

**CASE ANNOUNCEMENTS
COLORADO SUPREME COURT
MONDAY, APRIL 9, 2018**

"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

[2018 CO 22](#)

[Supreme Court Case No. 17SA247](#)

Original Proceeding Pursuant to C.A.R. 21
Arapahoe County District Court Case No. 16CV30959
Honorable Charles M. Pratt, Judge

In Re

Plaintiffs/Counterclaim Defendants:

Gadeco, LLC; Celeste C. Grynberg, individually and as Co-Trustee for the Rachel Susan Grynberg 1982 Trust, the Stephen Mark Grynberg 1983 Trust, and the Miriam Zela Grynberg 1986 Trust; The Rachel Susan Grynberg 1982 Trust; The Stephen Mark Grynberg 1983 Trust; The Miriam Zela Grynberg 1986 Trust; Pricaspian Development Corporation; Rachel S. Grynberg; Miriam Z. Grynberg; Stephen M. Grynberg, individually and as Trustee for Stephen Mark Grynberg Separate Property Trust; The Stephen Mark Grynberg Separate Property Trust; and RSM Production Corporation,

v.

Defendant/Counterclaim Plaintiff:

Jack J. Grynberg,
and

Defendant:

The Grynberg Petroleum Corporation.

Rule Made Absolute

en banc

CHIEF JUSTICE RICE delivered the Opinion of the Court.

COLORADO SUPREME COURT CASE ANNOUNCEMENTS

[2018 CO 23](#)

[Supreme Court Case No. 15SC518](#)

Certiorari to the District Court, City and County of Denver
District Court, City and County of Denver Case No. 14CV33017

Petitioner:

Carlos Meza,

v.

Respondent:

The People of the State of Colorado.

Judgment Reversed

en banc

JUSTICE COATS delivered the Opinion of the Court.

[2018 CO 24](#)

[Supreme Court Case No. 15SC535](#)

Certiorari to the Colorado Court of Appeals
Court of Appeals Court Case No. 14CA1239

Petitioner:

The People of the State of Colorado,

v.

Respondent:

Franck Armand Belibi.

Judgment Affirmed

en banc

JUSTICE COATS delivered the Opinion of the Court.
JUSTICE GABRIEL does not participate.

COLORADO SUPREME COURT CASE ANNOUNCEMENTS

[2018 CO 25](#)

[Supreme Court Case No. 16SA243](#)

Appeal from the District Court

Adams County District Court, Case No. 15CV30493

Honorable Patrick Thomas Murphy, District Court Judge

Plaintiff-Appellant/Cross-Appellee:

Front Range Resources, LLC,

v.

Defendants-Appellees:

Colorado Ground Water Commission; Henrylyn Irrigation District; Morgan County Quality Water District; Weldon Valley Ditch Company; Northern Colorado Water Conservancy District; and Irrigationists' Association, Water District 1,

and

Defendants-Appellees/Cross-Appellants:

Lost Creek Land and Cattle Company, LLC; Equus Farms, Inc.; and Lost Creek Ground Water Management District.

Judgment Affirmed

en banc

JUSTICE HOOD delivered the Opinion of the Court.

COLORADO SUPREME COURT CASE ANNOUNCEMENTS

[2018 CO 26](#)

[Supreme Court Case No. 16SC386](#)

Certiorari to the Colorado Court of Appeals
Court of Appeals Case No. 14CA231

Petitioner:

Shauna Sandstead-Corona,

v.

Respondent:

Vicki J. Sandstead.

Judgement Reversed

en banc

JUSTICE GABRIEL delivered the Opinion of the Court.

COLORADO SUPREME COURT CASE ANNOUNCEMENTS

PETITIONS FOR REHEARING

2018 CO 15

Supreme Court Case No. 17SA77

Certification of Question of Law

United States District Court for the District of Colorado

Case No. 16-CV-1929-WJM-CBS

Plaintiffs:

Adolfo Hernandez, Rogelio Flores-Escobar, Francisco Silva-Garcia, Martin Perez-Medel,
Gustavo Arellano-Olmos, Luis Leon-Salinas, and Manuel Morales,

v.

Defendants:

Ray Domenico Farms, Inc.; Gregory L. Domenico; and Theresa M. Domenico.

Petition for Rehearing DENIED. EN BANC.

RULE CHANGE

[RULE CHANGE 2017\(12\)](#)

Correction to Rule Change 2017(12) issued April 5, 2018.

COLORADO SUPREME COURT CASE ANNOUNCEMENTS

GRANTED PETITIONS FOR WRIT OF CERTIORARI

No. 17SC123, Court of Appeals Case No. 14CA1547

Petitioner:

Kirk Williams,

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 holding that no search implicating the Fourth Amendment occurred when police officers entered the defendant's home, accompanied the defendant's wife to retrieve contraband belonging to the defendant that his wife had hidden, and seized the contraband.

