

**CASE ANNOUNCEMENTS
COLORADO SUPREME COURT
MONDAY, MARCH 4, 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.

OPINIONS

[2019 CO 15](#)

[Supreme Court Case No. 16SC584](#)
Certiorari to the Colorado Court of Appeals
Court of Appeals Case No. 13CA1431

Petitioner:

The People of the State of Colorado,

v.

Respondent:

April Rose Travis.

Judgment Reversed
en banc

JUSTICE HART delivered the Opinion of the Court.

COLORADO SUPREME COURT CASE ANNOUNCEMENTS

GRANTED PETITIONS FOR WRIT OF CERTIORARI

No. 18SC326, Court of Appeals Case No. 15CA629

Petitioner:

Nevik Dean Howard,

v.

Respondent:

The People of the State of Colorado.

Petition for Writ of Certiorari GRANTED. EN BANC.

[REFRAMED] Whether the disparate sentencing guidance in the transfer statute, § 19-2-518, C.R.S. (2018), and the direct file statute, § 19-2-517, C.R.S. (2018), implicates a juvenile’s right to equal protection.

DENIED AS TO ALL OTHER ISSUES.

No. 18SC434, Court of Appeals Case No. 17CA437

Petitioners:

Gilbert D. Mook, Trustee and Carol S. Mook, Trustee,

v.

Respondents:

Board of County Commissioners of Summit County, Colorado and Board of Assessment Appeals.

Petition for Writ of Certiorari GRANTED. EN BANC.

[REFRAMED] Whether properties must be physically touching to satisfy the “contiguous parcels” requirement of section 39-1-102(14.4)(a), C.R.S. (2018).

DENIED AS TO ALL OTHER ISSUES.

COLORADO SUPREME COURT CASE ANNOUNCEMENTS

No. 18SC499, Court of Appeals Case No. 17CA431

Petitioners:

Board of Assessment Appeals and Board of County Commissioners of Summit County,
Colorado,

v.

Respondent:

Karen L. Kelly, Trustee.

Petition for Writ of Certiorari GRANTED. EN BANC.

[REFRAMED] Whether record title of all relevant properties must be held by the same person or entity to satisfy the “common ownership” requirement of section 39-1-102(14.4)(a), C.R.S. (2018).

DENIED AS TO ALL OTHER ISSUES.

No. 18SC544, Court of Appeals Case No. 17CA433

Petitioner/Cross-Respondent:

Board of County Commissioners of Summit County, Colorado,
and

Cross-Respondent:

Board of Assessment Appeals,

v.

Respondents/Cross-Petitioners:

Marilyn Hogan and Marc Hogan.

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

[REFRAMED] Whether the court of appeals properly construed the “used as a unit” requirement of section 39-1-102(14.4)(a), C.R.S. (2018).

DENIED AS TO ALL OTHER ISSUES.

COLORADO SUPREME COURT CASE ANNOUNCEMENTS

No. 18SC572, Court of Appeals Case No. 14CA1181

Petitioner/Cross-Respondent:

The People of the State of Colorado,

v.

Respondent/Cross-Petitioner:

Eswin Ariel Figueroa-Lemus.

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

Whether an order denying a motion to withdraw a guilty plea under Crim. P. 32(d) on a pending deferred judgment is a final judgment subject to appeal under section 13-4-102(1), C.R.S. (2017).

[REFRAMED] Whether an attorney is required to advise a client that pleading guilty to a crime will subject that client to mandatory detention for the full duration of his or her immigration proceedings.

DENIED AS TO ALL OTHER ISSUES.

No. 18SC919, Court of Appeals Case No. 17CA2038

Petitioner:

A. R.,

and

Petitioner:

The People of the State of Colorado,

In the Interest of Minor Child:

A. R.,

v.

Respondent:

D. R.

Petitions for Writ of Certiorari GRANTED. EN BANC.

Whether the court of appeals, in departing from the decisions of other divisions of the court of appeals, correctly designated “fundamental fairness” as the best means to apply the second prong of the analysis described in *Strickland v. Washington*, 466 U.S. 668 (1984), when assessing whether a parent’s trial court counsel was ineffective in an appeal from a termination order in a dependency and neglect case.

COLORADO SUPREME COURT CASE ANNOUNCEMENTS

[REFRAMED] Whether an appellate court may vacate a trial court’s decision in a dependency and neglect case without remanding the case to the trial court to make findings under Strickland’s two-part test.

[REFRAMED] Whether an appellate court, in a direct appeal from a judgment terminating parental rights, may consider a claim of ineffective assistance of counsel based on counsel’s performance at an adjudicatory hearing.

DENIED AS TO ALL OTHER ISSUES.

