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IN THE SUPREME COURT OF THE STATE OF CALIFORNIA

THE PEOPLE OF THE STATE OF CALIFORNIA,  
Plaintiff and Appellant,

v.

STEVEN ANDREW ADELMANN,  
Defendant and Respondent.

S **SUPREME COURT  
FILED**  
OCT 4 - 2016  
Jorge Navarrete Clerk  
Deputy

Fourth Appellate District, Division Two, No. E064099  
Riverside County Superior Court No. SWF1208202  
The Honorable Edward D. Webster, Judge

PETITION FOR REVIEW

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IN THE SUPREME COURT OF THE STATE OF CALIFORNIA

THE PEOPLE OF THE STATE OF CALIFORNIA,  
Plaintiff and Appellant,

v.

S \_\_\_\_\_

STEVEN ANDREW ADELMANN,  
Defendant and Respondent.

TO: THE HONORABLE TANI CANTIL-SAKAUYE, CHIEF JUSTICE, AND  
THE HONORABLE ASSOCIATE JUSTICES OF THE CALIFORNIA  
SUPREME COURT:

The People of the State of California, plaintiff and appellant in the above-captioned action, hereby petition this Honorable Court pursuant to California Rules of Court, rule 8.500, to grant review of the published opinion of the Court of Appeal of the State of California, Fourth Appellate District, Division Two, filed on August 31, 2016. A copy of the opinion is included as an attachment to this Petition.

**ISSUE PRESENTED**

When a defendant's probation is transferred between counties, must a petition seeking relief under Proposition 47 be filed in the county of conviction or the county receiving probation?

**NECESSITY FOR REVIEW**

There is currently a split of authority in the Court of Appeal regarding this issue. A grant of review is necessary in this case, pursuant to California Rules of Court, rule 8.500(b)(1), in order to secure uniformity of decision and to settle an important question of law. Absent action by this Court, the lower courts will be

left without guidance regarding the appropriate county in which to file Proposition 47 petitions: the county of conviction or the county receiving a transfer of probation. This has resulted in, and will continue to result in, trial courts from *both* counties rejecting petitions filed by otherwise eligible petitioners, and such persons being unable to file their petitions in *any* county. Until this Court settles this important question of law—and resolves the split of published case authority in the Court of Appeal—the lower courts and the parties will be without guidance in all Proposition 47 cases where probation has been transferred between counties.

## INTRODUCTION

Penal Code<sup>1</sup> section 1170.18, subdivisions (a) and (f), requires a petition under that section be filed “before the trial court that entered the judgment of conviction . . .” In apparent conflict with that statute, section 1203.9, subdivision (b), provides that when a probationer’s case is transferred between counties, “[t]he court of the receiving county shall accept the entire jurisdiction over the case effective the date that the transferring court orders the transfer.”

The lower courts have struggled with reconciling these conflicting statutes. In *People v. Curry* (2016) 1 Cal.App.5th 1073, 1081-1082 (*Curry*)—a published opinion filed on July 28, 2016—the Court of Appeal, First Appellate District, held that under the plain language of section 1170.18, the petition must be filed in the county that entered the judgment of conviction.<sup>2</sup> Conversely, in the present case—a published opinion filed on August 31, 2016—the Court of Appeal, Fourth Appellate District, held that under the plain language of section 1203.9, the court of the county receiving a transfer of probation has entire jurisdiction over the case, including the filing of a petition under section 1170.18. (*People v. Adelman*

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<sup>1</sup> All further unspecified statutory references are to the Penal Code.

<sup>2</sup> A petition for review was filed in *Curry* on September 6, 2016 (case number S237037).

(Aug. 31, 2016, E064099) \_\_\_\_ Cal.App.5th \_\_\_\_ [2016 WL 4538437]  
(*Adelmann*).

