IN THE SUPREME COURT OF THE STATE OF CALIFORNIA

PEOPLE OF THE STATE OF CALIFORNIA,	)
	) No. S260598
Plaintiff and Respondent,	)
	) No. B295998
vs.	)
	) Los Angeles
VINCE E. LEWIS,	) Superior Court
	) No. TA117431
Defendant and Appellant.	)
	)

APPELLANT/PETITIONER'S
REPLY TO BRIEFS OF AMICI

On Review of a Decision of the Court of Appeal,
Second Appellate District, Division 1
on Appeal from the Superior Court of the State of California
in and for the County of Los Angeles
The Honorable Ricardo R. Ocampo, Judge

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INTRODUCTION

Appellant and Petitioner Vince E. Lewis submits this brief in response to the amicus brief of the California District Attorneys Association (CDAA). He also takes this opportunity to amplify some of the arguments made by the amici who support his position: Senator Nancy Skinner and the Justice Collaborative Institute ("Skinner"); the American Civil Liberties Union (ACLU); and California Attorneys for Criminal Justice (CACJ).

* * * * *

ARGUMENT

1. CDAA's argument is inconsistent with the text, structure, and history of section 1170.95

A. *CDAA's position is inconsistent with the text of section 1170.95, subdivision (c)*

The most fundamental reason the Court should not adopt the analysis set forth in the amicus brief of the California District Attorney's Association is that CDAA's argument is inconsistent with the text of subdivision (c) of section 1170.95.[1/] CDAA never quotes subdivision (c), and cites it only once in passing. (CDAA Amicus 6.) The first sentence of subdivision (c) reads, "The court shall *review the petition* and determine if the petitioner has made a prima facie showing that the petitioner falls within the provisions of this section." (Emphasis added.) CDAA's entire brief is directed to a proposition squarely inconsistent with the statutory text. CDAA asserts that the court may and "must" at this stage review not just the petition but the record of conviction. (*Ibid.*)

CDAA recommended that the Legislature adopt a different statute more in keeping with the position it takes in its amicus brief. (CDAA letter to Sen. Skinner (April 17, 2018), Ex. 2 to Skinner Request for Judicial Notice.)[2/] The Legislature revised the proposed bill to accommodate CDAA on other points.

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1. Enacted by Senate Bill 1437 of 2018 (Stats. 2018, ch. 1015); hereafter sometimes "SB 1437." Unexplained section references in this brief are to the Penal Code, and unexplained subdivision references are to section 1170.95.

2. This refers to a Request for Judicial Notice submitted November 16, 2020, by Amici Hon. Nancy Skinner *et al.*

(Skinner Amicus 13, 41-42.) But it did not do what CDAA now wants this Court to do: allow summary denial of section 1170.95 petitions based on ex parte review of the record of conviction prior to appointment of counsel. (RBM 19-21.)

The policy judgment about how to implement the narrowing of accomplice liability for murder was for the Legislature to make. This Court is not at liberty to write on a clean slate and make its own policy choices as CDAA asks. (Skinner Amicus 18.)

B. *CDAA's argument does not address the legislative history of section 1170.95*

CDAA never refers to the legislative history of the statute. Without citation to anything, CDAA imputes to the Legislature an intent to create a substantial hurdle that defendants must surmount without the assistance of counsel in order to be entitled to appointed counsel. (CDAA Amicus 14.) The text and legislative history manifest precisely the contrary intent, that it should be easy for defendants to obtain counsel to assist them. (Skinner Amicus 13-18, 25-29; RBM 19-20.)

C. *CDAA's argument is inconsistent with the prima facie case standard in subdivsion (c)*

Subdivision (c) directs the superior court to determine if the defendant has made a prima facie case.[3/] But CDAA never refers

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3. Whether the superior court must find one prima facie case, or two different prima facie cases seriatim, is discussed in (continued...)

to the well-established definition of a prima facie case (OBM 18-19; Skinner Amicus 43, fn. 34), and makes arguments inconsistent with that definition. CDAA invites the court to look sua sponte at "the facts of the appeal" (CDAA Amicus 12; see also *id.* at 6), a source highly unlikely to set forth the defendant's prima facie case, the facts in the light most favorable to the defendant. (See OBM 55-57; RBM 39-40; CACJ Amicus 12.)

