

**CASE ANNOUNCEMENTS
COLORADO SUPREME COURT
MONDAY, AUGUST 19, 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.

PETITIONS FOR REHEARING

2019 CO 53

Supreme Court Case No. 17SC66
Certiorari to the Colorado Court of Appeals
Court of Appeals Case No. 14CA1142

Respondent:

The People of the State of Colorado,

In the Interest of

Petitioner:

T.B.

**Petition for Rehearing DENIED. EN BANC.
JUSTICE GABRIEL would grant the petition.**

COLORADO SUPREME COURT CASE ANNOUNCEMENTS

2019 CO 64

Supreme Court Case No. 17SC147
Certiorari to the Colorado Court of Appeals
Court of Appeals Case No. 13CA2117

Petitioner:

Juvenal Onel Garcia,

v.

Respondent:

The People of the State of Colorado.

Petition for Rehearing DENIED. EN BANC.

COLORADO SUPREME COURT CASE ANNOUNCEMENTS

2019 CO 73

Supreme Court Case No. 17SC541
Certiorari to the Colorado Court of Appeals
Court of Appeals Case No. 14CA202

Petitioner:

Ryan Matthew Cardman,

v.

Respondent:

The People of the State of Colorado.

Petition for Rehearing DENIED. EN BANC.
CHIEF JUSTICE COATS, JUSTICE MÁRQUEZ, and JUSTICE HOOD would grant the petition.

COLORADO SUPREME COURT CASE ANNOUNCEMENTS

ORIGINAL PROCEEDING

[19SA151, In Re: People in the Interest of B.B.A.M.](#)

Jefferson County District Court, 17JD452

Order and Rule to Show Cause Issued July 31, 2019

CERTIFICATION OF QUESTION OF LAW

No. 19SA143, In Re Amica Life v. Wertz, Michael

United States District Court for the District of Colorado, 1:15-CV-01161-WJM-SKC

Question Accepted August 7, 2019:

May the Colorado General Assembly delegate power to an interstate administrative commission to approve insurance policies sold in Colorado under a standard that differs from Colorado statute?

COLORADO SUPREME COURT CASE ANNOUNCEMENTS

GRANTED PETITIONS FOR WRIT OF CERTIORARI

No. 18SC884, Court of Appeals Case No. 16CA2133

Petitioner:

Charles James Linnebur,

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 concluding that the portion of section 42-4-1301, C.R.S. (2018), that elevates a misdemeanor to a class four felony for driving under the influence (“DUI”), driving while ability impaired (“DWAI”), or DUI per se after three or more prior convictions for certain enumerated offenses establishes a sentence enhancer and not an element of the offense for purposes of determining whether jury findings are required.

[REFRAMED] Whether the court of appeals erred in concluding that, because sections 42-4-1301(1)(a), (1)(b), (2)(a), C.R.S. (2018), do not provide the applicable burden of proof, the prosecution must prove prior convictions in a felony DUI, DWAI, or DUI per se case under a preponderance of the evidence standard.

[REFRAMED] Whether, if a jury determination was required, the evidence in Linnebur’s case was sufficient to prove DWAI fourth or subsequent offense and DUI per se fourth or subsequent offense under sections 42-4-1301(1)(b), and (2)(a).

DENIED AS TO ALL OTHER ISSUES.

COLORADO SUPREME COURT CASE ANNOUNCEMENTS

18SC905, Court of Appeals Case No. 16CA570

Petitioner:

David Scott Waddell,

v.

Respondent:

The People of the State of Colorado.

Petition for Writ of Certiorari GRANTED. EN BANC.

Whether surcharges imposed after a sentencing hearing, without notice or an opportunity to object or present evidence of inability to pay, violate a defendant's state and federal constitutional rights to due process and protections from double jeopardy consistent with *People v. McQuarrie*, 66 P.3d 181 (Colo. App. 2002), and contrary to *People v. Yeadon*, 2018 COA 104 (Colo. App. 2007).

DENIED AS TO ALL OTHER ISSUES.

