

**CASE ANNOUNCEMENTS
COLORADO SUPREME COURT
MONDAY, JULY 1, 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 68](#)

[Supreme Court Case No. 16SA291](#)

Appeal from the District Court

Weld County District Court, Water Division 1, Case No. 12CW5
Honorable James F. Hartmann, Water Judge

Concerning the Application for Water Rights of the City and County of Denver, acting by and through its Board of Water Commissioners in Douglas, Jefferson, Arapahoe, Denver, Broomfield, Weld, Adams, and Park Counties.

Applicant-Appellee:

The City and County of Denver, acting by and through its Board of Water Commissioners,

v.

Opposers-Appellants:

Consolidated Ditches of Water District No. 2; Parker Water and Sanitation District; Central Colorado Water Conservancy District; City of Aurora; and Farmers Reservoir and Irrigation Company,

and

COLORADO SUPREME COURT CASE ANNOUNCEMENTS

Opposers-Appellees:

Bijou Irrigation Company and Bijou Irrigation Ditch, Centennial Water and Sanitation District, City and County of Broomfield, City of Brighton, City of Commerce City, City of Louisville, City of Thornton, City of Westminster, Coors Brewing Company, East Cherry Creek Valley Water and Sanitation District, Fairmount Cemetery Company, Farmers High Line Canal, Fulton Irrigation Ditch Company, Henrylyn Irrigation District, New Brantner Extension Ditch, Northern Colorado Water Conservancy District, Platte Valley Irrigation Company, Public Service Company of Colorado, South Adams County Water and Sanitation District, South Suburban Park and Recreation District, Denver County Club, Upper Cherry Creek Water Association, and United Water and Sanitation District,

and Concerning

Appellees Pursuant to C.A.R. 1(e):

Corey DeAngelis, Division Engineer, Water Division No. 1; and Kevin Rein, State Engineer.

Judgment Affirmed

en banc

JUSTICE MÁRQUEZ delivered the Opinion of the Court.

COLORADO SUPREME COURT CASE ANNOUNCEMENTS

[2019 CO 69](#)

[Supreme Court Case No. 17SC595](#)

Certiorari to the Colorado Court of Appeals

Court of Appeals Case No. 14CA562

Petitioner:

Kyree Davon Howard-Walker,

v.

Respondent:

The People of the State of Colorado.

Judgment Reversed

en banc

JUSTICE HOOD delivered the Opinion of the Court.

COLORADO SUPREME COURT CASE ANNOUNCEMENTS

[2019 CO 70](#)

[Supreme Court Case No. 17SA285](#)

Appeal from the District Court

Chaffee County District Court Case No. 16CV30043

Honorable Patrick W. Murphy, Judge

Petitioner-Appellee:

Scott Edward Diehl,

v.

Respondents-Appellants:

Philip J. Weiser, Colorado Attorney General; Jason Lengerich, Warden of Buena Vista Correctional Facility; and Dean Williams, Executive Director of the Colorado Department of Corrections.

Judgment Reversed

en banc

JUSTICE HART delivered the Opinion of the Court.

COLORADO SUPREME COURT CASE ANNOUNCEMENTS

[2019 CO 71](#)

[Supreme Court Case No. 16SC546](#)

Certiorari to the Colorado Court of Appeals
Court of Appeals Case No. 14CA1719

Petitioner:

The People of the State of Colorado,

v.

Respondent:

Christopher Anthon Mazzarelli.

Judgment Affirmed and Opinion Vacated
en banc

JUSTICE SAMOUR delivered the Opinion of the Court.
JUSTICE BOATRIGHT dissents, and **JUSTICE MÁRQUEZ** joins in the dissent.

COLORADO SUPREME COURT CASE ANNOUNCEMENTS

[2019 CO 72](#)

[Supreme Court Case No. 17SC144](#)

Certiorari to the Colorado Court of Appeals

Court of Appeals Case No. 14CA2482

Petitioner:

Leo Phillips,

v.

Respondent:

The People of the State of Colorado.

Judgment Affirmed

en banc

JUSTICE SAMOUR delivered the Opinion of the Court.

JUSTICE HOOD concurs in the judgment only, and **CHIEF JUSTICE COATS** and **JUSTICE MÁRQUEZ** join in the concurrence in the judgment only.

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.

Judgment Reversed

en banc

JUSTICE SAMOUR delivered the Opinion of the Court.
JUSTICE HOOD dissents, and **CHIEF JUSTICE COATS** and **JUSTICE MÁRQUEZ**
join in the dissent.

COLORADO SUPREME COURT CASE ANNOUNCEMENTS

PETITIONS FOR REHEARING

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.

Petition for Rehearing DENIED. EN BANC.

COLORADO SUPREME COURT CASE ANNOUNCEMENTS

GRANTED PETITIONS FOR WRIT OF CERTIORARI

No. 18SC483, Court of Appeals Case No. 15CA40

Petitioner:

The People of the State of Colorado,

v.

