

**CASE ANNOUNCEMENTS
COLORADO SUPREME COURT
MONDAY, MAY 20, 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 34](#)

[Supreme Court Case No. 16SC442](#)

*Certiorari to the Colorado Court of Appeals
Court of Appeals Case No. 12CA889*

Petitioner:

The People of the State of Colorado,

v.

Respondent:

Richard Wesley Anderson.

Judgment Reversed

en banc

CHIEF JUSTICE COATS delivered the Opinion of the Court.

COLORADO SUPREME COURT CASE ANNOUNCEMENTS

[2019 CO 35](#)

[Supreme Court Case No. 18SA292](#)

Interlocutory Appeal from the District Court

Montrose County District Court Case No. 18CR178

Honorable Mary E. Deganhart, Judge

Plaintiff-Appellant:

The People of the State of Colorado,

v.

Defendant-Appellee:

Jeremiah Anthony Tomaske.

Order Reversed

en banc

JUSTICE BOATRIGHT delivered the Opinion of the Court.

COLORADO SUPREME COURT CASE ANNOUNCEMENTS

[2019 CO 36](#)

[Supreme Court Case No. 17SC584](#)

Certiorari to the Colorado Court of Appeals

Court of Appeals Case No. 16CA50

Petitioner:

The People of the State of Colorado,

v.

Respondent:

Kevin Keith McKnight.

Judgment Affirmed

en banc

JUSTICE HOOD delivered the Opinion of the Court.

CHIEF JUSTICE COATS dissents, and **JUSTICE BOATRIGHT** and **JUSTICE SAMOUR** join in the dissent.

JUSTICE SAMOUR dissents, and **JUSTICE BOATRIGHT** joins in the dissent.

COLORADO SUPREME COURT CASE ANNOUNCEMENTS

[2019 CO 37](#)

[Supreme Court Case No. 18SA208](#)

Interlocutory Appeal from the District Court
Mesa County District Court Case No. 17CR2426
Honorable Valerie J. Robison, Judge

Plaintiff-Appellant:

The People of the State of Colorado,

v.

Defendant-Appellee:

Amanda Eileen Gadberry.

Order Affirmed

en banc

JUSTICE HOOD delivered the Opinion of the Court.

CHIEF JUSTICE COATS dissents, and **JUSTICE BOATRIGHT** and **JUSTICE SAMOUR** join in the dissent.

JUSTICE SAMOUR dissents, and **JUSTICE BOATRIGHT** joins in the dissent.

COLORADO SUPREME COURT CASE ANNOUNCEMENTS

[2019 CO 38](#)

[Supreme Court Case No. 17SC735](#)

Certiorari to the Colorado Court of Appeals
Court of Appeals Case No. 16CA1355

Petitioners:

City of Golden, Colorado and Jeff Hansen, in his official capacity as Finance Director of
the City of Golden, Colorado,

v.

Respondent:

Sodexo America, LLC.

Judgment Affirmed

en banc

JUSTICE HOOD delivered the Opinion of the Court.

COLORADO SUPREME COURT CASE ANNOUNCEMENTS

PETITIONS FOR REHEARING

2019 CO 21

Supreme Court Case No. 15SC268
Certiorari to the Colorado Court of Appeals
Court of Appeals Case No. 07CA561

Petitioner:

Robert Keith Ray,

v.

Respondent:

The People of the State of Colorado.

Petition for Rehearing DENIED. EN BANC.
JUSTICE GABRIEL and **JUSTICE HART** would grant the petition.
JUSTICE SAMOUR does not participate.

COLORADO SUPREME COURT CASE ANNOUNCEMENTS

2019 CO 23

Supreme Court Case No. 16SC413
Certiorari to the Colorado Court of Appeals
Court of Appeals Case No. 14CA1559

Petitioner:

David R. Calvert,

v.

Respondents:

Diane L. Mayberry a/k/a Diane Marie Laba-Mayberry and Desiree L. Mayberry.

Petition for Rehearing DENIED. EN BANC.

CHIEF JUSTICE COATS and **JUSTICE SAMOUR** would grant the petition.