Due to the lack of guidance from the higher courts, the trial courts in both *Curry* and *Adelmann* initially rejected the defendants' Proposition 47 petitions. Specifically, in *Curry*, the defendant initially attempted to file her petition in the county that received her probation, but that court rejected the petition on the grounds that it must be filed in the county that entered the judgment of conviction. (*People v. Curry, supra*, 1 Cal.App.5th at p. 1077.) Conversely, in the present case, the defendant initially attempted to file his petition in the county that entered the judgment of conviction, but that court rejected the petition on the grounds that it must be filed in the county that received his probation. (*Adelmann*, slip opn. at p. 3.)

Furthering this confusion, there are now conflicting published opinions in *Curry* and *Adelmann*, leaving the lower courts and the parties without clear guidance regarding the appropriate court in which to file Proposition 47 petitions in cases where probation has been transferred between counties. Such cases are abundant. It is necessary for this Court to secure uniformity of decision regarding this issue and settle this important question of law. Until this Court takes action, a gross injustice confronts the parties in these cases, particularly otherwise eligible petitioners who are left unable to file their petitions. Equally at risk are the scarce judicial and governmental resources that will be expended during the course of unnecessarily repeated litigation. For these reasons, the People respectfully request this Court grant review.

### **PROCEDURAL HISTORY AND STATEMENT OF FACTS**

On August 27, 2012—in San Diego County Superior Court case number SCN307269—respondent pleaded guilty to felony possession of cocaine and oxycodone (count 1; Health & Saf. Code, § 11350) and misdemeanor driving under the influence of a drug (count 2; Veh. Code, § 23152, subd. (a).) (CT 9-12.)

On September 25, 2012, the San Diego County Superior Court granted respondent three years of formal probation. (CT 26-30.)

On September 27, 2012, respondent filed a request under section 1203.9 to have his probation transferred to Riverside County. (CT 31-32.) On December 7, 2012, respondent's request was granted and probation was transferred to the Riverside County Superior Court in case number SWF1208202. (CT 35-37.)

On January 6, 2015, respondent filed a petition for resentencing under section 1170.18, subdivision (a), in the Riverside County Superior Court. (CT 38-66.) On May 14, 2015, the People filed an opposition to the motion on the ground that section 1170.18, subdivision (a), requires the petition be filed in the San Diego County Superior Court, which is the court that entered the judgment of conviction. (CT 68-71.) The People did not argue that petitioner was ineligible for the requested relief, just that section 1170.18, subdivision (a), dictates the court in which the petition must be filed. (See CT 68-71.)

On June 19, 2015, the Riverside County Superior Court conducted a hearing regarding respondent's petition. (CT 74.) At that hearing, respondent's counsel represented that he read section 1170.18 in the same manner as the People, and for that reason he initially attempted to file the petition in the San Diego County Superior Court. (RT 5.) Respondent's counsel stated that the San Diego County Superior Court rejected the filing because the matter had been transferred to the Riverside County Superior Court. (RT 5.)

The Riverside County Superior Court granted respondent's petition. (CT 74.) In so doing, however, the court noted the lack of guidance from the appellate courts regarding the issue, and encouraged the People to file an appeal so the "Court of Appeal [can] tell us and give us clear instructions so we don't have to go through this nonsense again." (RT 6.)

On July 21, 2015, the People filed a notice of appeal. (CT 75.) On August 31, 2016—following briefing and oral argument by the parties—the Court of Appeal, Fourth Appellate District, issued a unanimous published opinion holding

that under the plain language of section 1203.9, the court of the county receiving a transfer of probation has entire jurisdiction over the case, including the filing of a petition under section 1170.18, and therefore respondent properly filed his petition in the Riverside County Superior Court. (Slip opn. at pp. 4-6, 8.)

