

PUBLISHED OPINIONS

*ANNOUNCEMENTS
COLORADO COURT OF APPEALS
April 6, 2017*

“Slip opinions” are the opinions as filed by the judges with the clerk. Slip opinions are subject to modification, rehearing, withdrawal, or clerical corrections. A link to any modifications to previously posted opinions will appear in the Petition for Rehearing section of the announcement document the day the changes are announced.

[2017COA39](#)

Court of Appeals No. [14CA0245](#)
Arapahoe County District Court No. 05CR1571
Honorable J. Mark Hannen, Judge

The People of the State of Colorado,

Plaintiff-Appellee,

v.

Homaidan Al-Turki,

Defendant-Appellant.

ORDER AFFIRMED

Division IV
Opinion by JUDGE HAWTHORNE
Román, J., concurs
Harris, J., dissents

[2017COA40](#)

Court of Appeals No. [14CA0842](#)
Mesa County District Court No. 13CR443
Honorable Valerie J. Robison, Judge

The People of the State of Colorado,

Plaintiff-Appellee,

v.

Kelly Gene Davis,

Defendant-Appellant.

JUDGMENT AFFIRMED

Division II
Opinion by JUDGE J. JONES
Dailey and Berger, JJ., concur

[2017COA41](#)

Court of Appeals No. [14CA1030](#)
Adams County District Court No. 13CR27
Honorable Thomas R. Ensor, Judge

The People of the State of Colorado,

Plaintiff-Appellee,

v.

Anton Jose Valdez,

Defendant-Appellant.

JUDGMENT AND SENTENCE AFFIRMED

Division III
Opinion by JUDGE WEBB
Bernard and Dunn, JJ., concur

[2017COA42](#)

Court of Appeals No. [15CA0852](#)
Otero County District Court No. 12CV63
Honorable Mark A. MacDonnell, Judge

Farm Credit of Southern Colorado, ACA; and Farm Credit of Southern
Colorado, FLCA,

Plaintiffs-Appellees,

v.

James C. Mason, a/k/a Jim Mason,

Defendant-Appellant.

ORDERS AND JUDGMENT AFFIRMED

Division V
Opinion by JUDGE FOX
Román and Booras, JJ., concur

[2017COA43](#)

Court of Appeals No. [15CA1886](#)
Yuma County District Court No. 12CV43
Honorable Michael K. Singer, Judge

Stephen L. Allison and Barry R. Allison,

Plaintiffs-Appellants and Cross-Appellees,

v.

Frank Engel and Mary Engel,

Defendants-Appellees and Cross-Appellants.

APPEAL AND CROSS-APPEAL DISMISSED

Division II
Opinion by JUDGE J. JONES
Dailey and Berger, JJ., concur

[2017COA44](#)

Court of Appeals No. [15CA2132](#)
Elbert County District Court No. 13CV30038
Honorable Michael J. Spear, Judge

International Network, Inc., a Colorado corporation,

Plaintiff-Appellee,

v.

Michael W. Woodard,

Defendant-Appellant.

JUDGMENT AFFIRMED AND CASE
REMANDED WITH DIRECTIONS

Division III
Opinion by JUDGE CASEBOLT*
Webb and Nieto*, JJ., concur

[2017COA45](#)

Court of Appeals No. [16CA0029](#)
El Paso County District Court No. 13DR30542
Honorable Gilbert A. Martinez, Judge

In re the Marriage of

Michelle J. Roth,

Appellant,

and

Robert M. Roth,

Appellee.

JUDGMENT VACATED, ORDER REVERSED,
AND CASE REMANDED WITH DIRECTIONS

Division I
Opinion by JUDGE TAUBMAN
Graham and Navarro, JJ., concur

[2017COA46](#)

Court of Appeals No. [16CA0164](#)

City and County of Denver District Court No. 14CV34510

Honorable Elizabeth A. Starrs, Judge

Adrian Malpica-Cue,

Plaintiff-Appellee,

v.

Benjamin A. Fangmeier,

Defendant-Appellant.

ORDER VACATED AND CASE
REMANDED WITH DIRECTIONS

Division II
Opinion by JUDGE J. JONES
Dailey and Berger, JJ., concur

[2017COA47](#)

Court of Appeals No. [16CA0920](#)

City and County of Denver District Court No. 15CV32427

Honorable Shelley I. Gilman, Judge

Arthur Keith Whitelaw, III; John DeRungs; Katherine K. McCrimmon; Laura Pitmon; Denise Sigon, f/k/a Denise L. Sager; Alan Singer; and Rita Singer,

Plaintiffs-Appellants,

v.