HELD PETITIONS FOR WRIT OF CERTIORARI

18SC437, Bringle Family Trust v. Board of County Commissioners
Held pending 18SC499, Board of Assessment Appeals v. Kelly; 18SC434, Mook v. Board of County Commissioners; and 18SC544, Board of County Commissioners v. Hogan

18SC438, Rust v. Board of County Commissioners
Held pending 18SC499, Board of Assessment Appeals v. Kelly; 18SC434, Mook v. Board of County Commissioners; and 18SC544, Board of County Commissioners v. Hogan

18SC559, Board of County Commissioners v. Gilson
Held pending 18SC499, Board of Assessment Appeals v. Kelly; 18SC434, Mook v. Board of County Commissioners; and 18SC544, Board of County Commissioners v. Hogan

18SC594, Spicer v. Board of County Commissioners
Held pending 18SC499, Board of Assessment Appeals v. Kelly; 18SC434, Mook v. Board of County Commissioners; and 18SC544, Board of County Commissioners v. Hogan

18SC622, Board of County Commissioners v. Twilight Ridge
Held pending 18SC499, Board of Assessment Appeals v. Kelly; 18SC434, Mook v. Board of County Commissioners; and 18SC544, Board of County Commissioners v. Hogan

COLORADO SUPREME COURT CASE ANNOUNCEMENTS

18SC627, Dimacali v. Board of Assessment Appeals

Held pending 18SC499, Board of Assessment Appeals v. Kelly; 18SC434, Mook v. Board of County Commissioners; and 18SC544, Board of County Commissioners v. Hogan

18SC636, Awe v. Board of Assessment Appeals

Held pending 18SC499, Board of Assessment Appeals v. Kelly; 18SC434, Mook v. Board of County Commissioners; and 18SC544, Board of County Commissioners v. Hogan

18SC644, Donahugh v. Board of County Commissioners

Held pending 18SC499, Board of Assessment Appeals v. Kelly; 18SC434, Mook v. Board of County Commissioners; and 18SC544, Board of County Commissioners v. Hogan

18SC645, Colorado La Paloma v. Board of County Commissioners

Held pending 18SC499, Board of Assessment Appeals v. Kelly; 18SC434, Mook v. Board of County Commissioners; and 18SC544, Board of County Commissioners v. Hogan

18SC717, Erskine v. Board of County Commissioners

Held pending 18SC499, Board of Assessment Appeals v. Kelly; 18SC434, Mook v. Board of County Commissioners; and 18SC544, Board of County Commissioners v. Hogan

18SC746, Rhoden v. Board of Assessment Appeals

Held pending 18SC499, Board of Assessment Appeals v. Kelly; 18SC434, Mook v. Board of County Commissioners; and 18SC544, Board of County Commissioners v. Hogan

18SC751, Mayer v. Board of Assessment Appeals

Held pending 18SC499, Board of Assessment Appeals v. Kelly; 18SC434, Mook v. Board of County Commissioners; and 18SC544, Board of County Commissioners v. Hogan

COLORADO SUPREME COURT CASE ANNOUNCEMENTS

DENIED PETITIONS FOR WRIT OF CERTIORARI

No. 18SC549, Court of Appeals Case No. 17CA1110

Petitioners:

Charles L. Patrick, Alberta R. Patrick, Mark R. Anderson, Marcia R. Petrun, and Mark Petrun,

v.

Respondents:

Bernadette C. Affa; Carol R. Alford; David Lee Alford; Aloï Living Trust; Applewood Water Association, Inc. d/b/a Applewood Estates Homeowners Association; Samuel M. Babb; Kathryn J. Babb; John R. Brouillette; Mina E. Brouillette; Margie K. Butts; Phillip Chupik; Tawnya Chupik; Patricia Ann Cole; Kathleen R. Conner; Richard Bernard Conner, Jr.; Dennis D. Custer; Dianne M. Custer; Alan David Douglas; Carl Duke; Lori Kay Duke; John C. Dunn; Deborah A. G. Dunn; Joseph W. Eisele; Donna L. Eisele; John Darling Engle; Jeanene Brewer Engle; Larry M. Granger; Jill P. Granger; Mark L. Groth; Ann M. Groth; William H. Hanna; Mary C. Hanna; Nicholas Patrick Hanna; Rhonda Dar Hanna; Joan P. Hatch; Douglas B. Hatch; David H. Hawes; Barbara B. Hawes; Hendrie Family Trust; Sanford Jones; Karen Jones; Jeffrey Jones; Paula Jones; Kobermann Irrevocable Trust; Douglas Krohn; Peter A. Lagoni; Laurel K. Lagoni; Billy G. Lambert; Jane A. Lambert; Kathryn S. Lenz; Terry G. Lenz; Dennis W. Macy; Laura A. Okada; Erin Petrilli; Patricia Pipkin; Randy W. Pritchard; Rainey Y. Pritchard; John Puma; Brian A. Scholz; Dana Scholz; Gary E. Thornton; Rita S. Thornton; Julie Ulstrup; Wanda O Roche Trust; Douglas H. Watterson; Beth A. Watterson; Diane M. Whitney; Joseph R. Whitney; Randal C. Wick; Janelle M. Wick; Mark Wierbilis; Susan Woods; Raymond S.H. Yang; and Ann L. Yang.