### **STANDARD FOR GRANTING REVIEW**

This Court generally orders review only when necessary to secure uniformity of decision or to settle an important question of law. (Cal. Rules of Court, rule 8.500(b)(1).) The Supreme Court's role is to "supervise and control the opinions of the several District Courts of Appeal, each of which is acting concurrently and independently of the others, and by such supervision to endeavor to secure harmony and uniformity in the decisions . . . and in some instances [issue] a final decision by the court of last resort of some doubtful or disputed question of law." (*People v. Davis* (1905) 147 Cal. 346, 348.) It is "emphatically the province and duty of the judicial department to say what the law is." (*Marbury v. Madison* (1803) 5 U.S. (1 Cranch) 137, 177.)



## ARGUMENT

### REVIEW IS NECESSARY TO PROVIDE NEEDED GUIDANCE REGARDING THE APPROPRIATE COURT IN WHICH TO FILE A PROPOSITION 47 PETITION FOLLOWING A TRANSFER OF PROBATION BETWEEN COUNTIES

Appellant respectfully requests this Court grant review to resolve the current split of authority regarding the appropriate court in which to file a Proposition 47 petition following a transfer of probation: the court in the county of conviction or the court in the county receiving probation.

Section 1170.18, subdivision (a), allows a defendant currently serving his or her sentence to petition for a recall of sentence. The statute is specific as to what court the petition must be filed in:

A person currently serving a sentence for a conviction, whether by trial or plea, of a felony or felonies who would have been guilty of a misdemeanor under the act that added this section (“this act”) had this act been in effect at the time of the offense may petition for a recall of sentence *before the trial court that entered the judgment of conviction in his or her case* to request resentencing in accordance with Sections 11350, 11357, or 13377 of the Health and Safety Code, or Section 459.5, 473, 476a, 490.2, 496, or 666 of the Penal Code, as those sections have been amended or added by this act.

(§ 1170.18, subd. (a), emphasis added.)

Conversely, section 1203.9, which authorizes the transfer of probation from one county to another, provides: “The court of the receiving county shall accept the entire jurisdiction over the case effective the date that the transferring court orders the transfer.” (§ 1203.9, subd. (b).)

As stated, the lower courts have struggled with reconciling these two conflicting statutes. In *Curry*, the defendant pleaded no contest in 2012 in the Napa County Superior Court to one count of felony second degree burglary and was placed on three years of formal probation. (*People v. Curry, supra*, 1 Cal.App.5th at p. 1076.) At the time of being placed on probation, the defendant was on Post Release Community Supervision (PRCS) in Alameda County. (*Ibid.*)

For that reason, the defendant requested, and the Napa County Superior Court granted, her probation be transferred to the Alameda County Superior Court under section 1203.9. (*Ibid.*) Subsequently, in 2015, the defendant filed a petition in the Alameda County Superior Court seeking to have her Napa County burglary conviction reduced to a misdemeanor under section 1170.18. (*Id.* at pp. 1076-1077.)<sup>3</sup> The Alameda County Superior Court denied the petition on the ground that defendant was required to seek the requested relief in the Napa County Superior Court. (*Id.* at p. 1077.) The defendant appealed.

The Court of Appeal, First Appellate District, affirmed, holding that the language of section 1170.18 is clear and unambiguous: “[A] ‘petition for a recall of sentence’ by a probationer, or a former probationer, is to be filed with the ‘trial court that entered the judgment of conviction.’” (*People v. Curry, supra*, 1 Cal.App.5th at p. 1076, quoting § 1170.18, subds. (a), (f).)

In the present case, respondent pleaded guilty in 2012 in the San Diego County Superior Court to, among other things, felony possession of cocaine and oxycodone and was placed on three years of formal probation. (Slip opn. at p. 2.) Subsequently, respondent requested, and the San Diego County Superior Court granted, his probation be transferred to the Riverside County Superior Court under section 1203.9. (Slip opn. at p. 2.) Respondent thereafter filed a petition in the Riverside County Superior Court seeking to have his San Diego County felony conviction reduced to a misdemeanor under section 1170.18. (Slip opn. at p. 3.) The trial court, in granting the petition, overruled the People’s objection that the petition must be filed in the San Diego County Superior Court. (Slip opn. at p. 3.) The People appealed.

