

**CASE ANNOUNCEMENTS  
COLORADO SUPREME COURT  
MONDAY, APRIL 17, 2023**

"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.

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**RULE CHANGES**

**[RULE CHANGE 2023\(08\)](#)**

COLORADO LICENSED LEGAL PARAPROFESSIONAL RULES OF PROFESSIONAL CONDUCT

Appendix 2 to Chapters 18 to 20

Rules 1, 1.1, 1.2, 1.3, 1.4, 1.5, 1.6, 1.7, 1.8, 1.9, 1.10, 1.11, 1.12, 1.13, 1.14, 1.15, 1.15A, 1.15B, 1.15C, 1.15D, 1.15E, 1.16, 1.16A, 1.17, 1.18, 2.1, 2.2, 2.3, 2.4, 3.1, 3.2, 3.3, 3.4, 3.5, 3.6, 3.7, 3.8, 3.9, 4.1, 4.2, 4.3, 4.4, 4.5, 5.1, 5.2, 5.3, 5.4, 5.5, 5.6, 5.7, 6.1, 6.2, 6.3, 6.4, 6.5, 7.1, 7.2, 7.3, 7.4, 7.5, 7.6, 8.1, 8.2, 8.3, 8.3, 8.4, 8.5, and 9

**Amended and Adopted by the Court, En Banc, April 13, 2023, effective July 1, 2023.**

**[RULE CHANGE 2023\(09\)](#)**

RULES GOVERNING LAWYER DISCIPLINE AND DISABILITY PROCEEDINGS, PROTECTIVE APPOINTMENT OF COUNSEL, CONTINUING LEGAL AND JUDICIAL EDUCATION, ATTORNEYS' FUND FOR CLIENT PROTECTION, AND LAWYER ASSISTANCE PROGRAMS

Rules 241, 241.1, 242.3, 250, 250.1, 250.2, 250.3, 250.6, 250.7, 250.8, 250.9, and 250.10

**Amended and Adopted by the Court, En Banc, April 13, 2023, effective July 1, 2023.**

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**GRANTED PETITIONS FOR WRIT OF CERTIORARI**

**No. 22SC670, Court of Appeals Case No. 21CA764**

**Petitioner:**

H.B.,

v.

**Respondent:**

The People of the State of Colorado,

In the Interest of Minor Child:

A.A.B.

Petition for Writ of Certiorari GRANTED. EN BANC.

Whether the division erred in its analysis of C.R.S. § 19-1-126 and 25 C.F.R. § 23.107 in concluding that the Department had exercised due diligence in gathering information to determine whether the child was an Indian child when the Department failed to contact Native American tribes specifically identified by Mother through which she may have Native American heritage.

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**No. 22SC673, Court of Appeals Case No. 20CA1339**

**Petitioner:**

Taunia Marie Whiteaker,

v.

**Respondent:**

The People of the State of Colorado.

Petition for Writ of Certiorari GRANTED. EN BANC.

Whether the clarified elements test announced in *Reyna-Abarca v. People*, 2017 CO 15, 390 P.3d 816, and applied in *People v. Rock*, 2017 CO 84, 402 P.3d 472, abrogated the holding in *People v. Garcia*, 940 P.2d 357 (Colo. 1997), as modified on denial of reh'g (Aug. 4, 1997), that first degree trespass of a dwelling is not a lesser-included offense of second degree burglary.

DENIED AS TO ALL OTHER ISSUES.

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**No. 22SC712, Court of Appeals Case No. 18CA2389**

**Petitioner:**

Ricardo Castro,

v.

**Respondent:**

The People of the State of Colorado.

Petition for Writ of Certiorari GRANTED. EN BANC.

Whether the standard of review for a trial court's decision to substitute an alternate juror for a deliberating juror is de novo or abuse of discretion, or whether the standard of review is subsumed by the prejudice analysis.

Whether the court of appeals erred by applying the presumption-of-prejudice test from *People v. Burnette*, 775 P.2d 583 (Colo. 1989), to the trial court's mid-deliberations substitution of the alternate juror instead of a harmlessness analysis as adopted by *James v. People*, 2018 CO 72.

DENIED AS TO ALL OTHER ISSUES.

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**No. 23SC51, Court of Appeals Case No. 20CA764**

**Petitioner:**

The People of the State of Colorado,

v.

**Respondent:**

James Clayton Johnson.

Petition for Writ of Certiorari GRANTED. EN BANC.

Whether the Court of Appeals erred when it concluded that seeking out a 10-year-old victim, driving up to her, and engaging her in a sexually charged conversation did not constitute an attempt to invite the child to enter the vehicle with the intent to commit sexual assault or unlawful sexual contact for purposes of the enticement-of-a-child statute.

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*COLORADO SUPREME COURT CASE ANNOUNCEMENTS  
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**DENIED PETITIONS FOR WRIT OF CERTIORARI**

**No. 22SC637, Court of Appeals Case No. 19CA82**

**Petitioner:**

Tyrus Walter Vanmatre,

v.

**Respondent:**

The People of the State of Colorado.