In a related error, CDAA never differentiates among the components of the record of conviction. (See, e.g., CDAA Amicus 8 ["the full record of conviction"]; *id.* 11 ["any facts contained in the record of conviction"]; cf. OBM 52-53 & fn. 10; RBM 38-39.) For these purposes, not all parts of the record of conviction are of equal value. It is unlikely that, for instance, the text of the jury instructions will be reasonably subject to dispute, whereas the contrast between the defendant's prima facie factual case and the statement of facts in a prior appellate opinion will often be glaring.

The two sets of hypothetical facts at CDAA Amicus 12-13 are unlikely to be the facts most favorable to the defendant, so the superior court would err if it summarily denied a section 1170.95 petition because it read those facts in the record of conviction. The second of these sets of hypothetical facts is particularly misleading because, like Mr. Lewis's own case, it concerns a victim cornered in an alley, but it refers to an accomplice present

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3. (...continued)
section 2 of this brief, *infra*. The discussion here applies regardless of the answer to that question.

in the alley, helping the actual killer subdue the victim. Mr. Lewis was not alleged to have been present and there was no evidence that he participated in the crime in the manner referred to there. (CDAA Amicus 12-13.)

"Even assuming the petition is true," CDAA says, the court can summarily deny the petition sua sponte based on what it finds in the record of conviction adverse to the defendant. (CDAA Amicus 13.) CDAA's reasoning is flawed, because a court that proceeds in that manner is ***not*** "assuming the petition is true." The petition asserts that the defendant could not be convicted under the amended law. (CT 2; subd. (a)(3).) In CDAA's example, the court is making a sua sponte factual determination to the contrary, that he *could* be convicted.

CDAA goes on to make another fallacious point: "Whatever factual disputes existed at trial were resolved by the jury in rendering its guilty verdict." (CDAA Amicus 13.) The relevant factual dispute at Mr. Lewis's trial – whether he possessed the culpable mental state required for conviction of first-degree murder – was unquestionably resolved by an *erroneously-instructed* jury. (OBM 10; see *People v. Chiu* (2014) 59 Cal.4th 155.) And in any case in which a felony-murder special circumstance was found true prior to *People v. Banks* (2015) 61 Cal.4th 788 and *People v. Clark* (2016) 63 Cal.4th 522, a court cannot have confidence that the factual disputes relevant to a section 1170.95 petition would be resolved the same way under current law. (*People v. York* (2020) 54 Cal.App.5th 250, 258-259, *petn. for*

review granted & held, No. S264954; contra,, 458-459; see OBM 54.)[4/]

CDAA assumes that the superior court can identify – without adversary briefing by counsel – which pro se petitions do and do not set forth "inaccurate facts." (CDAA Amicus 15.) CDAA's confidence in the ability of the courts to identity ground truth sua sponte is unwarranted and, more importantly, is inconsistent with the Legislature's determination that only the defendant's prima facie case be tested at this point. Only after it has heard from counsel for both sides is the court entitled – and able – to determine with confidence whether the facts stated in the petition are inaccurate. (RBM 25-27.)

D. *CDAA identifies false economies, not real ones*

CDAA's fears of unnecessary consumption of court resources are overblown. (CDAA Amicus 9, 14-15.) They are largely answered at RBM 31-33. CDAA fears section 1170.95 petitions may take months or years to resolve. The minimum sentence for first-degree murder is 25 years to life. Surely it is worth quite a few months of litigation to be sure that a sentence of that length is proportionate to the defendant's culpability, which is the question presented by a section 1170.95 petition.