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<sup>3</sup> At the time the defendant in *Curry* filed her petition under section 1170.18 in Alameda County, she was no longer on PRCS, but rather remained solely under the supervision of probation. (See *People v. Curry, supra*, 1 Cal.App.5th at pp. 1076-1077 [defendant’s PRCS expired on January 27, 2015; defendant filed her request under section 1170.18 on July 2, 2015].)

The Court of Appeal, Fourth Appellate District, affirmed, holding that under the plain language of section 1203.9, the Riverside County Superior Court had “entire jurisdiction over the case . . .” (Slip opn. at p. 4.) The court reasoned that *Curry* was distinguishable. (Slip opn. at p. 6.)<sup>4</sup> Specifically, the court was under the misimpression that *Curry* involved a transfer of PRCS under section 3460, not a transfer of probation under section 1203.9. (Slip opn. at p. 6 [“*Curry* does not apply here because it involved section 3460, not section 1203.9, which provides for the transfer of the ‘entire jurisdiction’ of a case.”].)

The Court of Appeal was incorrect in its belief that *Curry* involved a transfer of PRCS under 3460 rather than a transfer of probation under 1203.9. As discussed above, and contrary to the Court of Appeal’s belief, *Curry* involved a transfer of probation under section 1203.9. (*People v. Curry, supra*, 1 Cal.App.5th at p. 1076 [“For this reason, and because defendant was a resident of Alameda County, the Napa probation officer moved to have supervision of her probation transferred to Alameda County in accordance with section 1203.9. The Napa County Superior Court granted the motion . . . and Alameda County accepted the transfer . . .”].) The Court of Appeal’s confusion in this regard appears due to the defendant in *Curry* having been on PRCS in Alameda County (from a previous, unrelated case) at the time her probation was transferred under section 1203.9. (*People v. Curry, supra*, 1 Cal.App.5th at p. 1076.) In fact, at the time the defendant in *Curry* filed her Proposition 47 petition, she was no longer on PRCS, but was only on probation. (*Id.* at pp. 1076-1077.) Accordingly, the Court of Appeal in the present case was incorrect when it stated that *Curry* involved a transfer of PRCS under section 3460 rather than a transfer of probation under section 1203.9.

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<sup>4</sup> As stated, *Curry* was filed July 28, 2016, the week before oral argument was held in this case. On the day *Curry* was filed, the People filed a letter acknowledging *Curry* and indicating the intention to discuss it at oral argument. At oral argument in this case, *Curry* was discussed at length by the court and both parties.

In any event, the lower courts remain in a state of confusion regarding this issue. As the trial court stated in *Curry*: “[I]f the Court of Appeal would be kind enough to give us some guidance I would appreciate it.” (*People v. Curry, supra*, 1 Cal.App.5th at p. 1083.) Similarly, in the present case, the trial court specifically urged the People to file an appeal so the “Court of Appeal [can] tell us and give us clear instructions so we don’t have to go through this nonsense again.” (RT 6.) Now that differing Districts of the Court of Appeal have published conflicting opinions on the issue, the trial courts and the parties remain without the necessary guidance. Accordingly, this Court should grant review to settle this important question of law and secure uniformity of decision. (Cal. Rules of Court, rule 8.500(b)(1).)

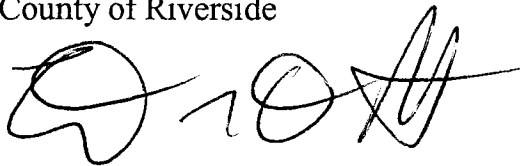
### CONCLUSION

Accordingly, for the reasons stated, the People respectfully request this Court grant the Petition for Review.

Dated: October 3, 2016

Respectfully submitted,

MICHAEL A. HESTRIN  
District Attorney  
County of Riverside

A handwritten signature in black ink, appearing to read 'DONALD W. OSTERTAG', written over a horizontal line.