Denver City Council, including the individual Council members in their official capacity, Albus Brooks, Charlie Brown, Jeanne Faatz, Christopher Herndon, Robin Kniech, Peggy Lehmann, Paul López, Judy H. Montero, Chris Nevitt, Debbie Ortega, Jeanne Robb, Susan Shepherd, and Mary Beth Susman; Manager of Community Planning and Development, Brad Buchanan, in his official capacity; Denver Planning Board, including the individual Board members in their official capacity, Andy Baldyga, Jim Bershof, Shannon Gifford, Renee Martinez-Stone, Brittney Morris Saunders, Joel Noble, Susan Pearce, Arleen Taniwaki, Julie Underdahl, Frank Schultz, and Chris Smith; City and County of Denver; and Cedar Metropolitan LLC,

Defendants-Appellees.

JUDGMENT AFFIRMED

Division I

Opinion by JUDGE TAUBMAN
Navarro and Plank*, JJ., concur

UNPUBLISHED OPINIONS

Court of Appeals No. 13CA1306
Jefferson County District Court No. 07CR3150
Honorable Dennis J. Hall, Judge

The People of the State of Colorado,

Plaintiff-Appellee,

v.

Gary William Carrico, Jr.,

Defendant-Appellant.

ORDER AFFIRMED

Division V
Opinion by JUDGE BOORAS
Román and Fox, JJ., concur

NOT PUBLISHED PURSUANT TO C.A.R. 35(e)

Court of Appeals No. 14CA0146
Routt County District Court No. 12CR78
Honorable Shelley A. Hill, Judge

The People of the State of Colorado,

Plaintiff-Appellee,

v.

Steven Torres,

Defendant-Appellant.

JUDGMENT AFFIRMED

Division VII
Opinion by JUDGE LICHTENSTEIN
Harris and Vogt*, JJ., concur

NOT PUBLISHED PURSUANT TO C.A.R. 35(e)

Court of Appeals No. 14CA0589
Adams County District Court No. 06CR762
Honorable Thomas R. Ensor, Judge

The People of the State of Colorado,

Plaintiff-Appellee,

v.

Adam J. Younger,

Defendant-Appellant.

SENTENCE AFFIRMED

Division VII
Opinion by JUDGE RICHMAN
Lichtenstein and Harris, JJ., concur

NOT PUBLISHED PURSUANT TO C.A.R. 35(e)

Court of Appeals No. 14CA0766
El Paso County District Court No. 12CR3694
Honorable Scott A. Sells, Judge

The People of the State of Colorado,

Plaintiff-Appellee,

v.

Carl Lee Griego,

Defendant-Appellant.

JUDGMENT AFFIRMED

Division III
Opinion by JUDGE BERNARD
Webb and Márquez*, JJ., concur

NOT PUBLISHED PURSUANT TO C.A.R. 35(e)

Court of Appeals No. 14CA0868
Weld County District Court No. 08CR530
Honorable Shannon D. Lyons, Judge

The People of the State of Colorado,

Plaintiff-Appellee,

v.

Gerardo Navarro,

Defendant-Appellant.

SENTENCE AFFIRMED

Division VII
Opinion by JUDGE HARRIS
Lichtenstein and Richman, JJ., concur

NOT PUBLISHED PURSUANT TO C.A.R. 35(e)

Court of Appeals No. 14CA1900
Pueblo County District Court No. 13CR1405
Honorable Victor I. Reyes, Judge

The People of the State of Colorado,

Plaintiff-Appellee,

v.

Alvaro Herran,

Defendant-Appellant.

JUDGMENT AFFIRMED

Division VII
Opinion by JUDGE VOGT*
Lichtenstein and Harris, JJ., concur

NOT PUBLISHED PURSUANT TO C.A.R. 35(e)

Court of Appeals No. 14CA2086
El Paso County District Court No. 12CR3060
Honorable Scott A. Sells, Judge

The People of the State of Colorado,

Plaintiff-Appellee,

v.

Santos Joseph Torres,

Defendant-Appellant.