Respondent:

Randy D. Tallent.

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. Morehead*, 15SC935, 2019 CO 48. EN BANC.

No. 18SC724, Court of Appeals Case No. 15CA1543

Petitioner/Cross-Respondent:

Maksim Khamov,

v.

Respondent/Cross-Petitioner:

The People of the State of Colorado.

The Petition for Writ of Certiorari is DENIED. Cross-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. Anderson*, 16SC442, 2019 CO 34. EN BANC.

COLORADO SUPREME COURT CASE ANNOUNCEMENTS

No. 19SC116, Court of Appeals Case No. 17CA1381

Petitioner:

Jose Garcia,

v.

Respondent:

Colorado Cab Company LLC, a Colorado limited liability company d/b/a Denver Yellow Cab.

Petition for Writ of Certiorari GRANTED. EN BANC.

JUSTICE MÁRQUEZ does not participate.

Whether the court of appeals improperly narrowed the rescue doctrine's application by creating a legal standard for determining rescuer status predicated solely on "bodily movement" of a specific degree or nature and excluding other effort reasonably aimed at, or successfully effecting, a rescue.

DENIED AS TO ALL OTHER ISSUES.

COLORADO SUPREME COURT CASE ANNOUNCEMENTS

No. 19SC370, Court of Appeals Case No. 19CA452

Petitioner:

M. A. W.,

and

Cross-Petitioner:

The People of the State of Colorado,

In the Interest of Minor Child:

A. L. W.

Petition and Cross-Petition for Writ of Certiorari Pursuant to C.A.R. 50 GRANTED.
EN BANC.

Whether a determination of “fundamental fairness” is the best means of analyzing the second prong of *Strickland v. Washington*, 466 U.S. 668 (1984), when assessing ineffectiveness of parent’s counsel on appeal from a termination order in a dependency and neglect case.

Whether evidence of parent’s counsel electing to do nothing during a termination proceeding is sufficient evidence of ineffectiveness such that the court of appeals can vacate a trial court’s decision in dependency and neglect cases without the unnecessary delay inherent in remanding the case.

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

Whether an appellate court may vacate a trial counsel’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.

COLORADO SUPREME COURT CASE ANNOUNCEMENTS

HELD PETITIONS FOR WRIT OF CERTIORARI

19SC54, Neuhoff v. Eagle County

19SC56, Lannie v. Eagle County

Held pending *Mook v. Board of County Commissioners*, 18SC434

Board of County Commissioners v. Kelly, 18SC499

Board of County Commissioners v. Hogan, 18SC544

Ziegler v. Board of County Commissioners, 19SC157

DENIED PETITIONS FOR WRIT OF CERTIORARI

No. 18SC682, Court of Appeals Case No. 16CA801

Petitioner:

The People of the State of Colorado,

v.

Respondent:

Jeffrey Kim Severson.

Petition for Writ of Certiorari DENIED. EN BANC.

No. 18SC683, Court of Appeals Case No. 14CA1955

Petitioner:

Victor Leobardo Trejo Lopez,

v.

Respondent:

The People of the State of Colorado.

Petition for Writ of Certiorari DENIED. EN BANC.

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

Whether, as a matter of first impression, the evidence is sufficient to convict a defendant of theft from an at-risk person because he committed an “element or portion of the offense [of theft] in the presence of the victim,” where the evidence showed the defendant decided to steal something and secured possession of it while in a separate room from the victim with the door closed.

COLORADO SUPREME COURT CASE ANNOUNCEMENTS

18SC815, Court of Appeals Case No. 16CA155

Petitioner:

Aniefiok Asuqo Atakpo,

v.

Respondent:

The People of the State of Colorado.

Petition for Writ of Certiorari DENIED. EN BANC.

No. 18SC819, Court of Appeals Case No. 15CA1724

Petitioner:

The People of the State of Colorado,

v.

Respondent:

Michael A. Camilletti.

Petition for Writ of Certiorari DENIED. EN BANC.

No. 18SC838, Court of Appeals Case No. 17CA1085

Petitioners:

Timothy Kuzava and Kathy Jo Kuzava,

v.

Respondent:

United Fire and Casualty Company.

Petition for Writ of Certiorari DENIED. EN BANC.

COLORADO SUPREME COURT CASE ANNOUNCEMENTS

No. 18SC874, Court of Appeals Case No. 17CA1171

Petitioner:

Brian Nanez,

v.

Respondents:

Industrial Claim Appeals Office of the State of Colorado; Mechanical & Piping, Inc.; and Pinnacol Assurance.

Petition for Writ of Certiorari DENIED. EN BANC.

JUSTICE BOATRIGHT would grant as to the following issue:

Are prescribed and court-appointed fiduciary services provided by a conservator and guardian compensable under C.R.S. § 8-42-101(1)(a) when they relieve the effects of a worker's brain injury by replacing his lost executive functioning.