DONALD W. OSTERTAG  
Deputy District Attorney

**CERTIFICATE OF WORD COUNT**

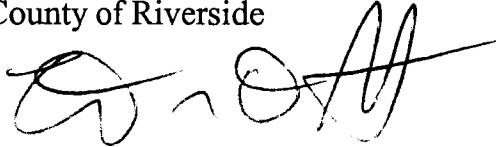
Case Nos. E064099/SWF1208202

The text of the ***PETITION FOR REVIEW*** consists of 2,403 words as counted by the Microsoft Word Program used to generate the said ***PETITION FOR REVIEW***.

Executed on October 3, 2016.

Respectfully submitted,

MICHAEL A. HESTRIN  
District Attorney  
County of Riverside

A handwritten signature in black ink, appearing to read 'Donald W. Ostertag', written over the printed name of the Deputy District Attorney.

DONALD W. OSTERTAG  
Deputy District Attorney

**PROOF OF SERVICE BY MAIL**

Case Nos. E064099/ SWF1208202

I, the undersigned, say: I am a resident of or employed in the County of Riverside, over the age of 18 years and not a party to the within action or proceeding; that my residence or business address is 3960 Orange Street, Riverside, California.

That on October 3, 2016, I served a copy of the paper to which this proof of service by mail is attached, *PETITION FOR REVIEW*, by depositing said copy enclosed in a sealed envelope with postage thereon fully prepaid, in a United States Postal Service mailbox, in the City of Riverside, State of California, addressed as follows:

**FOURTH DISTRICT  
COURT OF APPEAL  
Case No. E062670  
Division Two  
3389 Twelfth Street  
Riverside, CA 92501  
(served via true filing only)**

**GENE VOROBYOV  
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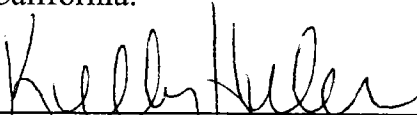
**ATTORNEY GENERAL'S OFFICE  
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**JUDGE EDWARD D. WEBSTER  
Riverside County Superior Court  
Hall of Justice  
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Riverside, CA 92501**

**APPELLATE DEFENDER'S INC.  
555 West Beech Street, Suite 300  
San Diego, CA 92101**

I certify (or declare) under penalty of perjury that the foregoing is true and correct.

Executed on October 3, 2016, at Riverside, California.

  
\_\_\_\_\_  
**DECLARANT**

**CERTIFIED FOR PUBLICATION**

**IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA**

**FOURTH APPELLATE DISTRICT**

**DIVISION TWO**

THE PEOPLE,

Plaintiff and Appellant,

v.

STEVEN ANDREW ADELMANN,

Defendant and Respondent.

E064099

(Super.Ct.No. SWF1208202)

OPINION

APPEAL from the Superior Court of Riverside County. Edward D. Webster, Judge. (Retired judge of the Riverside Super. Ct. assigned by the Chief Justice pursuant to art. VI, § 6 of the Cal. Const.) Affirmed.

Michael A. Hestrin, District Attorney, Emily R. Hanks and Donald Ostertag, Deputy District Attorneys, for Plaintiff and Appellant.

Gene D. Vorobyov, under appointment by the Court of Appeal, for Defendant and Respondent.

I

INTRODUCTION

The People appeal from an order granting the petition of defendant Steven Andrew

Adelmann to reduce his Health and Safety Code felony conviction to a misdemeanor pursuant to Penal Code section 1170.18.<sup>1</sup> After defendant was sentenced to probation by the Superior Court of the County of San Diego, the “entire jurisdiction” of his case was transferred under section 1203.9 to the Superior Court of the County of Riverside. The People contend defendant’s petition must be decided by the trial court in San Diego that originally sentenced defendant. (§ 1170.18, subds. (a) and (f).)