JUDGMENT AFFIRMED

Division IV
Opinion by JUDGE HAWTHORNE
Ashby and Davidson*, JJ., concur

NOT PUBLISHED PURSUANT TO C.A.R. 35(e)

Court of Appeals No. 15CA0174
City and County of Denver District Court No. 13CR4524
Honorable Michael J. Vallejos, Judge

The People of the State of Colorado,

Plaintiff-Appellee,

v.

Jerome C. Gilbert,

Defendant-Appellant.

SENTENCE AFFIRMED

Division VII
Opinion by JUDGE LICHTENSTEIN
Harris and Vogt*, JJ., concur

NOT PUBLISHED PURSUANT TO C.A.R. 35(e)

Court of Appeals No. 15CA0894
City and County of Denver District Court No. 09CR10123
Honorable Elizabeth A. Starrs, Judge

The People of the State of Colorado,

Plaintiff-Appellee,

v.

Peter Edward Dunker,

Defendant-Appellant.

ORDER AFFIRMED

Division II
Opinion by JUDGE BERGER
Dailey and J. Jones, JJ., concur

NOT PUBLISHED PURSUANT TO C.A.R. 35(e)

Court of Appeals No. 15CA1277
City and County of Denver District Court No. 12CV1404
Honorable R. Michael Mullins, Judge

F&K Investments, a Colorado partnership, and Eugene Pomeroy, a/k/a Gene Pomeroy, individually and as members and on behalf of Pomeroy Auto Sales, LLC,

Plaintiffs-Appellees and Cross-Appellants,

v.

Mark Pomeroy and Larry Pomeroy,

Defendants-Appellants and Cross-Appellees,

and

Pomeroy Auto Sales, LLC,

Appellee.

JUDGMENT AFFIRMED IN PART, REVERSED IN PART,
AND CASE REMANDED WITH DIRECTIONS

Division IV
Opinion by JUDGE DAVIDSON*
Hawthorne and Ashby, JJ., concur

NOT PUBLISHED PURSUANT TO C.A.R. 35(e)

Court of Appeals No. 15CA1392
El Paso County District Court No. 14CR4884
Honorable Gregory R. Werner, Judge

The People of the State of Colorado,

Plaintiff-Appellee,

v.

Donald Scott Hackett,

Defendant-Appellant.

JUDGMENT AFFIRMED

Division IV
Opinion by JUDGE DAVIDSON*
Hawthorne and Ashby, JJ., concur

NOT PUBLISHED PURSUANT TO C.A.R. 35(e)

Court of Appeals No. 15CA1430
Adams County District Court No. 10CR3116
Honorable Katherine R. Delgado, Judge

The People of the State of Colorado,

Plaintiff-Appellee,

v.

Freddie Lee Harrison,

Defendant-Appellant.

ORDER AFFIRMED

Division VII
Opinion by JUDGE VOGT*
Lichtenstein and Harris, JJ., concur

NOT PUBLISHED PURSUANT TO C.A.R. 35(e)

Court of Appeals No. 15CA1469
El Paso County District Court No. 14DR2169
Honorable Scott A. Sells, Judge

In re the Marriage of

Kevin S. Kuciapinski,

Appellee,

and

Mykhael Kuciapinski,

Appellant.

JUDGMENT REVERSED AND CASE
REMANDED WITH DIRECTIONS

Division IV
Opinion by JUDGE HAWTHORNE
Ashby and Davidson*, JJ., concur

NOT PUBLISHED PURSUANT TO C.A.R. 35(e)

Court of Appeals No. 15CA1747
Boulder County District Court Nos. 14CR144 & 15CR262
Honorable Ingrid S. Bakke, Judge
Honorable Andrew R. Macdonald, Judge

The People of the State of Colorado,

Plaintiff-Appellee,

v.

Michael Henry Post,

Defendant-Appellant.

JUDGMENT AFFIRMED IN PART, REVERSED IN PART,
AND CASE REMANDED WITH DIRECTIONS

Division V
Opinion by JUDGE FOX
Román and Booras, JJ., concur

NOT PUBLISHED PURSUANT TO C.A.R. 35(e)

Court of Appeals No. 15CA2171
Jefferson County District Court No. 01CR480
Honorable Randall C. Arp, Judge

The People of the State of Colorado,

Plaintiff-Appellee,

v.

Bobby L. Baker,

Defendant-Appellant.

