

2023SA141 (1 HOUR)

Applicant-Appellant::

Parker Water and Sanitation District, a Colorado special district,

and

Intervenors-Appellants:

Meridian Metropolitan District, Arapahoe County Water and Wastewater Authority, East Cherry Creek Valley Water and Sanitation District, Rangeview Metropolitan District, Town of Castle Rock, Cherry Creek Project Water Authority, and South Metro Water Supply Authority,

v.

Appellees:

Kevin G. Rein, in his official capacities as the State Engineer State for the State of Colorado and Director of the Colorado Division of Water Resources; Colorado Division of Water Resources; and Corey Deangelis in his official capacity as the Division Engineer for Division One;

and

Intervenors-Appellees:

City of Aurora and City of Greeley.

For the Applicant-Appellant:

Jefferson H. Parker
M. Patrick Wilson
Kathryn M. Sellars
Daniel P. Harvey
HOFFMANN PARKER WILSON & CARBERRY PC

For Appellees:

Christopher R. Stork
OFFICE OF THE COLORADO ATTORNEY GENERAL

Appeal from the District Court, Water Division 1, 2021CW3046
Docketed: May 30, 2023
At Issue: January 19, 2024

ISSUE(S):

Whether the water court erred in determining as a matter of law that the plain language of section 37-90-137, C.R.S., unambiguously sets forth, requires, and/or allows the State Engineer and the Division of Water Resources (collectively, the“SEO”) to impose a total volumetric limit on the amount of nontributary groundwater that may be withdrawn pursuant to well permits issued pursuant to section 37-90-137(4).

Whether the water court erred in determining as a matter of law that the Statewide Nontributary Groundwater Rules,2 Colo. Code Regs. 402-7(“Rules”), unambiguously set forth, impose, and/or require a total volumetric limit on the amount of nontributary groundwater that may be withdrawn pursuant to well permits issued pursuant to section 37-90-137(4).

Whether the water court erred in determining as a matter of law that the SEO has authority under section 37-90-137to impose on well permits a total volumetric limit on the amount of nontributary groundwater that may be withdrawn where such limit is absent from and/or inconsistent with the terms of the underlying water court decrees.

[CONTINUED]

Whether the water court erred in determining as a matter of law that a total volumetric limit should be read into every water court decree and well permit where such decrees and permits only provide for an allowed average annual withdrawal (or its functional equivalent).

Whether the water court erred in determining as a matter of law that the plain language of Senate Bill 213 (the prior version of section 37-90-137, in effect from 1973 to 1985) unambiguously sets forth, requires, and/or allows the SEO to impose a total volumetric limit on the amount of nontributary groundwater that may be withdrawn pursuant to well permits issued under Senate Bill 213.

Whether the water court erred by staying all discovery and precluding the presentation of evidence, thereby making the determinations in the 2022 Order and 2023 Order without affording the ability to conduct discovery or present evidence that would help establish and/or resolve any ambiguity in the statute or Rules.

2023SA258 (1 HOUR)

Application for Water Rights of Lazy D Grazing
Association, in Weld County

Opposers-Appellants:

City of Sterling and City of Fort Collins,

v.

Applicant-Appellee:

Lazy D Grazing Association,

and

Opposers-Appellees:

Basin Lands, LLC; Bijou Irrigation Company; Bijou
Irrigation District; Cache La Poudre Water Users
Association; City of Boulder; City of Englewood; City of
Greeley, acting by and through its Water and Sewer
Board; City of Thornton; L.G. Everist, Inc.; Northern
Colorado Water Conservancy District; Mary Estabrook;
State Engineer and Division Engineer for Water
Division No. 1; and United Water and Sanitation
District.

For the Opposer-Appellant City of Sterling:

Alan E. Curtis
Nicoli R. Bowley
WHITE & JANKOWSKI LLC

For the Opposer-Appellant City of Fort Collins:

Eric R. Potyondy
FORT COLLINS CITY ATTORNEY'S OFFICE

For the Applicant-Appellee:

Bradley Charles Grasmick
Richard T. Li Puma
Wesley Sage Knoll
LAWRENCE CUSTER GRASMICK JONES &
DONOVAN LLP

Appeal from the District Court, Water Division 1, 2020CW3113
Docketed: October 04, 2023
At Issue: March 05, 2024

ISSUE(S):

Whether the water court erred in ruling section 37-92-305(6)(b), C.R.S., gives the State Engineer authority to determine groundwater is nontributary.

Whether the water court, based on its interpretation and application of subsection 305(6)(b), erred in ruling the burden of proof shifted from applicant-appellee having to prove its nontributary claims by clear and convincing evidence to the Cities having to prove the groundwater at issue is tributary.

Whether the water court, based on its interpretation and application of subsection 305(6)(b), erred in the standard it applied to the Cities' rebuttal of the State Engineer's determination of facts, dated March 31, 2021.

Whether the water court erred by speculating and relying on personal knowledge and information not in evidence.

Whether the water court determined the subject groundwater is nontributary based on faulty legal premises, inappropriate weight accorded to expert testimony and evidence, and is manifestly erroneous.

2022SC835 (40 MINS)

Petitioner:

Justin Brendan Martinez,

v.

Respondent:

The People of the State of Colorado.

