. EN BANC.

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**18SC706, Court of Appeals Case No. 13CA645**

**Petitioner:**

Joshua Dwayne Carrier,

v.

**Respondent:**

The People of the State of Colorado.

Petition for Writ of Certiorari DENIED. EN BANC.

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**No. 18SC910, Court of Appeals Case No. 17CA426**

**Petitioner:**

James Anthony St. Ville, as Trustee on Behalf of the James Anthony St. Ville Revocable Trust,

v.

**Respondent:**

Northern Trust Company, as Successor by Merger to Northern Trust Bank, N.A.

Petition for Writ of Certiorari DENIED. EN BANC.

JUSTICE MÁRQUEZ does not participate.



*COLORADO SUPREME COURT CASE ANNOUNCEMENTS*

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**No. 19SC93, Court of Appeals Case No. 15CA1814**

**Petitioner:**

Dennis Patrick Lawson,

v.

**Respondent:**

The People of the State of Colorado.

Petition for Writ of Certiorari DENIED. EN BANC.

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**No. 19SC113, Court of Appeals Case No. 16CA1250**

**Petitioner:**

Oliver Ray Carbutt,

v.

**Respondent:**

The People of the State of Colorado.

Petition for Writ of Certiorari DENIED. EN BANC.

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**No. 19SC226, Court of Appeals Case No. 15CA1809**

**Petitioner/Cross-Respondent:**

The People of the State of Colorado,

v.

**Respondent/Cross-Petitioner:**

Justin Ray Nooner.

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

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**No. 19SC253, Court of Appeals Case No. 16CA1553**

**Petitioner:**

Billy Edward Scott,

v.

**Respondent:**

The People of the State of Colorado.

Petition for Writ of Certiorari DENIED. EN BANC.

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**COLORADO SUPREME COURT CASE ANNOUNCEMENTS**

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**No. 19SC289, Court of Appeals Case No. 15CA64**

**Petitioner:**

The People of the State of Colorado,

v.

**Respondent:**

Codell William Loats.

Petition for Writ of Certiorari DENIED. EN BANC.

JUSTICE BOATRRIGHT would grant as to the following issue:

[REFRAMED] Whether the court of appeals erred in reversing defendant’s conviction for attempted first-degree murder when the jury asked for clarification of the definition of deliberate and the trial court responded by referring the jury back to the original instruction.

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**No. 19SC320, Court of Appeals Case No. 18CA558**

**Petitioner:**

Dirk Brown,

v.

**Respondent:**

Sheridan Police Department.

Petition for Writ of Certiorari DENIED. EN BANC.

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**No. 19SC322, Court of Appeals Case No. 17CA956**

**Petitioner:**

J. H.,

v.

**Respondent:**

E. R. S.,

**for the adoption of a Child**

I. E. H.

Petition for Writ of Certiorari DENIED. EN BANC.

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*COLORADO SUPREME COURT CASE ANNOUNCEMENTS*

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**No. 19SC355, Court of Appeals Case No. 16CA442**

**Petitioner:**

Jose G. King,

v.

**Respondent:**

The People of the State of Colorado.

Petition for Writ of Certiorari DENIED. EN BANC.

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**No. 19SC379, District Court, City and County of Denver, 18CV32255**

**Petitioner:**

Avey Larson,

v.

**Respondent:**

The People of the State of Colorado.

Petition for Writ of Certiorari DENIED. EN BANC.

CHIEF JUSTICE COATS does not participate.

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**No. 19SC387, District Court, City and County of Denver, 18CV32343**

**Petitioner:**

Jonathan Thomson,

v.

**Respondent:**

The People of the State of Colorado.

Petition for Writ of Certiorari DENIED. EN BANC.

CHIEF JUSTICE COATS does not participate.

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**No. 19SC391, Court of Appeals Case No. 16CA1297**

**Petitioner:**

Dashay Michael Akeem Holmes,

v.

**Respondent:**

The People of the State of Colorado.

Petition for Writ of Certiorari DENIED. EN BANC.

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*COLORADO SUPREME COURT CASE ANNOUNCEMENTS*

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**No. 19SC410 Court of Appeals Case No. 17CA1798**

**Petitioner:**

Randall John Powers,

v.

**Respondent:**

The People of the State of Colorado.

Petition for Writ of Certiorari DENIED. EN BANC.

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**No. 19SC414, Court of Appeals Case No. 16CA1546**

**Petitioner:**

Ian Tyler Boyd,

v.

**Respondent:**

The People of the State of Colorado.

Petition for Writ of Certiorari DENIED. EN BANC.

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**No. 19SC421, Pitkin County District Court Case No. 18CV22**

**Petitioner:**

Amanda D. Tucker,

v.

**Respondent:**

Aspen Pitkin County Housing Authority.

Petition for Writ of Certiorari DENIED. EN BANC.

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**No. 19SC430, Court of Appeals Case No. 18CA1210**

**Petitioner:**

Tchaka King,

v.

