

**CASE ANNOUNCEMENTS
COLORADO SUPREME COURT
MONDAY, APRIL 12, 2021**

"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

[**2021 CO 19**](#)

Supreme Court Case No. 20SC143
Certiorari to the Colorado Court of Appeals
Court of Appeals Case No. 16CA2086

Petitioner:

Vincent Joseph Compos,

v.

Respondent:

The People of the State of Colorado.

Judgment Affirmed in Part and Vacated in Part
en banc

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

COLORADO SUPREME COURT CASE ANNOUNCEMENTS

[2021 CO 20](#)

Supreme Court Case No. 19SC546
Certiorari to the Colorado Court of Appeals
Court of Appeals Case Nos. 18CA49 & 18CA760

Petitioner:

Delta Air Lines, Inc.,

v.

Respondent:

William Scholle.

Judgment Reversed
en banc

JUSTICE HART delivered the Opinion of the Court.
JUSTICE GABRIEL dissents, and **JUSTICE HOOD** and **JUSTICE BERKENKOTTER**
join in the dissent.

COLORADO SUPREME COURT CASE ANNOUNCEMENTS

[2021 CO 21](#)

Supreme Court Case No. 19SA174

Certification of Question of Law

United States District Court for the District of Colorado Case No. 18CV790-NRN

Plaintiffs:

Joseph A. Gill and Jani P. Gill,

v.

Defendants:

Christopher Allen Waltz and Swift Transportation Company, LLC.

Certified Questions Answered

en banc

JUSTICE HART delivered the Opinion of the Court.

JUSTICE GABRIEL dissents, and **JUSTICE HOOD** and **JUSTICE BERKENKOTTER** join in the dissent.

COLORADO SUPREME COURT CASE ANNOUNCEMENTS

[2021 CO 22](#)

Supreme Court Case No. 19SC409
Certiorari to the Colorado Court of Appeals
Court of Appeals Case No. 17CA397

Petitioner:

The People of the State of Colorado,

v.

Respondent:

Justine Lynn Murphy.

Judgment Reversed
en banc

JUSTICE BERKENKOTTER delivered the Opinion of the Court.
CHIEF JUSTICE BOATRIGHT concurs.
JUSTICE GABRIEL dissents.

COLORADO SUPREME COURT CASE ANNOUNCEMENTS

RULE CHANGE

[RULE CHANGE 2021\(03\)](#)

COLORADO RULES OF EVIDENCE

Rules 404, 803, and 901

Amended and Adopted by the Court, En Banc, March 29, 2021, effective immediately as to Rules 803 and 901, and effective as to Rule 404 for cases on or after July 1, 2021.

GRANTED PETITIONS FOR WRIT OF CERTIORARI

No. 20SC595, Court of Appeals Case No. 18CA1769

Petitioner:

Tung Chan Securities Commissioner for the State of Colorado,

v.

Respondents:

HEI Resources, Inc. f/k/a Heartland Energy, Inc.; Charles Reed Cagle; Brandon Davis; Heartland Energy Development Corporation; John Schiffner; and James Pollak.

Petition for Writ of Certiorari GRANTED. EN BANC.

[REFRAMED] Whether the court of appeals erred by holding that Colorado should apply a “strong presumption” that a general partnership is not a security.

Whether the court of appeals erred in its interpretation of the *Williamson* tests.

DENIED AS TO ALL OTHER ISSUES.

No. 20SC698, Court of Appeals Case No. 18CA1557

Petitioner:

William Edward Ambrose,

v.

Respondent:

The People of the State of Colorado.

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 *Linnebur v. People*, 18SC884, 2020 CO 79M. EN BANC.

COLORADO SUPREME COURT CASE ANNOUNCEMENTS

No. 20SC758, Court of Appeals Case No. 18CA38

Petitioner:

Nicholas Leonel Garcia, Jr.,

v.

Respondent:

The People of the State of Colorado.

Petition for Writ of Certiorari GRANTED. EN BANC.

[REFRAMED] Whether the division erred in upholding the trial court’s supplemental jury instruction defining “seizes and carries,” as that phrase is used in section 18-3-302(1), C.R.S. (2020), as “any movement, however short in distance.”

DENIED AS TO ALL OTHER ISSUES.

No. 20SC852, Court of Appeals Case No. 19CA266

Petitioners:

Lodge Properties, Inc. and Board of Assessment Appeals,

v.

Respondent:

Eagle County Board of Equalization.

Petitions for Writ of Certiorari GRANTED. EN BANC.

[REFRAMED] Whether the court of appeals erred by holding that a hotel’s contractual right to net rental income generated from separately owned, but physically integrated, condominium units is not intangible personal property that must be excluded under section 39-3-118, C.R.S. from the actual value of the hotel under the income approach to valuation in section 39-1-103(5)(a), C.R.S.

Whether the court of appeals erred by holding, for the first time, that the net income generated from rentals of individually and separately owned condominium units to guests of a hotel should be included in the actual value of the hotel under the income approach to valuation.