For the Petitioner:

Joseph Paul Hough
OFFICE OF THE PUBLIC DEFENDER

For the Respondent:

Paul Koehler
OFFICE OF THE ATTORNEY GENERAL

Certiorari to the Colorado Court of Appeals, 2019CA1481
Docketed: November 08, 2022
At Issue: January 26, 2024

ISSUE(S):

Whether the prosecution is required to disprove a make-my-day defense beyond a reasonable doubt as to reckless conduct.

SUPREME COURT, STATE OF COLORADO

Public Hearing - 3:30 p.m.

[R.P.C. 1.5 and 1.8](#)

2022SC845 (1 HOUR)

Petitioner:

The People of the State of Colorado.

v.

Respondent:

Phillip Romero

For the Petitioner:

Patrick A. Withers
OFFICE OF THE ATTORNEY GENERAL

For the Respondent:

Barbara A. Snow
SNOW CRIMINAL DEFENSE LLC

Certiorari to the Colorado Court of Appeals, 2020CA143
Docketed: November 14, 2022
At Issue: January 30, 2024

ISSUE(S):

Whether the court of appeals erroneously heightened the clear error standard of review in violation of this court's precedent, which mandates reversal of a trial court's factual finding only when they are so clearly erroneous as to find no support in the record.

Remote Hearing via WebEx

2022SC759 (1 HOUR)

Petitioner:

The People of the State of Colorado,

v.

Respondent:

Matthew Rodolfo Vansant Lopez.

For the Petitioner:

Frank R. Lawson
OFFICE OF THE ATTORNEY GENERAL

For the Respondent:

Elizabeth A. McClintock
MCCLINTOCK LAW FIRM L.L.C.

Certiorari to the Colorado Court of Appeals, 2019CA287
Docketed: October 06, 2022
At Issue: December 19, 2023

ISSUE(S):

Whether a defendant who argues, for the first time on appeal, that his constitutional right to conflict-free counsel was violated—by the simultaneous prosecution of defense counsel and defendant by the same prosecutor—must prove that an actual conflict of interest adversely affected his representation.

Courts in the Community - Pueblo Central High School, Pueblo

2023SC272 (1 HOUR)

Petitioners:

Terra Management Group, LLC and Littleton Main
Street LLC d/b/a Main Street Apartments,

v.

Respondents:

Kathleen Keaten and Delaney Keaten.

For the Petitioners:

Christopher O. Murray
Julian R. Ellis, Jr.
Sean S. Cuff
BROWNSTEIN HYATT FARBER SCHRECK LLP

For the Respondents:

Jason B. Wesoky
Kylie Schmidt
OGBORN MIHM LLP
and
Ross Ziev
ROSS ZIEV P.C.

**For Amici Curiae the Chamber of Commerce of the
United States of America and Colorado Chamber
of Commerce:**

Lee Mickus
EVANS FEARS SCHUTTER MCNULTY MICKUS

**For Amicus Curiae Colorado Defense Lawyers
Association and Colorado Civil Justice League:**

Jeffrey Clay Ruebel
Michael Passint
RUEBEL & QUILLEN LLC

**For Amicus Curiae Colorado Plaintiff Employment
Lawyers Association:**

Thomas J. Arckey
Eric S. Steele
ARCKEY & ASSOCIATES LLC

**For Amicus Curiae Colorado Trial Lawyers
Association:**

Gideon S. Irving
Robyn Levin Clarke
LEVIN SITCOFF WANEKA PC
and
Alex R. Wilschke
Nathaniel E. Deakins
LEVENTHAL PUGA BRALEY PC

Certiorari to the Colorado Court of Appeals, 2021CA1856
Docketed: April 19, 2023
At Issue: April 11, 2024

ISSUE(S):

Whether the common law requires a clear showing that a prelitigation party knew litigation would be filed or learned litigation was likely to trigger a precomplaint duty to preserve evidence, or only requires that a prelitigation party should have known of the other party's potential damage and its potential liability.

2022SC869 (1 HOUR)

Petitioner:

Kevin Matthew Dhyne,

v.

Respondent:

The People of the State of Colorado.

For the Petitioner:

Adam M. Tucker
Jason C. Fisher
Grant W. Grosgebauer
LAW OFFICE OF ADAM TUCKER PC

For the Respondent:

Trina K. Kissel
OFFICE OF THE ATTORNEY GENERAL

**For Amicus Curiae University of Colorado Law
School Clinical Programs:**

Vivek Krishnamurthy
University of Colorado Law School

Certiorari to the Colorado Court of Appeals, 2020CA1565
Docketed: November 24, 2022
At Issue: February 22, 2024

ISSUE(S):

Whether the court of appeals erred, and the petitioner's constitutional rights under the U.S. Constitution Fourth Amendment and the Colorado Constitution, article II, section 7 were violated, when the lower appellate court found that a search of his private residence was proper because an internet protocol (IP) address, located at a separate private residence specified in the search warrant, was accessible by the petitioner.

Whether the district court erred, and the petitioner's constitutional rights under the U.S. Constitution Fourth Amendment and the Colorado Constitution, article II, section 7 were violated, when the lower court found that the inevitable discovery exception applied to the search of the petitioner's residence.