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4. Mr. Lewis was not charged with felony murder, so this case does not require the Court to address the relationship between section 1170.95 and *Banks* and *Clark*, an issue that has divided the Courts of Appeal. The Court has granted review in several such cases and is holding them pending *Lewis*.

(See Stats. 2018, ch. 1015, § 1 [uncodified findings].) Meritless petitions are more likely to take a long time to litigate if they are denied without counsel and then are appealed, with counsel appointed for the first time in the Court of Appeal. Prompt appointment of counsel in the superior court is likely to result in prompt denial of a meritless petition on grounds not realistically subject to challenge on appeal. (CACJ Amicus 18-19; Skinner Amicus 29.)

Unsurprisingly, superior courts venturing sua sponte beyond the pro se petition into the record of conviction have made errors that would have been easily avoidable had counsel for both parties guided the court's review of the record of conviction. But the delay and expense of appellate review has been required to correct them. Some such cases are cited at OBM 32-36 and 56. CACJ points out that the few cases cited there are "really just the tip of the iceberg." (CACJ Amicus 19.) In a number of the cases CACJ cites, once the Court of Appeal appointed counsel for the defendant, the Attorney General was required to confess error. (CACJ Amicus 20-22.) CDAA's interpretation of the statute would insure that proceedings to correct such avoidable errors will continue to consume the time of the Courts of Appeal and appellate counsel.

While CDAA is concerned about excessive consumption of court resources, it interprets the statute to make unnecessary work for its own members. Subdivision (c) unambiguously requires the prosecutor to file a written response within 60 days after the defendant serves the petition on the prosecutor. Yet, by

CDAA's reading, the filing of the petition, which can be assumed to occur about the same time as it is served, triggers a sua sponte duty on the part of the court to examine the record of conviction. The court and the prosecutor must simultaneously and independently retrieve a record of conviction that is likely to be in offsite storage. The prosecutor's effort will have been wasted if, as CDAA would permit, the court dismisses the petition sua sponte on day 59, while the prosecutor is polishing her response for filing on day 60. (See *People v. Cooper* (2020) 54 Cal.App.5th 106, 120-122, *petn. for review granted & held*, No. S264684; *People v. Tarkington* (2020) 49 Cal.App.5th 892, 920 (dis. opn.), *pet'n for review granted & held,* No. S263219; Skinner Amicus 29, 32.) By contrast, under Mr. Lewis's interpretation, the prosecutor knows that the court will not act on the petition until after her response is filed.

E. *The applicable law has changed, so the decision on direct appeal does not constitute law of the case*

Contrary to CDAA's assertion, the doctrine of law of the case does not require or even permit a superior court considering a section 1170.95 motion to rely on the record of conviction prior to appointment of counsel for the defendant. (CDAA Amicus 7.) The doctrine of law of the case does not apply "where the controlling rules of law have been altered or clarified" more recently than the prior appellate decision at issue. (*People v. Ramos* (1984) 37 Cal.3d 136, 146.) Senate Bill 1437 changed the substantive law of murder.

Looked at another way, the doctrine of law of the case does not apply because the section 1170.95 court is deciding a different question than the prior appellate court. The Court of Appeal, in affirming a defendant's conviction prior to 2019, by definition did not apply the law as it was changed in Senate Bill 1437. The prior appeal therefore did not decide the question presented by the section 1170.95 petition: whether the defendant's conviction is consistent with the amended law. It could not have established law of the case on the latter question.

The one question that is never presented by a section 1170.95 petition is the sufficiency or persuasiveness of the trial evidence when measured against the *old* law. That question was decided against the defendant at trial, or he would not have been convicted and would not be eligible to – or have any reason to – file a section 1170.95 petition in the first place. The section 1170.95 petition is tested only against the *new* law. At the subdivision (c) stage, it is tested against the new law under a prima facie standard, viewing whatever the defendant chooses to proffer – whether presented at trial or not – in the light most favorable to the defendant.