ORDER AFFIRMED AND CASE
REMANDED WITH DIRECTIONS

Division V
Opinion by JUDGE FOX
Román and Booras, JJ., concur

NOT PUBLISHED PURSUANT TO C.A.R. 35(e)

Court of Appeals No. 16CA0035
Routt County District Court No. 15CR67
Honorable Shelley A. Hill, Judge

The People of the State of Colorado,

Plaintiff-Appellant,

v.

Monty Dean Doolin,

Defendant-Appellee.

ORDER AFFIRMED

Division III
Opinion by JUDGE DUNN
Webb and Bernard, JJ., concur

NOT PUBLISHED PURSUANT TO C.A.R. 35(e)

Court of Appeals No. 16CA0114
Boulder County District Court No. 14CV31269
Honorable Thomas F. Mulvahill, Judge

Katelyn Clyncke,

Plaintiff-Appellee,

v.

Karen Heidelmeyer,

Defendant-Appellant.

JUDGMENT AFFIRMED

Division VII
Opinion by JUDGE VOGT*
Lichtenstein and Harris, JJ., concur

NOT PUBLISHED PURSUANT TO C.A.R. 35(e)

Court of Appeals No. 16CA0452
City and County of Denver District Court No. 13CV34953
Honorable Catherine A. Lemon, Judge

Jack Miller,

Plaintiff-Appellant,

v.

Colorado Access, d/b/a Access Long Term Support Solutions; and Longterm
Care Options, LLC, d/b/a InnovAge LTCO,

Defendants-Appellees.

JUDGMENT AFFIRMED

Division II
Opinion by JUDGE DAILEY
J. Jones and Berger, JJ., concur

NOT PUBLISHED PURSUANT TO C.A.R. 35(e)

Court of Appeals No. 16CA0515
Douglas County District Court No. 14CV30940
Honorable Paul A. King, Judge

Julie Truc Linh Wiegand,

Plaintiff-Appellant,

v.

Kimberly Meyer,

Defendant-Appellee.

JUDGMENT AFFIRMED

Division VI
Opinion by JUDGE TERRY
Furman and Welling, JJ., concur

NOT PUBLISHED PURSUANT TO C.A.R. 35(e)

Court of Appeals No. 16CA0673
City and County of Denver District Court No. 15CV31544
Honorable Elizabeth A. Starrs, Judge

NBH Capital Finance, a division of NBH Bank, N.A.,

Plaintiff-Appellee,

v.

Case Acquisition Company, LP and Case Drilling and Pump Service, LLC,

Defendants,

and

Dos Rios Partners,

Appellant.

JUDGMENT AFFIRMED

Division II
Opinion by JUDGE DAILEY
J. Jones, J., concurs
Berger, J., concurs in part and dissents in part

NOT PUBLISHED PURSUANT TO C.A.R. 35(e)

Court of Appeals No. 16CA1179
City and County of Denver Juvenile Court No. 15JV508
Honorable Donna J. Schmalberger, Judge

The People of the State of Colorado,

Petitioner-Appellee,

In the Interest of D.A.M., a Child,

and Concerning D.M.M.,

Respondent-Appellant,

and S.S. and K.S.,

Intervenors.

JUDGMENT AFFIRMED

Division VII
Opinion by JUDGE LICHTENSTEIN
Harris and Plank*, JJ., concur

NOT PUBLISHED PURSUANT TO C.A.R. 35(e)

Court of Appeals No. 16CA2108
Industrial Claim Appeals Office of the State of Colorado
DD No. 15672-2016

Michelle T. Jones,

Petitioner,

v.

Industrial Claim Appeals Office of the State of Colorado and Madison Street
Provider Network, Inc., d/b/a Omni Eye Specialists,

Respondents.

ORDER AFFIRMED

Division II
Opinion by JUDGE DAILEY
J. Jones and Berger, JJ., concur

NOT PUBLISHED PURSUANT TO C.A.R. 35(e)

P E T I T I O N S F O R R E H E A R I N G

Court of Appeals No. 13CA0525

The People of the State of Colorado,

Plaintiff-Appellee,

v.

Jesus J. Sanchez Bernal,

Defendant-Appellant.

Petition for Rehearing DENIED
Lichtenstein, J., would GRANT

NOT PUBLISHED PURSUANT TO C.A.R. 35(e)

*Sitting by assignment of the Chief Justice under provisions of Colo. Const. art. VI, § 5(3), and § 24-51-1105, C.R.S. 2016.