COLORADO SUPREME COURT CASE ANNOUNCEMENTS

ORIGINAL PROCEEDING

[19SA91 In Re: Wasulko, Todd v. eRentpayment](#)

Larimer County District Court, 17CV31088

Order to Show Cause issued on May 16, 2019

GRANTED PETITIONS FOR WRIT OF CERTIORARI

No. 18SC684, Court of Appeals Case No. 15CA633

Petitioner/Cross-Respondent:

Laron Antonio Donald,

v.

Respondent/Cross-Petitioner:

The People of the State of Colorado.

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

[REFRAMED] Whether the court of appeals erred in vacating the defendant's conviction based on its conclusion that the jury could have found the defendant guilty of violating the conditions of his bail bond only by stacking inference on top of inference as prohibited in *Tate v. People*, 247 P.2d 665 (Colo. 1952).

[REFRAMED] Whether the court of appeals erred in concluding that the testimony as to the bail bond release process did not give rise to an inference that the defendant had knowledge of the contents of the bond paperwork.

Whether sufficient evidence was presented to support the jury's finding that the defendant had knowledge of the bond paperwork.

DENIED AS TO ALL OTHER ISSUES

COLORADO SUPREME COURT CASE ANNOUNCEMENTS

No. 18SC708, Court of Appeals Case No. 13CA1604

Petitioner:

The People of the State of Colorado,

v.

Respondent:

Sheila Renee Monroe.

Petition for Writ of Certiorari GRANTED. EN BANC.

Whether the prosecution properly argued that the defendant’s ability to leave an encounter was relevant to whether she feared for her safety and, therefore, to whether she acted in self-defense.

Whether the court of appeals erred in holding that the prosecution’s argument concerning the defendant’s ability to leave an encounter improperly injected a duty to retreat, contrary to Colorado’s self-defense law, despite the prosecution’s clarification of the argument and the trial court’s oral and written jury instructions.

No. 18SC765, Court of Appeals Case No. 17CA326

Petitioner:

Richard Andrew Manjarrez,

v.

Respondent:

The People of the State of Colorado.

Petition for Writ of Certiorari GRANTED. EN BANC.

Whether “special access” to a child – standing alone – is sufficient to prove a position of trust under section 18-3-401(3.5) and *People v. Roggow*, 318 P.3d 446 (Colo. 2013), or whether there must be proof that a defendant also had some duty of supervision over a child in order to find that the defendant occupied a position of trust.

COLORADO SUPREME COURT CASE ANNOUNCEMENTS

DENIED PETITIONS FOR WRIT OF CERTIORARI

No. 18SC341, Court of Appeals Case No. 15CA2090

Petitioner:

The People of the State of Colorado,

v.

Respondent:

Kevin James O'Rourke.

Petition for Writ of Certiorari is DENIED. EN BANC.

JUSTICE BOATRIGHT would grant as to the following issue:

Whether the court of appeals erred in holding that the trial court abused its discretion and violated the defendant's due process rights when it denied the defendant's motion to continue made on the first day of trial.

No. 18SC419, Court of Appeals Case No. 16CA198

Petitioner:

Bernard Black, in his Capacity as Trustee for the Supplemental Needs Trust for the Benefit of Joanne Black,

v.

In the Interest of

Respondent:

Joanne Black, Protected Person.

Petition for Writ of Certiorari is DENIED. EN BANC.

No. 18SC654, Court of Appeals Case No. 16CA875

Petitioner:

Leonard Joosten,

v.

Respondent:

The People of the State of Colorado.

Petition for Writ of Certiorari DENIED. EN BANC.

COLORADO SUPREME COURT CASE ANNOUNCEMENTS

No. 18SC675, Court of Appeals Case No. 15CA42

Petitioner:

The People of the State of Colorado,

v.

Respondent:

Gordon Scott Siriano.

Petition for Writ of Certiorari DENIED. EN BANC.

No. 18SC702, Court of Appeals Case No. 14CA1490

Petitioner:

Briana Cam Thi Nguyen,

v.

Respondent:

The People of the State of Colorado.

Petition for Writ of Certiorari DENIED. EN BANC.

No. 18SC703, Court of Appeals Case No. 14CA865

Petitioner:

Briana Cam Thi Nguyen,

v.

Respondent:

The People of the State of Colorado.

Petition for Writ of Certiorari DENIED. EN BANC.