COLORADO SUPREME COURT CASE ANNOUNCEMENTS

DENIED PETITIONS FOR WRIT OF CERTIORARI

No. 17SC196, Arapahoe County District Court Case No. 15CV30315

Petitioner:

David Kyungshik Min,

v.

Respondent:

The People of the State of Colorado.

Petition for Writ of Certiorari DENIED. EN BANC.

No. 18SC20, Arapahoe County District Court Case No. 16CV32442

Petitioner:

Randy Hall,

v.

Respondent:

The People of the State of Colorado.

Petition for Writ of Certiorari DENIED. EN BANC.

No. 18SC500, Court of Appeals Case No. 15CA1263

Petitioner:

Isaiah C. Hunter,

v.

Respondent:

The People of the State of Colorado.

Petition for Writ of Certiorari DENIED. EN BANC.

No. 18SC537, Court of Appeals Case No. 15CA714

Petitioner:

Mike Tee,

v.

Respondent:

The People of the State of Colorado.

Petition for Writ of Certiorari DENIED. EN BANC.

COLORADO SUPREME COURT CASE ANNOUNCEMENTS

No. 18SC692, Court of Appeals Case No. 17CA1604

Petitioner:

The People of the State of Colorado,

v.

Respondent:

Nicholas Adam Wells.

Petition for Writ of Certiorari DENIED. EN BANC.

No. 18SC695, Court of Appeals Case No. 15CA79

Petitioner:

Justin David Conner,

v.

Respondent:

The People of the State of Colorado.

Petition for Writ of Certiorari DENIED. EN BANC.

No. 18SC712, Court of Appeals Case No. 15CA1390

Petitioner:

Ramiro Munoz-Gutierrez,

v.

Respondent:

The People of the State of Colorado.

Petition for Writ of Certiorari DENIED. EN BANC.

No. 18SC771, Court of Appeals Case No. 17CA130

Respondent:

The People of the State of Colorado,

In the Interest of

Petitioner:

A.V.

Petition for Writ of Certiorari DENIED. EN BANC.

COLORADO SUPREME COURT CASE ANNOUNCEMENTS

No. 18SC822, Court of Appeals Case No. 17CA988

In re the Marriage of

Petitioner:

Marc Schapiro,
and

Respondent:

Patricia Lynn Schapiro.

Petition for Writ of Certiorari DENIED. EN BANC.

No. 18SC825, District Court City and County of Denver Case No. 17CV33590

Petitioner:

The People of the State of Colorado,
v.

Respondent:

Kiaya Schnellmann.

Petition for Writ of Certiorari DENIED. EN BANC.

CHIEF JUSTICE COATS does not participate.

No. 18SC866, Park County District Court Case No. 18CV30045

Petitioner:

Patricia Roberts,
v.

Respondent:

The People of the State of Colorado.

Petition for Writ of Certiorari DENIED. EN BANC.

No. 18SC891, Court of Appeals Case No. 17CA1913

Petitioner:

Rebekah Butterfield,
v.

Respondent:

City and County of Denver, Colorado.

Petition for Writ of Certiorari DENIED. EN BANC.

COLORADO SUPREME COURT CASE ANNOUNCEMENTS

18SC893, Court of Appeals Case No. 17CA1973

Petitioners:

Barbara Benson; Jack Benson; Craig Foley; Greg Johnson; and Cordillera Property Owners Association, Inc.,

v.

Respondents:

Eagle County, Colorado, acting by and through the Board of County Commissioners of Eagle County and Behringer Harvard Cordillera, LLC.

Petition for Writ of Certiorari DENIED. EN BANC.
JUSTICE MÁRQUEZ does not participate.

No. 18SC904, Court of Appeals Case No. 14CA2136

Petitioner:

Jason Allan Nelson,

v.

Respondent:

The People of the State of Colorado.

Petition for Writ of Certiorari DENIED. EN BANC.

No. 19SC18, Court of Appeals Case No. 15CA2029

Petitioner:

Miguel Pedro Lopez,

v.