Petition for Writ of Certiorari DENIED. EN BANC.

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**No. 22SC641, Court of Appeals Case No. 19CA2098**

**Petitioner:**

The People of the State of Colorado,

v.

**Respondent:**

Joseph William Peace.

Petition for Writ of Certiorari DENIED. EN BANC.

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**No. 22SC687, Court of Appeals Case No. 19CA2188**

**Petitioner:**

Stefan Alexander Moon,

v.

**Respondent:**

The People of the State of Colorado.

Petition for Writ of Certiorari DENIED. EN BANC.

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**No. 22SC734, Court of Appeals Case No. 21CA329**

**Petitioner:**

Marckus Antonio Maxwell,

v.

**Respondent:**

The People of the State of Colorado.

Petition for Writ of Certiorari DENIED. EN BANC.

JUSTICE BERKENKOTTER does not participate.

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**No. 22SC774, Court of Appeals Case No. 19CA1354**

**Petitioner:**

Matthew F. Rodriguez,

v.

**Respondent:**

The People of the State of Colorado.

Petition for Writ of Certiorari DENIED. EN BANC.

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**No. 22SC788, Court of Appeals Case No. 20CA1231**

**Petitioner:**

The People of the State of Colorado,

v.

**Respondent:**

Daniel Neal Noffsinger.

Petition for Writ of Certiorari DENIED. EN BANC.

CHIEF JUSTICE BOATRIGHT would grant as to the following issue:

Whether a defendant is entitled to an involuntary intoxication affirmative defense instruction when his testimony establishes that he mixed alcohol with prescribed medication against medical advice before committing the charged offense.

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**No. 22SC807, Court of Appeals Case Nos. 19CA578 & 19CA968**

**Petitioner:**

Larry Girault McGee,

v.

**Respondent:**

The People of the State of Colorado.

Petition for Writ of Certiorari DENIED. EN BANC.

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**No. 22SC859, Court of Appeals Case No. 19CA2006**

**Petitioner:**

Manuel Elias Rascon,

v.

**Respondent:**

The People of the State of Colorado.

Petition for Writ of Certiorari DENIED. EN BANC.

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**No. 22SC861, Court of Appeals Case No. 21CA112**

**Petitioner:**

Tomas Sifuentes Rios,

v.

**Respondent:**

The People of the State of Colorado.

Petition for Writ of Certiorari DENIED. EN BANC.

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**No. 22SC862, Court of Appeals Case No. 18CA2436**

**Petitioner:**

Tiffany Ann Miller,

v.

**Respondent:**

The People of the State of Colorado.

Petition for Writ of Certiorari DENIED. EN BANC.

JUSTICE BERKENKOTTER does not participate.

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**No. 22SC863, Court of Appeals Case No. 20CA1516**

**Petitioner:**

Charles Joseph Stout,

v.

**Respondent:**

The People of the State of Colorado.

Petition for Writ of Certiorari DENIED. EN BANC.

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**No. 22SC866, Court of Appeals Case No. 18CA2292**

**Petitioner:**

Byron Jerome Robinson,

v.

**Respondent:**

The People of the State of Colorado.

Petition for Writ of Certiorari DENIED. EN BANC.

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**No. 22SC867, Court of Appeals Case No. 19CA1496**

**Petitioner:**

Rick D. Trujillo,

v.

**Respondent:**

The People of the State of Colorado.

Petition for Writ of Certiorari DENIED. EN BANC.

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**No. 22SC868, Court of Appeals Case No. 20CA1747**

**Petitioner:**

Thomas William Asche,

v.

**Respondent:**

The People of the State of Colorado.

Petition for Writ of Certiorari DENIED. EN BANC.

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**No. 22SC870, Court of Appeals Case No. 22CA569**

**In re the Marriage of**

**Petitioner:**

Michael Gibson,

and

**Respondent:**

Michelle Marie Clare.

Petition for Writ of Certiorari DENIED. EN BANC.

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**No. 22SC871, Court of Appeals Case No. 19CA526**

**Petitioner:**

Jheshua Daniel Jackson,

v.

**Respondent:**

The People of the State of Colorado.

Petition for Writ of Certiorari DENIED. EN BANC.

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**No. 22SC921, Court of Appeals Case No. 21CA1318**

**Petitioner:**

Kelli Lynn Murphy,

v.

**Respondent:**

The People of the State of Colorado.

Petition for Writ of Certiorari DENIED. EN BANC.

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**No. 23SC98, Court of Appeals Case No. 22CA762**

**Petitioner:**

N.T. a/k/a P.M.,

v.

**Respondent:**

The People of the State of Colorado,

**In the Interest of Minor Child:**

N.M.

Petition for Writ of Certiorari DENIED. EN BANC.

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**No. 23SC192, Court of Appeals Case No. 22CA1006**

**Petitioners:**

D.I.C.M. and E.P.,

v.

**Respondent:**

The People of the State of Colorado,

**In the Interest of Minor Children:**

E.A.M., A.S.P. f/k/a A.S.M., and J.M.P.

Petitions for Writ of Certiorari DENIED. EN BANC.