DENIED AS TO ALL OTHER ISSUES.

COLORADO SUPREME COURT CASE ANNOUNCEMENTS

DENIED PETITIONS FOR WRIT OF CERTIORARI

No. 19SC924, Court of Appeals Case No. 16CA7

Petitioner:

Israel Jordan Maestas,

v.

Respondent:

The People of the State of Colorado.

Petition for Writ of Certiorari DENIED. EN BANC.

JUSTICE GABRIEL would grant as to the following issue:

Whether the court of appeals erred by concluding it was not error to instruct the jury on provocation as an exception to self-defense based on an exchange of words during an earlier interaction at a different location, for which the victims then later hunted down and attacked the defendant.

No. 20SC744, Court of Appeals Case No. 17CA1267

Petitioner:

The People of the State of Colorado,

v.

Respondent:

Gary Lynn Warmker.

Petition for Writ of Certiorari DENIED. EN BANC.

No. 20SC781, Jefferson County District Court Case No. 19CV31885

Petitioner:

Jo Douglas and Deborah Tighe,

v.

Respondents:

Earth Tone Property Management LLP and Jody K. Strauch Lundberg.

Petition for Writ of Certiorari DENIED. EN BANC.

COLORADO SUPREME COURT CASE ANNOUNCEMENTS

No. 20SC793, Court of Appeals Case No. 18CA1493

Petitioner:

Gerald Wayne Bagwell,

v.

Respondent:

The People of the State of Colorado.

Petition for Writ of Certiorari DENIED. EN BANC.

No. 20SC831, Court of Appeals Case No. 20CA213

Petitioner:

S.B.,

v.

Respondent:

The People of the State of Colorado,

In the Interest of Minor Child:

J.B.,

and Concerning

S.S.

Petition for Writ of Certiorari DENIED. EN BANC.

No. 20SC835, Mesa County District Court Case No. 19CV30521

Petitioner:

Ryan Dunn,

v.

Respondent:

21st Judicial District Attorney.

Petition for Writ of Certiorari DENIED. EN BANC.

No. 20SC880, Court of Appeals Case No. 19CA699

Petitioner:

Edward L. Mulcahy, Jr.,

v.

Respondent:

Aspen Pitkin County Housing Authority, a Colorado multi-jurisdictional housing authority.

Petition for Writ of Certiorari DENIED. EN BANC.

COLORADO SUPREME COURT CASE ANNOUNCEMENTS

No. 20SC896, Arapahoe County District Court Case No. 19CV32193

Petitioner:

Bashir Hassan,

v.

Respondent:

The People of the State of Colorado.

Petition for Writ of Certiorari DENIED. EN BANC.

No. 20SC899, Court of Appeals Case No. 19CA2045

In re the Marriage of

Petitioner:

Brett Grahame Goulding,

and

Respondent:

Michelle Joy DeYoung.

Petition for Writ of Certiorari DENIED. EN BANC.

No. 20SC900, Arapahoe County District Court Case No. 19CV30140

Petitioner:

Same Na,

v.

Respondent:

The People of the City of Aurora.

Petition for Writ of Certiorari DENIED. EN BANC.

No. 20SC906, Court of Appeals Case No. 18CA1755

Petitioner:

Douglas Lee Sitton,

v.

Respondent:

The People of the State of Colorado.

Petition for Writ of Certiorari DENIED. EN BANC.

COLORADO SUPREME COURT CASE ANNOUNCEMENTS

No. 20SC913, Court of Appeals Case No. 18CA1695

Petitioner:

Scooter Ryan Berry,

v.

Respondent:

The People of the State of Colorado.

Petition for Writ of Certiorari DENIED. EN BANC.

No. 20SC917, Court of Appeals Case No. 19CA186

Petitioners:

Robbin Smith and Doyle Edward Smith, Jr.,

v.

Respondent:

The Surgery Center at Lone Tree, LLC.

Petition for Writ of Certiorari DENIED. EN BANC.

JUSTICE MÁRQUEZ does not participate.

CHIEF JUSTICE BOATRIGHT and JUSTICE SAMOUR would grant as to the following issues:

Whether the court of appeals erroneously held that the corporate practice of medicine doctrine immunizes Ambulatory Surgery Centers like respondent from its own clear direct negligence.

Whether the court of appeals erroneously held that the clear patient safety protections in federal and state law were exclusively licensure provisions unrelated to patient safety which could not support a negligence per se claim.

Whether the court of appeals erroneously held that an Ambulatory Surgery Center never has a duty to obtain informed consent and does not assume a duty when it does.

COLORADO SUPREME COURT CASE ANNOUNCEMENTS

No. 20SC929, Court of Appeals Case No. 20CA688

In the Matter of the Estate of Boyd Neville Higginbotham, Deceased

Petitioner:

Kelly McGoffney,

v.

Respondents:

Catherine Seal, Personal Representative and Diane S. Evans.