Respondent:

The People of the State of Colorado.

Petition for Writ of Certiorari DENIED. EN BANC.

No. 19SC25, Court of Appeals Case No. 15CA1084

Petitioner:

The People of the State of Colorado,

v.

Respondent:

Rustin James Melphy.

Petition for Writ of Certiorari DENIED. EN BANC.

COLORADO SUPREME COURT CASE ANNOUNCEMENTS

No. 19SC41, Court of Appeals Case No. 16CA1627

Petitioner:

Matthew Weatherspoon,

v.

Respondent:

The People of the State of Colorado.

Petition for Writ of Certiorari DENIED. EN BANC.

No. 19SC97, Court of Appeals Case No. 15CA649

Petitioner:

Gregory Vincent Gruenloh,

v.

Respondent:

The People of the State of Colorado.

Petition for Writ of Certiorari DENIED. EN BANC.

No. 19SC100, Court of Appeals Case No. 17CA1010

Petitioner:

Edward Lee Mulcahy, Jr.,

v.

Respondent:

Aspen Skiing Company.

Petition for Writ of Certiorari DENIED. EN BANC.

No. 19SC114, Court of Appeals Case No. 16CA983

Petitioner:

Leonard Fredrick Claud Downen,

v.

Respondent:

The People of the State of Colorado.

Petition for Writ of Certiorari DENIED. EN BANC.

COLORADO SUPREME COURT CASE ANNOUNCEMENTS

No. 19SC134, Court of Appeals Case No. 17CA109

Petitioner:

Bryan Keith Roberson,

v.

Respondent:

The People of the State of Colorado.

Petition for Writ of Certiorari DENIED. EN BANC.

No. 19SC136, Court of Appeals Case No. 17CA472

Respondent:

The People of the State of Colorado,

In the Interest of

Petitioner:

M.M.-S.

Petition for Writ of Certiorari DENIED. EN BANC.

No. 19SC149, Court of Appeals Case No. 18CA1355

In re the Marriage of

Petitioner:

Iris Lama,

and

Respondent:

Ramsey Lama.

Petition for Writ of Certiorari DENIED. EN BANC.

No. 19SC152, Court of Appeals Case No. 17CA908

Petitioner:

Kyle Kenneth Couch,

v.

Respondent:

The People of the State of Colorado.

Petition for Writ of Certiorari DENIED. EN BANC.

COLORADO SUPREME COURT CASE ANNOUNCEMENTS

No. 19SC193, Court of Appeals Case No. 17CA2254

Petitioner:

Richard Aune,

v.

Respondent:

Michael Eugene Tallman.

Petition for Writ of Certiorari DENIED. EN BANC.
JUSTICE MÁRQUEZ does not participate.

No. 19SC204, Court of Appeals Case No. 18CA548

Petitioners:

Fe Ana Balsick and Colorado Bluesky Enterprises, Inc.,

v.

Respondents:

In the Interest of Louis “Barney” Arguello, protected person, and Arc of Pueblo.

Petition for Writ of Certiorari DENIED. EN BANC.

No. 19SC206, Court of Appeals Case No. 18CA801

Petitioner:

The Town of Parker, Colorado, a Colorado home-rule municipality,

v.

Respondents:

Erika A. Oltmann a/k/a Erika A. Osland and Joseph T. Oltmann.

Petition for Writ of Certiorari DENIED. EN BANC.

No. 19SC214, District Court, City and County of Denver, 18CV30273

Petitioner:

Mildrien Horton,

v.

Respondent:

The People of the State of Colorado.

Petition for Writ of Certiorari DENIED. EN BANC.
CHIEF JUSTICE COATS does not participate.

COLORADO SUPREME COURT CASE ANNOUNCEMENTS

No. 19SC222, Court of Appeals Case No. 15CA1413

Petitioner:

Seth Erin Wilkinson,

v.

Respondent:

The People of the State of Colorado.

Petition for Writ of Certiorari DENIED. EN BANC.