**Respondents:**

Midas, a Colorado corporation and Dan Turner.

Petition for Writ of Certiorari DENIED. EN BANC.

*COLORADO SUPREME COURT CASE ANNOUNCEMENTS*

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**No. 19SC446, Court of Appeals Case No. 18CA846**

**Petitioner:**

Edward Allen, a/k/a Edward Clutts,

v.

**Respondent:**

Executive Director of the Colorado Department of Corrections.

Petition for Writ of Certiorari DENIED. EN BANC.

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**No. 19SC450, Court of Appeals Case No. 19CA456**

**Petitioner:**

Mary E. Jones-Moore,

v.

**Respondents:**

Industrial Claim Appeals Office and City and County of Denver Agencies Under the Mayor General Fund.

Petition for Writ of Certiorari DENIED. EN BANC.

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**No. 19SC454, Montezuma County District Court Case No. 18CV8**

**Petitioner:**

Sherry Nigteagle,

v.

**Respondent:**

Cedar Mesa Ranches Homeowners' Association, Inc.

Petition for Writ of Certiorari DENIED. EN BANC.

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**No. 19SC471, Court of Appeals Case No. 17CA2123**

**Petitioner:**

Ponciano Verduzco-Cervantes,

v.

**Respondent:**

The People of the State of Colorado.

Petition for Writ of Certiorari DENIED. EN BANC.

CHIEF JUSTICE COATS does not participate.

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*COLORADO SUPREME COURT CASE ANNOUNCEMENTS*

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**No. 19SC476, Court of Appeals Case No. 17CA2002**

**Petitioner:**

Oliver Noel Cook,

v.

**Respondent:**

The People of the State of Colorado.

Petition for Writ of Certiorari DENIED. EN BANC.

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**No. 19SC477, Court of Appeals Case No. 17CA2110**

**Petitioner:**

Norman Demane Williams,

v.

**Respondent:**

The People of the State of Colorado.

Petition for Writ of Certiorari DENIED. EN BANC.

JUSTICE MÁRQUEZ does not participate.

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**No. 19SC478, Court of Appeals Case No. 16CA1940**

**Petitioner:**

Javarray Charles January,

v.

**Respondent:**

The People of the State of Colorado.

Petition for Writ of Certiorari DENIED. EN BANC.

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**No. 19SC479, Mesa County District Court Case No. 18CV30056**

**Petitioner:**

Kody Smith,

v.

**Respondent:**

The People of the State of Colorado.

Petition for Writ of Certiorari DENIED. EN BANC.

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*COLORADO SUPREME COURT CASE ANNOUNCEMENTS*

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**No. 19SC483, Court of Appeals Case No. 17CA1298**

**Petitioner:**

Douglas Charles Edwards,

v.

**Respondent:**

The People of the State of Colorado.

Petition for Writ of Certiorari DENIED. EN BANC.

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**No. 19SC488, Jefferson County District Court Case No. 19CV30047**

**Petitioner:**

Elton Naranjo,

v.

**Respondent:**

The People of the State of Colorado.

Petition for Writ of Certiorari DENIED. EN BANC.

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**No. 19SC495, Court of Appeals Case No. 17CA1073**

**Petitioner:**

Craig M. Fair,

v.

**Respondent:**

The People of the State of Colorado.

Petition for Writ of Certiorari DENIED. EN BANC.

JUSTICE MÁRQUEZ does not participate.

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**No. 19SC497, Court of Appeals Case No. 16CA904**

**Petitioner:**

Warren Lott,

v.

**Respondent:**

The People of the State of Colorado.

Petition for Writ of Certiorari DENIED. EN BANC.

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*COLORADO SUPREME COURT CASE ANNOUNCEMENTS*

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**No. 19SC561, Court of Appeals Case No. 18CA1327**

**Petitioner:**

A. L.,

v.

**Respondent:**

The People of the State of Colorado,

**In the Interest of Minor Child:**

A. S. L.

Petition for Writ of Certiorari DENIED. EN BANC.

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**No. 19SC577, Court of Appeals Case No. 18CA2120**

**Petitioner:**

K. M.,

v.

**Respondent:**

The People of the State of Colorado,

**In the Interest of Minor Child:**

U. R. S.

Petition for Writ of Certiorari DENIED. EN BANC.

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**No. 19SC613, Court of Appeals Case No. 18CA1827**

**Petitioner:**

M. P.,

v.

**Respondent:**

The People of the State of Colorado,

**In the Interest of Minor Child:**

R. C. E.

Petition for Writ of Certiorari DENIED. EN BANC.

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*COLORADO SUPREME COURT CASE ANNOUNCEMENTS*

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**No. 19SC614, Court of Appeals Case No. 18CA2403**

**Petitioner:**

R. L. a/k/a R.D.,

v.

**Respondent:**

The People of the State of Colorado,

**In the Interest of Minor Child:**

N. R.

Petition for Writ of Certiorari DENIED. EN BANC.

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