[REFRAMED] Whether, under Georgia v. Randolph, 547 U.S. 103 (2006), a police officer may remain in a residence absent a warrant or an exigency when one occupant consents but another occupant is physically present and objects.

[REFRAMED] Whether the inevitable discovery doctrine applies when police officers are not already pursuing alternative lawful means of discovery at the time of an unlawful search and seizure.

DENIED AS TO ALL OTHER ISSUES.

COLORADO SUPREME COURT CASE ANNOUNCEMENTS

No. 17SC339 Court of Appeals Case No. 14CA245

Petitioner:

Homaidan Al-Turki,

v.

Respondent:

The People of the State of Colorado.

Petition for Writ of Certiorari GRANTED. EN BANC.

Whether, pursuant to section 19-1.3-406, C.R.S. (2017), the district court may modify to probation the sentence of a defendant convicted of a sex offense, after the defendant has spent 119 days in prison, and where the defendant demonstrates “exceptional,” “unusual and extenuating circumstances.”

No. 17SC427, Court of Appeals Case No. 16CA1096

Petitioner:

Blooming Terrace No. 1, LLC,

v.

Respondents:

KH Blake Street, LLC and Kresher Holdings, LLC.

Petition for Writ of Certiorari GRANTED. EN BANC.

[RERAMED] Whether the calculation of an interest rate for a nonconsumer loan under section 5-12-103, C.R.S. (2017), requires late fees and default interest accrued during a forbearance period to be totaled with all other interest charges from the entire loan period and annualized using the entire loan period as the annualization period.

[REFRAMED] Whether the calculation of an interest rate for a nonconsumer loan under section 5-12-103, C.R.S. (2017), requires late fees and default interest accrued during a forbearance period to be totaled and annualized using only the forbearance period as the annualization period.

DENIED AS TO ALL OTHER ISSUES.

COLORADO SUPREME COURT CASE ANNOUNCEMENTS

No. 17SC564, Court of Appeals Case No. 14CA1393

Petitioner:

Shawna Lee Hoggard,

v.

Respondent:

The People of the State of Colorado.

Petition for Writ of Certiorari GRANTED. EN BANC.

[REFRAMED] Whether a charge of second degree forgery is constructively amended when the trial court instructs the jury on the elements of felony forgery.

Whether reversible error occurs when the defendant is charged with second degree forgery and the court instructs the jury on the elements of felony forgery.

Whether an instruction on the charge of attempt to influence a public servant constituted plain error because it erroneously failed to apply an intent requirement to every element of that offense.

DENIED AS TO ALL OTHER ISSUES.

COLORADO SUPREME COURT CASE ANNOUNCEMENTS

No. 17SC614, Court of Appeals Case No. 13CA1750

Petitioner:

Kyle Brooks,

v.

Respondent:

The People of the State of Colorado.

Petition for Writ of Certiorari GRANTED. EN BANC.

Whether a defendant enters a constitutionally valid guilty plea where the charging document omits the specific intent element of the crime, the trial court recites the defective charging document during its elemental advisement, and defense counsel never advised the defendant of the mens rea element.

Whether, when the trial court fails to advise the defendant of a critical element of the crime to which he pleads guilty, knowledge of the omitted element may be imputed to the defendant based on “nature of the underlying crime.”

Whether, when the trial court fails to advise the defendant of the specific intent element of the charge to which he pleads guilty, the error is susceptible to review under the constitutional harmless error standard.

DENIED AS TO ALL OTHER ISSUES.

COLORADO SUPREME COURT CASE ANNOUNCEMENTS

No. 17SC862, Court of Appeals Case No. 16CA1723

Petitioners:

Hinsdale County Board of Equalization and Board of Assessment Appeals, State of Colorado,

v.

Respondents:

HDH Partnership; Lawrence Ausherman; Mark L. Ish; Herb Marchman; Hondros Family Real Estate, LLC; and Teresa M. Null Revocable Trust.

Petitions for Writ of Certiorari GRANTED. EN BANC.

Whether the court of appeals erred in determining that the homeowners association that manages a subdivision, rather than the fee title owners of the subdivision parcels, is subject to real property taxation due to the covenants that permit the association to restrict property access for nonpayment of association assessments.

Whether the court of appeals erred in deciding that record title owners of real property are not the true owners of the property and are therefore not responsible for property taxes, and that, instead, an entity that enforces covenants on the property is the true owner.

DENIED AS TO ALL OTHER ISSUES.

COLORADO SUPREME COURT CASE ANNOUNCEMENTS

DENIED PETITIONS FOR WRIT OF CERTIORARI

No. 17SC317, Court of Appeals Case No. 13CA525

Petitioner:

Jesus J. Sanchez-Bernal,

v.

Respondent:

The People of the State of Colorado.

Petition for Writ of Certiorari DENIED. EN BANC.