Petition for Writ of Certiorari DENIED. EN BANC.

No. 18SC569, Jefferson County District Court Case No. 17CV31220

Petitioner:

Eric Brandt,

v.

Respondent:

The People of the State of Colorado.

Petition for Writ of Certiorari DENIED. EN BANC.

COLORADO SUPREME COURT CASE ANNOUNCEMENTS

No. 18SC581, Arapahoe County District Court Case No. 16CV30564

Petitioner:

Joshua Orth,

v.

Respondent:

The People of the State of Colorado.

Petition for Writ of Certiorari DENIED. EN BANC.

No. 18SC615, Court of Appeals Case No. 18CA664

Petitioner:

The People of the State of Colorado,

v.

Respondent:

Yoel Soto-Campos.

Petition for Writ of Certiorari DENIED. EN BANC.

JUSTICE BOATRRIGHT would grant as to the following issue:

Whether a trial court's "probable cause" review of a grand jury indictment pursuant to 16-5-204(4)(k), C.R.S. is broader than the probable cause review at a preliminary hearing pursuant to 16-5-301(1)(a), C.R.S.

No. 18SC616, Court of Appeals Case No. 18CA665

Petitioner:

The People of the State of Colorado,

v.

Respondent:

Fermin Flores-Rosales.

Petition for Writ of Certiorari DENIED. EN BANC.

JUSTICE BOATRRIGHT would grant as to the following issue:

Whether a trial court's "probable cause" review of a grand jury indictment pursuant to 16-5-204(4)(k), C.R.S. is broader than the probable cause review at a preliminary hearing pursuant to 16-5-301(1)(a), C.R.S.

COLORADO SUPREME COURT CASE ANNOUNCEMENTS

No. 18SC641, Court of Appeals Case No. 15CA1584

Petitioner:

Donnie Joe Garcia,

v.

Respondent:

The People of the State of Colorado.

Petition for Writ of Certiorari DENIED. EN BANC.

No. 18SC690, Court of Appeals Case No. 17CA1651

Petitioners:

John Dufficy and Molly Heizer,

v.

Respondent:

The Board of County Commissioners of the County of San Miguel, Colorado.

Petition for Writ of Certiorari DENIED. EN BANC.

No. 18SC701, Court of Appeals Case No. 16CA690

Petitioner:

John Ray Costillo,

v.

Respondent:

The People of the State of Colorado.

Petition for Writ of Certiorari DENIED. EN BANC.

No. 18SC726, Court of Appeals Case No. 15CA978

Petitioner:

Justin Wayne Lamb,

v.

Respondent:

The People of the State of Colorado.

Petition for Writ of Certiorari DENIED. EN BANC.

COLORADO SUPREME COURT CASE ANNOUNCEMENTS

No. 18SC740, Court of Appeals Case No. 16CA836

Petitioner:

Russell Ralph Root,

v.

Respondent:

The People of the State of Colorado.

Petition for Writ of Certiorari DENIED. EN BANC.

No. 18SC748, Court of Appeals Case No. 17CA1677

In re the Marriage of

Petitioner:

Selma Tarrant,

and

Respondent:

Webb Tarrant, Protected Party.

Petition for Writ of Certiorari DENIED. EN BANC.

JUSTICE MÁRQUEZ does not participate.

No. 18SC768, Costilla County District Court Case No. 18CV30013

Petitioner:

Miguel Theodore Rael,

v.

Respondent:

The People of the State of Colorado.

Petition for Writ of Certiorari DENIED. EN BANC.

No. 19SC2, Court of Appeals Case No. 18CA58

In re the Marriage of

Petitioner:

Danielle Alfaro,

and

Respondent:

Matthew Duerksen.

Petition for Writ of Certiorari DENIED. EN BANC.

COLORADO SUPREME COURT CASE ANNOUNCEMENTS

No. 19SC77, Court of Appeals Case No. 18CA397

Petitioner:

S. O.,

v.

Respondent:

The People of the State of Colorado,

In the Interest of Minor Children:

J. N. and J. O.

Petition for Writ of Certiorari DENIED. EN BANC.

No. 19SC83, Court of Appeals Case No. 17CA1556

Petitioner:

C. M. Z.,

v.

Respondent:

The People of the State of Colorado,

In the Interest of Minor Child:

M. E. G.

Petition for Writ of Certiorari DENIED. EN BANC.