COLORADO SUPREME COURT CASE ANNOUNCEMENTS

No. 18SC730, Court of Appeals Case No. 18CA499

Petitioners/Cross-Respondents:

Arapahoe County Sheriff's Department and Sheriff David C. Walcher,

v.

Respondent/Cross-Petitioner:

Michael Cummings.

Petition and Cross-Petition for Writ of Certiorari is DENIED. EN BANC.
JUSTICE SAMOUR does not participate.

JUSTICE MÁRQUEZ would grant as to the following issues:

Whether the court of appeals erred in ruling that section 30-10-506, C.R.S. (2018), mandates the creation of a non-disclaimable implied employment contract with respect to portions of the Sheriff's personnel policy manual.

Whether the court of appeals' holding that the Sheriff's policy provisions "that effectuate the due process rights conferred by section 30-10-506" are a non-disclaimable implied contract impermissibly expands the scope of the rights expressly conferred by section 30-10-506, C.R.S. (2018).

Whether the court of appeals, while correctly holding that the due process rights granted by section 30-10-506, C.R.S. (2018), cannot be disclaimed, erred by holding that other rights granted by the personnel policies adopted by a sheriff pursuant to the same statute can be disclaimed and thereby rendered unenforceable.

COLORADO SUPREME COURT CASE ANNOUNCEMENTS

No. 18SC737, Court of Appeals Case No. 15CA504

Petitioner:

David Trujillo,

v.

Respondent:

The People of the State of Colorado.

Petition for Writ of Certiorari DENIED. EN BANC.

JUSTICE HOOD would grant as to the following issue:

Whether the trial court reversibly erred in refusing the petitioner’s proposed stipulation to the existence of his prior felony conviction and instead allowing the respondent to present evidence of the name and nature of the underlying offense.

No. 18SC739, Court of Appeals Case No. 17CA1111

Petitioner:

Digital Landscape, Inc.,

v.

Respondent:

Media Kings, LLC.

Petition for Writ of Certiorari DENIED. EN BANC.

JUSTICE HOOD would grant as to the following issues:

Are clauses for arbitrating disputes “arising under” a contract limited to disputes of contract interpretation and performance, or do they broadly extend to disputes not grounded in the contract?

Do arbitrators exceed their jurisdiction when, after having ruled on all submitted claims, they create and award relief on a different claim that had never been submitted?

COLORADO SUPREME COURT CASE ANNOUNCEMENTS

No. 18SC783, Court of Appeals Case No. 15CA1899

Petitioner:

Jack Lamont Miller, III,

v.

Respondent:

The People of the State of Colorado.

Petition for Writ of Certiorari DENIED. EN BANC.

No. 18SC808, Court of Appeals Case No. 10CA1987

Petitioner:

Kalani Opana,

v.

Respondent:

The People of the State of Colorado.

Petition for Writ of Certiorari DENIED. EN BANC.

No. 18SC810, Court of Appeals Case No. 17CA1605

Petitioner:

City of Lakewood and Larry Dorr, in his official capacity as Finance Director of the City of Lakewood, Colorado,

v.

Respondents:

Big Sur Waterbeds, Inc.; Denver Mattress CO., LLC; and Sofa Mart, LLC.

Petition for Writ of Certiorari DENIED. EN BANC.

No. 18SC875, Court of Appeals Case No. 16CA243

Petitioner:

Raul Edgardo Febo,

v.

Respondent:

The People of the State of Colorado.

Petition for Writ of Certiorari DENIED. EN BANC.

COLORADO SUPREME COURT CASE ANNOUNCEMENTS

No. 19SC19, Court of Appeals Case No. 16CA749

Petitioner:

Santos Sanchez Johnston,

v.

Respondent:

The People of the State of Colorado.

Petition for Writ of Certiorari DENIED. EN BANC.

No. 19SC31, Court of Appeals Case No. 14CA2088

Petitioner:

Pilar Altamirano Zavala,

v.

Respondent:

The People of the State of Colorado.

Petition for Writ of Certiorari DENIED. EN BANC.

No. 19SC70, Court of Appeals Case No. 16CA1183

Petitioner:

Clay Martin Potter,

v.

Respondent:

The People of the State of Colorado.

Petition for Writ of Certiorari DENIED. EN BANC.