No. 17SC386, Court of Appeals Case No. 14CA842

Petitioner/Cross-Respondent:

Kelly G. Davis,

v.

Respondent/Cross-Petitioner:

The People of the State of Colorado.

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

No. 17SC419, Court of Appeals Case No. 14CA339

Petitioner/Cross-Respondent:

David William Wiseman,

v.

Respondent/Cross-Petitioner:

The People of the State of Colorado.

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

No. 17SC476, Court of Appeals Case No. 13CA2070

Petitioner:

Rodolfo Cendejas,

v.

Respondent:

The People of the State of Colorado.

Petition for Writ of Certiorari DENIED. EN BANC.

COLORADO SUPREME COURT CASE ANNOUNCEMENTS

No. 17SC482, Court of Appeals Case No. 16CA545

Petitioners:

First Citizens Bank and Trust Company, Leathem Stearn, Ute Mesa, LLC, and Ute Mesa Lot 1, LLC,

v.

Respondent:

Stewart Title Guaranty Company.

Petition for Writ of Certiorari DENIED. EN BANC.

No. 17SC554, Court of Appeals Case No. 16CA1951

In Re the Marriage of:

Petitioner:

Carter Morgan,

v.

Respondent:

Carol Crosley Morgan.

Petition for Writ of Certiorari DENIED. EN BANC.

No. 17SC617, Court of Appeals Case No. 16CA720

Petitioner:

Chuck O. Egbune,

v.

Respondents:

Garrison Property and Casualty Insurance Company, a Texas corporation; Monique Robinson-Hines; Iyona Walton; Yazmine Nave; and LauLi Demoria Nave.

Petition for Writ of Certiorari DENIED. EN BANC.

JUSTICE MÁRQUEZ does not participate.

COLORADO SUPREME COURT CASE ANNOUNCEMENTS

No. 17SC649, Court of Appeals Case No. 16CA1274

Petitioner:

T.D.,

v.

Respondent:

Gilbert Wiseman.

Petition for Writ of Certiorari DENIED. EN BANC.

JUSTICE MÁRQUEZ would grant as to the following issue.

Whether the court of appeals erred in holding that Petitioner, a victim of extensive childhood sexual abuse, was not a “person under disability” entitled to the tolling provisions of Section 13-80-103.7, despite her lengthy history of mental disabilities, drug and alcohol addiction, and her special relationship with her abuser until at least 2015.

No. 17SC670, Court of Appeals Case No. 16CA1157

Petitioner:

The People of the State of Colorado,

v.

Respondent:

Shawn Paul Spomer.

Petition for Writ of Certiorari DENIED. EN BANC.

No. 17SC707, Boulder County District Court Case No. 17CV30390

Petitioner:

The City of Longmont, by and on behalf of the People of the State of Colorado,

v.

Respondent:

Thomas Daly.

Petition for Writ of Certiorari DENIED. EN BANC.

COLORADO SUPREME COURT CASE ANNOUNCEMENTS

No. 17SC814, Court of Appeals Case No. 15CA1425

Petitioner:

Israel Heredia-Cobos,

v.

Respondent:

The People of the State of Colorado.

Petition for Writ of Certiorari DENIED. EN BANC.

No. 17SC828, Court of Appeals Case No. 14CA582

Petitioner:

Peter Eugene Lindt,

v.

Respondent:

The People of the State of Colorado.

Petition for Writ of Certiorari DENIED. EN BANC.

No. 17SC865, Court of Appeals Case No. 15CA865

Petitioner:

Andre Jamal Todd,

v.

Respondent:

The People of the State of Colorado.

Petition for Writ of Certiorari DENIED. EN BANC.

No. 17SC870, Court of Appeals Case No. 16CA807

Petitioner:

Ricardo Villalobos,

v.

Respondent:

The People of the State of Colorado.

Petition for Writ of Certiorari DENIED. EN BANC.

COLORADO SUPREME COURT CASE ANNOUNCEMENTS

No. 18SC7, Court of Appeals Case No. 16CA419

Respondent:

The People of the State of Colorado,

In the Interest of

Petitioner:

I.S.

Petition for Writ of Certiorari DENIED. EN BANC.

No.18SC19, Court of Appeals Case No. 16CA921

Respondent:

The People of the State of Colorado,

In the Interest of

Petitioner:

T.L.A.

Petition for Writ of Certiorari DENIED. EN BANC.

No. 18SC162, Court of Appeals Case No. 17CA390

Petitioner:

C.B.

v.

Respondent:

The People of the State of Colorado,

In the Interest of the Minor Children: A.B. and S.J.B., Jr.

Petition for Writ of Certiorari DENIED. EN BANC

No. 18SC184, Court of Appeals Case No. 17CA799

Petitioner:

E.B.

v.

Respondent:

The People of the State of Colorado,

In the Interest of Minor Child: J.B.

Petition for Writ of Certiorari DENIED. EN BANC.