People v. Palacios (2020) 58 Cal.App.5th 845, 859, appears to state the contrary proposition, but does so by misreading section 1170.95 in a way that would gut the statute. Subdivision (a)(3) requires the defendant to make a prima facie case that he "could not be convicted" under the new law. Without citation of authority, *Palacios* says instead that a defendant must show that he "*was* not convicted" on a permissible theory at his pre-2019

trial. (Emphasis added.) *Palacios* measures the latter proposition not by the facts in the light most favorable to the defendant but by the mere sufficiency of the prosecution's trial evidence to go to the jury. *Palacios* would leave section 1170.95 with almost no room to operate.

The doctrine of law of the case has no application to the present issue.

F. *The Legislature enacted a different procedure in section 1170.95 than in other remedial statutes*

CDAA, like respondent, attempts to draw analogies to the procedures specified in sections 1170.18 and 1170.126 (Propositions 36 and 47), and the procedures adopted by this Court for habeas corpus petitions. (CDAA Amicus 13-14.) The analogies fail, because the Legislature enacted a different procedure in section 1170.95. The procedures under sections 1170.18 and 1170.126 and for habeas corpus are inconsistent with the text of section 1170.95, so they cannot be followed here. (OBM 30-31, 50-51; RBM 14-15, 36-37; Skinner Amicus 37-38; CACJ Amicus 16-17.)

While the Court relied on a similarity between section 1170.95 and the remedies provided in Propositions 36 and 47 in *People v. Gentile* (2020) 10 Cal.5th 830, 852-854, the reasoning of *Gentile* does not speak to the issue presented by this case. Under all three statutes, relief cannot be granted in the first instance on appeal from the conviction, because entitlement to relief is not automatic based on the nature of the conviction, but may depend

on factual determinations that cannot be made on the appellate record alone. The Court in *Gentile* did not have occasion to discuss what is *different* in the three statutes: the specific procedure that the superior court is to follow in considering a petition for relief. It would be improper for the Court to require or permit the superior courts to adopt procedures that do not conform to the text or history of section 1170.95, merely because those procedures would be permissible or required in cases arising under Proposition 36 or 47. (OBM 50-51; RBM 36-37.)

G. *Summary*

The text and history of section 1170.95 indicate that the Legislature intended appointment of counsel to precede review of the record of conviction, not the other way around. The Legislature directed that the superior courts err on the side of appointing counsel, not denying counsel. Counsel are likely to identify some petitions that are potentially meritorious, even though they might not appear so to a court reviewing the record of conviction, or some part of it, sua sponte. Conversely, in other cases defense counsel can confirm for the court that, even with zealous advocacy, there is no realistic way for the defendant to plead a prima facie case. (Skinner Amicus 39-41.)

The superior court did not appoint counsel for Mr. Lewis, so it was error for the superior court to deny his petition based on sua sponte review of the record of conviction.

* * * * *

2. Mr. Lewis is entitled to prevail whether subdivision (c) requires one prima facie case or two

Courts and advocates differ over whether subdivision (c) requires a defendant to plead only one prima facie case, or to plead two different prima facie cases sequentially. This subsidiary question may be merely semantic and in any event is not dispositive of the questions on which this Court granted review. (RBM 10-11.) Whether there is one prima facie case or two, the courts below erred by denying Mr. Lewis's petition without appointing counsel for him.

Mr. Lewis and respondent agree that subdivision (c) requires the defendant sequentially to plead two different prima facie cases. (OBM 17; ABM 27.) The court below agreed. (*People v. Lewis* (2020) 43 Cal.App.5th 1128, 1140.) Although Mr. Lewis, like respondent and the Court of Appeal, finds two separate stages in subdivision (c), he disagrees with them on the answers to the questions on which this Court has granted review.

By contrast, some Courts of Appeal have read subdivision (c) to describe only a single prima facie case. (E.g., *Cooper,* 54 Cal.App.5th at pp. 118-123.) Senator Skinner also identifies only a single prima facie case. (Skinner Amicus 29-31.) CDAA says without elaboration that there are two steps. (CDAA Amicus 8.)