No. 19SC71, Court of Appeals Case No. 16CA517

Petitioner:

Moises Fuerte-Rios,

v.

Respondent:

The People of the State of Colorado.

Petition for Writ of Certiorari DENIED. EN BANC.

COLORADO SUPREME COURT CASE ANNOUNCEMENTS

No. 19SC92, Court of Appeals Case No. 17CA2289

Petitioner:

Nancy Martinez,

v.

Respondent:

Donald D. Hernandez.

Petition for Writ of Certiorari DENIED. EN BANC.

No. 19SC115, Court of Appeals Case No. 16CA1789

Petitioner:

Mercedes Ambriz-Serrano,

v.

Respondent:

The People of the State of Colorado.

Petition for Writ of Certiorari DENIED. EN BANC.

No. 19SC123, Court of Appeals Case No. 18CA265

In re the Marriage of

Petitioner:

Samuel Collin Robinson,

and

Respondent:

Katherine Lyman Robinson.

Petition for Writ of Certiorari DENIED. EN BANC.

No. 19SC164, Court of Appeals Case No. 15CA2158

Petitioner:

Joseph Lee Dickens, III,

v.

Respondent:

The People of the State of Colorado.

Petition for Writ of Certiorari DENIED. EN BANC.

COLORADO SUPREME COURT CASE ANNOUNCEMENTS

No. 19SC176, Court of Appeals Case No. 17CA1125

Petitioner:

Gilbert M. Murchinson,

v.

Respondent:

The People of the State of Colorado.

Petition for Writ of Certiorari DENIED. EN BANC.

No. 19SC184, Court of Appeals Case No. 18CA559

Petitioner:

Blaine A. Rutenbeck,

v.

Respondent:

Chateau Chaparral Owners Association.

Petition for Writ of Certiorari DENIED. EN BANC.

No. 19SC189, Court of Appeals Case No. 18CA324

Petitioner:

Stacy Lynne,

v.

Respondent:

Julie Kunce Field.

Petition for Writ of Certiorari DENIED. EN BANC.

No. 19SC190, Court of Appeals Case No. 16CA350

Petitioner:

Olin George Ferrier,

v.

Respondent:

The People of the State of Colorado.

Petition for Writ of Certiorari DENIED. EN BANC.

COLORADO SUPREME COURT CASE ANNOUNCEMENTS

No. 19SC211, Court of Appeals Case No. 18CA1501

Petitioner:

D. D. A-S.,

v.

In the Interest of Minor Children:

M. A. A-F., a/k/a M. A. A.-S.; M. A. A-S; M. A. A-S; and M. A. A-S.;

Respondent:

The People of the State of Colorado,
and Concerning
E. A. S., Jr.

Petition for Writ of Certiorari DENIED. EN BANC.

No. 19SC247, Court of Appeals Case No. 17CA2406

Petitioner:

E. J. H.,

v.

Respondent:

The People of the State of Colorado,

In the Interest of Minor Children:

J. P. M. H. and M. G. M. H.,
and Concerning
P. M.-M.

Petition for Writ of Certiorari DENIED. EN BANC.

No. 19SC248, Court of Appeals Case No. 17CA2368

Petitioner:

E. H.,

v.

Respondent:

The People of the State of Colorado,

In the Interest of Minor Child:

J. M.- H.,
and Concerning
J. H. M.

Petition for Writ of Certiorari DENIED. EN BANC.

COLORADO SUPREME COURT CASE ANNOUNCEMENTS

No. 19SC264, Court of Appeals Case No. 18CA96

Petitioner:

J. S.,

v.

Respondent:

The People of the State of Colorado,

In the Interest of Minor Children:

D. H. and N. S.

Petition for Writ of Certiorari DENIED. EN BANC.

No. 19SC265, Court of Appeals Case No. 18CA395

Petitioner:

J. A.,

v.

Respondent:

The People of the State of Colorado,

In the Interest of Minor Child:

S. A.-C.

Petition for Writ of Certiorari DENIED. EN BANC.

No. 19SC304, Court of Appeals Case No. 18CA1524

Petitioner:

D. M.,

v.

Respondent:

The People of the State of Colorado,

In the Interest of Minor Children:

N. L. and G. L.

Petition for Writ of Certiorari DENIED. EN BANC.