No. 19SC245, Court of Appeals Case No. 17CA639

Petitioner:

Tory Robert Nelson,

v.

Respondent:

The People of the State of Colorado.

Petition for Writ of Certiorari DENIED. EN BANC.

No. 19SC260, Court of Appeals Case No. 14CA1133

Petitioner:

Derril Rex Vigil, Jr.,

v.

Respondent:

The People of the State of Colorado.

Petition for Writ of Certiorari DENIED. EN BANC.

No. 19SC267, Court of Appeals Case No. 16CA903

Petitioner:

Perry Lee Foulks,

v.

Respondent:

The People of the State of Colorado.

Petition for Writ of Certiorari DENIED. EN BANC.

COLORADO SUPREME COURT CASE ANNOUNCEMENTS

No. 19SC270, Court of Appeals Case No. 17CA2175

Petitioners:

Jamin Tway and Yvette Tway, as natural parents of Kaidin Tway, a minor child,
v.

Respondents:

Betty Harper f/k/a Betty Doty and Joshua Miller.

Petition for Writ of Certiorari DENIED. EN BANC.

No. 19SC271, Court of Appeals Case No. 14CA2142

Petitioner:

Alberto Matias Martinez,
v.

Respondent:

The People of the State of Colorado.

Petition for Writ of Certiorari DENIED. EN BANC.

No. 19SC274, Court of Appeals Case No. 16CA1204

Petitioner:

Emiliano Damacio Urioste,
v.

Respondent:

The People of the State of Colorado.

Petition for Writ of Certiorari DENIED. EN BANC.

No. 19SC276, Court of Appeals Case No. 16CA1107

Petitioner:

Jose Ricardo Sarabia-Martinez,
v.

Respondent:

The People of the State of Colorado.

Petition for Writ of Certiorari DENIED. EN BANC.

COLORADO SUPREME COURT CASE ANNOUNCEMENTS

No. 19SC282, Court of Appeals Case No. 16CA1456

Petitioner:

Tyler Kendrick Edwards,

v.

Respondent:

The People of the State of Colorado.

Petition for Writ of Certiorari DENIED. EN BANC.

No. 19SC299, Court of Appeals Case No. 17CA705

Petitioner:

Wenston Williams,

v.

Respondent:

The People of the State of Colorado.

Petition for Writ of Certiorari DENIED. EN BANC.

No. 19SC308, Court of Appeals Case No. 16CA1683

Petitioner:

Brandon Taylor,

v.

Respondent:

The People of the State of Colorado.

Petition for Writ of Certiorari DENIED. EN BANC.

No. 19SC312, Court of Appeals Case No. 17CA2079

Petitioner:

Thomas Anthony,

v.

Respondent:

City and County of Denver, a home rule city and municipal corporation.

Petition for Writ of Certiorari DENIED. EN BANC.

COLORADO SUPREME COURT CASE ANNOUNCEMENTS

No. 19SC314, Court of Appeals Case No. 16CA2042

Petitioner:

Omar Anthony King,

v.

Respondent:

The People of the State of Colorado.

Petition for Writ of Certiorari DENIED. EN BANC.

No. 19SC323, Court of Appeals Case No. 17CA1162

Petitioner:

Thomas M. Stewart,

v.

Respondent:

The People of the State of Colorado.

Petition for Writ of Certiorari DENIED. EN BANC.

No. 19SC338, Court of Appeals Case No. 16CA1158

Petitioner:

Rene Perez,

v.

Respondent:

The People of the State of Colorado.

Petition for Writ of Certiorari DENIED. EN BANC.

No. 19SC344, Court of Appeals Case No. 17CA979

Petitioner:

Adam L. Acosta,

v.

Respondent:

The People of the State of Colorado.

Petition for Writ of Certiorari DENIED. EN BANC.

COLORADO SUPREME COURT CASE ANNOUNCEMENTS

No. 19SC345, Court of Appeals Case No. 18CA141

Petitioner:

Michael Wayne Bingham,

v.

Respondent:

The People of the State of Colorado.

Petition for Writ of Certiorari DENIED. EN BANC.