All appear to agree that the court must examine the petition twice. The first review is to decide whether to appoint counsel, so there is necessarily no right to counsel before this review. Mr. Lewis's briefs assign this review to the first sentence of subdivision (c). (OBM 16-17; RBM 11.) Senator Skinner assigns

it to subdivision (b)(2). (Skinner Amicus 25, 30-31; see also CACJ Amicus 10-11.) But we agree on what matters: the grounds for dismissal without counsel are limited to those specified in subdivision (b)(2); a dismissal without counsel must be without prejudice (subd. (b)(2)); and only the petition – not the record of conviction – may be examined at this stage prior to the appointment of counsel.

Prior to appointing counsel, the court may fill in missing information sua sponte, in order to allow the petition to go forward. (Subd. (b)(2).) This is a specific application of the general rule that pro se filings are to be construed liberally in the pro se litigant's favor. (See, e.g., *Estelle v. Gamble* (1976) 429 U.S. 97, 106.) There is no comparable provision in the statute allowing the court, sua sponte or prior to appointing counsel, to locate *contradictory* information in order to dismiss a pro se petition despite its facial sufficiency. And subdivision (b)(2) makes clear that a denial at this stage must be without prejudice and the defendant must be so advised. That is not what happened to Mr. Lewis.

Whether it is called the second stage or the only stage, the examination of the record of conviction to determine whether to issue an order to show cause can only occur after counsel has been appointed.

If subdivision (c) sets forth only a single review of the defendant's prima facie case, it is plain from the text of the subdivision as a whole that the defendant is entitled to counsel before the court conducts that review. Mr. Lewis's petition was denied with-

out appointment of counsel, so if there is only one step the courts below necessarily erred. (Section III of Senator Skinner's amicus brief, pages 41-44, citing *People v. Drayton* (2020) 47 Cal.App.5th 965, concerns the review of the record of conviction after counsel is appointed, a stage that Mr. Lewis's case never reached.)

If the first and last sentences of subdivision (c) set forth two distinct prima facie cases that the defendant must plead, the plain words of the first sentence state that the first step is limited to review of the petition alone. The courts below looked beyond the petition at the first step, so they necessarily erred. If there are two prima facie cases, Mr. Lewis never had a chance to plead the second one because the courts below erroneously held that he failed to plead the first one.[5/]

Whether the statute requires one prima facie case or two, Mr. Lewis is entitled to reversal and remand.

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5. If there are two separate prima facie cases in subdivision (c), the distinction is between a prima facie case that the defendant "falls within the provisions" of section 1170.95 and a prima facie case that he is "entitled to relief." No one asserts that "entitled" means something different than "eligible," a word that appears elsewhere in the statute but not in subdivision (c). (See *Cooper*, 54 Cal.App.5th at pp. 119-120 [treating the two words as synonymous]; Skinner Amicus 35-36 [same].) The Court's first question for review uses the phrase "eligibility for relief." If there are two separate prima facie cases, the Court's question refers to the second one, which the courts below never permitted Mr. Lewis to reach.

3. Mr. Lewis had a right to counsel prior to the superior court's review of the record of conviction

A. *CDAA overlooks the right to counsel*

CDAA barely mentions the reference to counsel for the defendant in subdivision (c), or the reasons why the Legislature could appropriately conclude that the superior court, as well as the defendant, will benefit from the assistance of defense counsel when it reviews the record of conviction. (OBM 32-37, 40, 54-55.)

The Court's order granting review included two questions, one concerning the record of conviction and one concerning appointment of counsel. (Quoted in full at OBM 9.) "The two issues on which the Court granted review are closely related: At any stage at which the superior court may consider the record of conviction, the defendant is entitled to counsel. Conversely, once the defendant has the assistance of counsel – but not before – the court may, with the benefit of adversary briefing, consider the record of conviction." (OBM 13.)