Based on established principles of statutory construction and considerations of judicial resources, we hold that the Riverside Superior Court has entire jurisdiction over defendant’s case and can decide defendant’s petition. Additionally, we hold that defendant waived his right to have his petition decided by the San Diego court.

## II

### FACTUAL AND PROCEDURAL BACKGROUND

In 2012, defendant was charged in the County of San Diego with driving under the influence and for possession of cocaine and oxycodone. (Veh. Code, § 23152, subd. (a); Health & Saf. Code, § 11350, subd. (a).) Defendant pleaded guilty to both counts. Defendant also had a previous conviction in 2011 for intoxicated driving. On September 25, 2012, defendant was sentenced by the San Diego Superior Court to three years of formal probation, ending in September 2015. In December 2012, the San Diego Superior Court granted defendant’s motion for the jurisdictional transfer of his probation case to Riverside County because he had changed his residence. (§ 1203.9.)

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<sup>1</sup> All statutory references are to the Penal Code unless stated otherwise.



In January 2015, defendant filed a petition in the Superior Court of Riverside County to have his Health and Safety Code conviction reduced from a felony to a misdemeanor. (§ 1170.18, subd. (a).) At the hearing on the petition, defense counsel explained to the Riverside court he had initially tried to file the petition in San Diego but “the San Diego County Court Clerk rejected the filing and said they had no file. The whole matter was transferred to Riverside County.” Defense counsel also stated he contacted the San Diego County Public Defender “who was assigned to the department in San Diego County handling Prop 47s. The public defender told me their department will not hear it. So that is the reason we eventually filed here in Riverside County because of the transfer.”

The People did not object to the hearsay evidence offered by defense counsel about the procedures of the San Diego Superior Court or the Public Defender. The People did not argue that defendant was not eligible for resentencing as a misdemeanor. However, the People opposed defendant’s petition based on the argument that the Riverside Superior Court lacked authority under section 1170.18 to decide the petition.

After the petition was granted by the Riverside judge, the District Attorney appealed. The District Attorney continues to challenge the authority of any judge of the Riverside Superior Court to rule on defendant’s petition. We reject the People’s appeal and affirm the trial court’s grant of the petition.

### III

#### DISCUSSION

This appeal involves the interplay between sections 1203.9 and 1170.18. Where defendant receives a grant of probation, section 1203.9 delineates a “detailed process for the transfer of jurisdiction” and “jurisdiction rests exclusively in the county in which probation is granted until it is transferred.” (*People v. Klockman* (1997) 59 Cal.App.4th 621, 627.) Section 1203.9, subdivision (b), provides that, when a probationer’s case is transferred to another county, “[t]he court of the receiving county shall accept the entire jurisdiction over the case effective the date that the transferring court orders the transfer.” Conversely, once a case is transferred the original court no longer has jurisdiction. As applied here, the San Diego court was the transferring court that transferred “entire jurisdiction” of defendant’s case to the Riverside court.

Section 1170.18, subdivision (a), provides a person currently serving a sentence for a felony conviction “may petition for a recall of sentence *before the trial court that entered the judgment of conviction* in his or her case to request resentencing [emphasis added]” for a misdemeanor. Subdivision (f) provides a person who has completed his sentence or probation “may file an application *before the trial court that entered the judgment of conviction* [emphasis added]” in his case to have the felony conviction designated as a misdemeanor. Subdivision (l) further provides: “If the court that originally sentenced the petitioner is not available, the presiding judge shall designate another judge to rule on the petition or application.” Section 1170.18 makes no mention of jurisdiction.