Petition for Writ of Certiorari DENIED. EN BANC.

No. 20SC932, Court of Appeals Case No. 20CA465

Petitioner:

M.H.,

v.

Respondent:

The People of the State of Colorado,

In the Interest of Minor Child:

A.R.H.

Petition for Writ of Certiorari DENIED. EN BANC.

No. 20SC942, Court of Appeals Case No. 18CA1000

Petitioner:

Shilo Wayne Weidman,

v.

Respondent:

The People of the State of Colorado.

Petition for Writ of Certiorari DENIED. EN BANC.

No. 20SC943, Court of Appeals Case No. 17CA1355

Petitioner:

Steven Matthew Cook,

v.

Respondent:

The People of the State of Colorado.

Petition for Writ of Certiorari DENIED. EN BANC.

COLORADO SUPREME COURT CASE ANNOUNCEMENTS

No. 20SC944, Court of Appeals Case No. 17CA1447

Petitioner:

Phillip Lyle Kolberg,

v.

Respondent:

The People of the State of Colorado.

Petition for Writ of Certiorari DENIED. EN BANC.
CHIEF JUSTICE BOATRRIGHT does not participate.

No. 20SC945, Court of Appeals Case No. 17CA34

Petitioner:

Julius C. Herrera,

v.

Respondent:

The People of the State of Colorado.

Petition for Writ of Certiorari DENIED. EN BANC.

No. 20SC951, Court of Appeals Case No. 17CA1291

Petitioner:

William Allen Adams,

v.

Respondent:

The People of the State of Colorado.

Petition for Writ of Certiorari DENIED. EN BANC.

No. 20SC952, Court of Appeals Case No. 18CA351

Petitioner:

Ibrahim Ahmed Hirsi,

v.

Respondent:

The People of the State of Colorado.

Petition for Writ of Certiorari DENIED. EN BANC.

COLORADO SUPREME COURT CASE ANNOUNCEMENTS

No. 20SC956, Court of Appeals Case No. 17CA2227

Petitioner:

William Moore, III,

v.

Respondent:

The People of the State of Colorado.

Petition for Writ of Certiorari DENIED. EN BANC.

No. 20SC965, Court of Appeals Case No. 17CA901

Petitioner:

Tomas Mars Garcia,

v.

Respondent:

The People of the State of Colorado.

Petition for Writ of Certiorari DENIED. EN BANC.

No. 20SC975, Court of Appeals Case No. 20CA381

Petitioner:

Gerald Clark,

v.

Respondent:

Colorado Department of Revenue, Hearings Division.

Petition for Writ of Certiorari DENIED. EN BANC.

No. 20SC995, Boulder County District Court Case No. 20CV30061

Petitioner:

Katherine Hopkins,

v.

Respondent:

The People of the State of Colorado.

Petition for Writ of Certiorari DENIED. EN BANC.

COLORADO SUPREME COURT CASE ANNOUNCEMENTS

No. 20SC996, El Paso County District Court Case No. 20CV30732

Petitioner:

Earnest Shelton,

v.

Respondent:

The People of the State of Colorado.

Petition for Writ of Certiorari DENIED. EN BANC.

No. 21SC31, Court of Appeals Case No. 18CA1309

Petitioner:

Richard Vasco,

v.

Respondent:

The People of the State of Colorado.

Petition for Writ of Certiorari DENIED. EN BANC.

No. 21SC173, Court of Appeals Case No. 20CA871

Petitioner:

G. V.,

v.

Respondent:

The People of the State of Colorado,

In the Interest of Minor Child:

R. Z.

Petition for Writ of Certiorari DENIED. EN BANC.

COLORADO SUPREME COURT CASE ANNOUNCEMENTS

No. 21SC174, Court of Appeals Case No. 20CA380

Petitioner:

C. C.,

v.

Respondent:

The People of the State of Colorado,

In the Interest of Minor Children:

Am. C., Ar. C., J. C., M. C., I. C., and T. T.,

and Concerning

A. L.

Petition for Writ of Certiorari DENIED. EN BANC.

No. 21SC175, Court of Appeals Case No. 20CA1236

Petitioner:

T. G.,

v.

Respondent:

The People of the State of Colorado,

In the Interest of Minor Children:

C.-S. G. and N. W.

Petition for Writ of Certiorari DENIED. EN BANC.

No. 21SC176, Court of Appeals Case No. 20CA1401

Petitioner:

C. P.,

v.

Respondent:

The People of the State of Colorado,

In the Interest of Minor Child:

G. M.

Petition for Writ of Certiorari DENIED. EN BANC.

COLORADO SUPREME COURT CASE ANNOUNCEMENTS

No. 21SC179, Court of Appeals Case No. 17CA255

Petitioner:

M. M. A.,

v.

Respondent:

The People of the State of Colorado,

In the Interest of Minor Children:

M. R. M., M. M. M., and M. A. M.

Petition for Writ of Certiorari DENIED. EN BANC.