No. 19SC346, Jefferson County District Court Case No. 18CV31090

Petitioner:

Rob Patterson,

v.

Respondent:

The People of the State of Colorado.

Petition for Writ of Certiorari DENIED. EN BANC.

No. 19SC349, Court of Appeals Case No. 18CA1173

Petitioner:

James Cuddie,

v.

Respondents:

Rick Raemisch, Executive Director of the Colorado Department of Corrections and Jerry Roark, Warden of Bent County Correctional Facility.

Petition for Writ of Certiorari DENIED. EN BANC.

No. 19SC352, Court of Appeals Case No. 18CA157

Petitioner:

Gregory S. Bradford,

v.

Respondents:

Colorado Oil and Gas Conservation Commission and State Board of Licensure for Architects, Professional Engineers, and Professional Land Surveyors.

Petition for Writ of Certiorari DENIED. EN BANC.

COLORADO SUPREME COURT CASE ANNOUNCEMENTS

No. 19SC353, Court of Appeals Case No. 16CA611

Petitioner:

Douglas Taylor,

v.

Respondent:

The People of the State of Colorado.

Petition for Writ of Certiorari DENIED. EN BANC.

No. 19SC358, Court of Appeals Case No. 17CA910

Petitioner:

Sedrick Kyle Tafoya,

v.

Respondent:

The People of the State of Colorado.

Petition for Writ of Certiorari DENIED. EN BANC.

No. 19SC359, Court of Appeals Case No. 16CA1807

Petitioner:

Kaila Marie Leitch,

v.

Respondent:

The People of the State of Colorado.

Petition for Writ of Certiorari DENIED. EN BANC.

No. 19SC360, Court of Appeals Case No. 18CA547

Petitioner:

K. B.,

v.

Respondent:

The People of the State of Colorado,

In the Interest of Minor Child:

X. A. B.

Petition for Writ of Certiorari DENIED. EN BANC.

COLORADO SUPREME COURT CASE ANNOUNCEMENTS

No. 19SC365, Court of Appeals Case No. 18CA618

Petitioners:

Frances Jane Moorer Scott and Galen LeMar Amerson,

v.

Respondents:

Atlas Law Firm, P.C. and DebtBusters, P.C.

Petition for Writ of Certiorari DENIED. EN BANC.

No. 19SC367, Pueblo County District Court Case No. 18CV30703

Petitioner:

Judy Gatlin,

v.

Respondent:

The People of the State of Colorado.

Petition for Writ of Certiorari DENIED. EN BANC.

No. 19SC369, Pueblo County District Court Case No. 18CV88

Petitioner:

Kiel Torrez,

v.

Respondent:

Jordan Roberts.

Petition for Writ of Certiorari DENIED. EN BANC.

No. 19SC474, Court of Appeals Case No. 18CA1650

Petitioner:

S. R.,

v.

Respondent:

The People of the State of Colorado,

In the Interest of Minor Child:

P. R.,

and Concerning

M. A.

Petition for Writ of Certiorari DENIED. EN BANC.

JUSTICE MÁRQUEZ does not participate.

COLORADO SUPREME COURT CASE ANNOUNCEMENTS

No. 19SC506, Court of Appeals Case No. 18CA1202

Petitioner:

M. P.,

v.

Respondent:

The People of the State of Colorado,

In the Interest of Minor Child:

J. F.,

and Concerning

J. C. F.

Petition for Writ of Certiorari DENIED. EN BANC.

No. 19SC518, Court of Appeals Case No. 18CA1906

Petitioner:

J. M.,

v.

Respondent:

The People of the State of Colorado,

In the Interest of Minor Children:

A. M. and Z. M.

Petition for Writ of Certiorari DENIED. EN BANC.

No. 19SC519, Court of Appeals Case No. 18CA2080

Petitioner:

J. A.,

v.

Respondent:

The People of the State of Colorado,

In the Interest of Minor Child:

E. A.-A.

Petition for Writ of Certiorari DENIED. EN BANC.