Defendant was sentenced in San Diego to three years of probation, which he completed successfully in September 2015. At the time his sentence was imposed in San Diego in September 2012, he was living with his parents in Riverside County and working as a tile-setter. For that reason, the San Diego probation department made a motion for jurisdictional transfer of his case to Riverside County. (§ 1203.9; Cal. Rules of Court, rule 4.530(a)(5).) The motion was granted, causing the transferring court to “transmit any records of payments and the entire court file, except exhibits, to the receiving court within two weeks of the transfer order.” Therefore, when defendant’s counsel first tried to file a petition in San Diego, he was informed the San Diego court could not accept the petition because it had no file for his case. Defendant’s only alternative was to file his petition in the Riverside court which had accepted “entire jurisdiction” in December 2012.

In spite of defendant’s inability to file his petition in San Diego County, the Riverside County District Attorney argues that section 1170.18 prohibits defendant from filing his petition in Riverside county. Defendant argues that, because “entire jurisdiction” over his case was transferred from San Diego to Riverside, defendant’s county of residence, the Riverside court should decide his petition. The People counter that, in spite of the “entire jurisdiction” language of section 1203.9, section 1170.18 requires the San Diego court, not Riverside, to decide the petition.

The legal commentators who are the authors of *Sentencing California Crimes* maintain that a defendant, like here, whose probation case has been transferred under section 1203.9, and who seeks relief under section 1170.18, should file the petition in the

receiving county. Because the receiving county has exclusive jurisdiction over the case, the original sentencing judge is no longer available as a matter of law. Therefore, the request for relief may be handled by any judge appointed by the presiding judge.

(§ 1170.18, subd. (D).) (J. Richard Couzens, Tricia A. Bigelow, and Gregg L. Prickett, *Sentencing California Crimes*, § 25:11.)

Since the adoption of Proposition 47, only one published California case has addressed the interaction of sections 1203.9 and 1170. In *People v. Curry*, the First District Court of Appeal recently held that a defendant who was subject to PRCS (postrelease community supervision) under section 3460, not section 1203.9, was required to file a petition for reduction in the original sentencing county of Napa, not in Alameda County where her case had been transferred for PRCS. The *Curry* court adopted the distinction made by Couzens and Bigelow between persons on PCRS and persons whose case has been transferred under section 1203.09: ““There is a qualitative difference between the transfer of the case for purposes of supervision, as in section 3460, and transfer of the “entire jurisdiction over the case” between courts, as in section 1203.9.”” (*People v. Curry* (2016) 1 Cal.App.4th 1073, 1082.) *Curry* does not apply here because it involved section 3460, not section 1203.9, which provides for the transfer of the “entire jurisdiction” of a case.

We also conclude that defendant can waive his rights under section 1170.18 to have his petition decided by a San Diego court. In addressing similar language in a statute for resentencing under Proposition 36, the court held that it is “clear that the initial sentencing judge shall rule on the prisoner’s petition. However, as with other rights, a

defendant may waive the right for the petition to be considered by a particular judge.” (*People v. Superior Court (Kaulick)* (2013) 215 Cal.App.4th 1279, 1301.) Applying the reasoning of *Kaulick* means a defendant seeking Proposition 47 relief may waive his right to be sentenced by a particular judge in a particular county, something he has done in this instance by filing his petition in Riverside superior court.

We briefly address the People’s arguments based on statutory construction.

Statutory construction is subject to de novo review on appeal: “When interpreting a voter initiative, ‘we apply the same principles that govern statutory construction.’” (*People v. Rizo* (2000) 22 Cal.4th 681, 685.) We first look “to the language of the statute, giving the words their ordinary meaning.” (*Ibid.*) We construe the statutory language ‘in the context of the statute as a whole and the overall statutory scheme.’ (*Ibid.*) If the language is ambiguous, we look to “other indicia of the voters’ intent, particularly the analyses and arguments contained in the official ballot pamphlet.” (*Ibid.*)” (*People v. Marks* (2015) 243 Cal.App.4th 331, 334.) “““The fundamental purpose of statutory construction is to ascertain the intent of the lawmakers so as to effectuate the purpose of the law.””” (*People v. Rivera* (2015) 233 Cal.App.4th 1085, 1099.)