No. 19SC10, El Paso County District Court Case No. 18CV30147

Petitioner:

Tresha Davenport,

v.

Respondent:

The People of the State of Colorado.

Petition for Writ of Certiorari DENIED. EN BANC.

No. 19SC46, Court of Appeals Case No. 18CA387

Petitioners:

Marvin Ribelin and Shelly Ribelin,

v.

Respondent:

D&P Turner Enterprises, Inc., d/b/a Midas of Longmont.

Petition for Writ of Certiorari DENIED. EN BANC.

JUSTICE MÁRQUEZ does not participate.

COLORADO SUPREME COURT CASE ANNOUNCEMENTS

No. 19SC49, Court of Appeals Case No. 15CA1580

Petitioner:

Bradley David Broswick,

v.

Respondent:

The People of the State of Colorado.

Petition for Writ of Certiorari DENIED. EN BANC.

No. 19SC63, Court of Appeals Case No. 17CA2163

Petitioner:

Southpark Homeowner Association Number 2,

v.

Respondent:

City of Englewood, Colorado.

Petition for Writ of Certiorari DENIED. EN BANC.

No. 19SC119, Court of Appeals Case No. 18CA885

Petitioner:

Jasmine Eloisa Salgado,

v.

Respondent:

The People of the State of Colorado.

Petition for Writ of Certiorari DENIED. EN BANC.

JUSTICE BOATRRIGHT does not participate.

No. 19SC120, Court of Appeals Case No. 17CA131

Petitioner:

Shawn Riley,

v.

Respondent:

The People of the State of Colorado.

Petition for Writ of Certiorari DENIED. EN BANC.

COLORADO SUPREME COURT CASE ANNOUNCEMENTS

No. 19SC137, Court of Appeals Case No. 16CA1312

Petitioner:

Ryan Aaron Padilla,

v.

Respondent:

The People of the State of Colorado.

Petition for Writ of Certiorari DENIED. EN BANC.

No. 19SC154, Court of Appeals Case No. 16CA1459

Petitioner:

Jamie Alan Blickenderfer,

v.

Respondent:

The People of the State of Colorado.

Petition for Writ of Certiorari DENIED. EN BANC.

No. 19SC171, Montezuma County District Court Case No. 18CV30050

Petitioner:

Christopher Begay,

v.

Respondent:

The People of the State of Colorado.

Petition for Writ of Certiorari DENIED. EN BANC.

No. 19SC186, Larimer County District Court Case No. 18CV30275

Petitioner:

Christopher Grant,

v.

Respondent:

The People of the State of Colorado.

Petition for Writ of Certiorari DENIED. EN BANC.

COLORADO SUPREME COURT CASE ANNOUNCEMENTS

No. 19SC301, Court of Appeals Case No. 17CA325

Petitioner:

Gabriel Lee Flores,

v.

Respondent:

The People of the State of Colorado.

Petition for Writ of Certiorari DENIED. EN BANC.

No. 19SC313, Court of Appeals Case No. 18CA3

Petitioner:

Jeremy Maniscalco,

v.

Respondent:

The People of the State of Colorado.

Petition for Writ of Certiorari DENIED. EN BANC.

CHIEF JUSTICE COATS does not participate.

No. 19SC361, Court of Appeals Case No. 18CA989

Petitioner:

The People of the State of Colorado,

In the Interest of Minor Children:

D.P., Jr.; and D.P.,

v.

Respondent:

D.P., Sr.

Petition for Writ of Certiorari DENIED. EN BANC.

JUSTICE BOATRRIGHT would grant as to the following issues:

Whether a parent may waive a dispositional hearing in a dependency and neglect case.

Whether reversal is required when a parent, who agrees with the adopted treatment plan, does not demonstrate any prejudice by the adoption of such.

Whether the trial court must make the express finding that the adopted treatment plan is “appropriate,” and, if so, if such must be done at the time of disposition.

COLORADO SUPREME COURT CASE ANNOUNCEMENTS

No. 19SC373, Court of Appeals Case No. 18CA1264

Petitioner:

J. H.,

v.

Respondent:

The People of the State of Colorado,

In the Interest of Minor Child:

A. E. I. D.

Petition for Writ of Certiorari DENIED. EN BANC.

No. 19SC401, Court of Appeals Case No. 18CA1767

Petitioner:

E. T.,

v.

Respondent:

The People of the State of Colorado,

In the Interest of Minor Child:

S. T.

Petition for Writ of Certiorari DENIED. EN BANC.

No. 19SC403, Court of Appeals Case No. 18CA1788

Petitioner:

G. F.,

v.

Respondent:

The People of the State of Colorado,

In the Interest of Minor Child:

A. T.

Petition for Writ of Certiorari DENIED. EN BANC.