Statutory interpretation begins with an analysis of the plain meaning of the statute. If the statutory language is clear and unambiguous, courts must follow its usual, ordinary meaning. Where the language allows for more than one reasonable interpretation, “““the court may examine the context in which the language appears, adopting the construction that best harmonizes the statute internally and with related statutes.””” (*People v. Rivera, supra*, 233 Cal.App.4th at p. 1099, *Mejia v. Reed* (2003) 31 Cal.4th 657, 663.)

The final step in statutory construction requires courts to apply “reason, practicality, and common sense to the language at hand.” (*Halbert’s Lumber, Inc. v. Lucky Stores, Inc.* (1992) 6 Cal.App.4th 1233, 1239.) Statutory language is not interpreted “. . . in isolation, but in the context of the statutory framework as a whole in order to determine its scope and purpose and to harmonize the various parts of the enactment.” (*Coalition of Concerned Communities, Inc. v. City of Los Angeles* (2004) 34 Cal.4th 733, 737.)

Section 1170.18, unlike section 1203.9 does not make any express mention of “entire jurisdiction.” There is no language, plain or otherwise, addressing whether a section 1203.9 transfer does not allow the court in the receiving county to decide a petition for resentencing. Nothing in the language of section 1170.18 mandates that a defendant must file in the court that entered the judgment when the “entire jurisdiction” over a case has been transferred to another court.

Instead the language in section 1170.18 is subject to a reasonable interpretation, using a construction that “best harmonizes . . . with related statutes.” (*People v. Rivera, supra*, 233 Cal.App.4th at p. 1100.) The court must give “a reasonable and commonsense interpretation consistent with the apparent purpose and intention of the lawmakers, practical rather than technical in nature, which upon application will result in wise policy rather than mischief or absurdity.” (*In re Reeves* (2005) 35 Cal.4th 765, 771, fn. 9.)

One of stated objectives of Proposition 47 is to create a process for persons who have qualified felony convictions to obtain reclassification of the crime as a misdemeanor. (*Proposition 47: Text of Proposed Laws, California Ballot*

Pamphlet: General Election Nov. 4, 2014 p. 70.) The People’s proposal that defendant must somehow compel the San Diego court to accept his petition—although entire jurisdiction over his probationary case has been transferred to Riverside—seems wholly unfeasible and not an economical or practical use of judicial resources. Based on a practical, reasonable, commonsense analysis, allowing the court that currently has entire jurisdiction over a case to decide a section 1170.18 petition is the wisest and most appropriate policy. (*In re Reeves*, *supra*, 35 Cal.4th at p. 771, fn. 9.)

Our conclusions comport with the principle of the California Supreme Court that a specific statute should prevail over a general statute only when the two statutes are in actual conflict. (*People v. Price* (1991) 1 Cal.4th 324, 385.) In this case, section 1203.9 is specific about jurisdiction; section 1170.18 is not. Our duty is ““to harmonize statutes on the same subject . . . , giving effect to all parts of the statutes if possible . . . .” “[Courts] will find an implied repeal ‘only when there is no rational basis for harmonizing the two potentially conflicting statutes . . . , and the statutes are ‘irreconcilable . . . and so inconsistent that the two cannot have concurrent operation.’””””” (*People v. Chenze* (2002) 97 Cal.App.4th 521, 526.) Affirming the lower court’s disposition does not create irreconcilable or inconsistent consequences. By allowing the “concurrent operation” of both section 1203.9 and section 1170.18, a probationary defendant can waive his right to be resentenced by the same trial court and obtain expeditious relief in the court that has entire jurisdiction over his case.

IV

DISPOSITION

Under section 1203.9, the Riverside superior court has entire jurisdiction over defendant's case, including the power to decide defendant's section 1170.18 petition. We affirm the judgment.

CERTIFIED FOR PUBLICATION

CODRINGTON  
J.

We concur:

HOLLENHORST  
Acting P. J.

MILLER  
J.