CDAA chooses to address only the first question, concerning the record of conviction. (CDAA Amicus 3.) Its analysis is deficient because of its narrow focus; failure to consider the importance of counsel to the statutory process leads CDAA astray. For instance, CDAA cites *People v. Nguyen* (2020) 53 Cal.App.5th 1154, for the proposition that the court can deny a section 1170.95 petition based on evidence found in a preliminary hearing transcript. (CDAA Amicus 10.) The court in *Nguyen* did so only *after* appointing counsel and considering a pleading filed by counsel. (53 Cal.App.5th at pp. 1161-1162.) That holding does

not support denial of relief to Mr. Lewis, for counsel was never appointed for him. With the benefit of adversary briefing, the superior court can consider the preliminary hearing transcript, like anything else in the record of conviction, if it is relevant. But prior to appointment of counsel, the court cannot, for a preliminary hearing transcript is unlikely to reflect the defendant's prima facie case. (*Cooper*, 54 Cal.App.5th at pp. 123-124; contra, *People v. Falcon* (2020) 57 Cal.App.5th 272, 277, *petn. for review pending*, No. S266041.)

CDAA accurately recognizes that "[t]ypically" a section 1170.95 petition includes no case-specific facts or brief on the law. (CDAA Amicus 6.) A self-represented, incarcerated litigant cannot reasonably be expected to provide those things to the court, especially if he is told by a credible authority that he does not need to do so. (OBM 58-59; Skinner Amicus 13-15, 19-20.) But some courts say they are mandatory in order to avoid summary dismissal. (E.g., *People v. Nuñez* (2020) 57 Cal.App.5th 78, 89, *petn. for review granted & held,* No. S265918; contra, *Cooper*, 54 Cal.App.5th at p. 126.) That is precisely why the defendant needs counsel, and why the Legislature specified that he is entitled to counsel before there is any possibility of summary dismissal. (See ACLU Amicus 20-22.)

B. *Mr. Lewis joins in the arguments of the other amici supporting his right to counsel*

Mr. Lewis joins in the arguments in support of the right to counsel at ACLU Amicus 9-30, CACJ Amicus 13-22, and Skinner

Amicus 16-24. It bears emphasis that a section 1170.95 petition challenges the defendant's conviction, not merely his sentence, and that section 1170.95 does not create a discretionary procedure. (OBM 30; RBM 23-24; cf. *People v. Frazier* (2020) 55 Cal.App.5th 858, 868 [no right to counsel on discretionary recall of sentence under § 1170; distinguishing §1170.95], *petn. for review pending*, No. S265660.)

In particular, the argument for a constitutional right to counsel in Mr. Lewis's opening brief was based on the Sixth Amendment and the counsel clause of Article I, section 15, of the California Constitution. (OBM 27-31.) Mr. Lewis now joins in the additional argument proffered by the ACLU, that he is also entitled to counsel under the due process clauses of the 14th Amendment and Article I, section 15 of the California Constitution. (ACLU Amicus 25-29.)

C. *Denial of counsel was not harmless error*

Even if the right to counsel on a section 1170.95 petition is statutory and not constitutional, denial of counsel was not harmless error. (OBM 43-45; RBM 33-34; *People v. Lightsey* (2012) 54 Cal.4th 668, 698-701 [denial of statutory right to counsel for § 1368 competency hearing was structural error].)

More recently than the principal briefs, *People v. Daniel* (2020) 57 Cal.App.5th 666, 674-676, *petn. for review pending*, No. S266336, held that the denial of counsel on a section 1170.95 petition may be harmless under the standard of *People v. Watson*

(1956) 46 Cal.2d 818, 836. *Daniel* distinguished *Lightsey* because the competency hearing was more like a trial than was the section 1170.95 petition. (2020 Cal.App. LEXIS 1111 at p. *12.) For the reasons stated at OBM 43-44, complete denial of counsel in a section 1170.95 proceeding is more like complete denial of counsel in a section 1368 proceeding than the *Daniel* court acknowledges.

In *Daniel*, the jury was not instructed on either felony murder or natural and probable consequences. It may be tempting to agree with the Court of Appeal that denial of counsel to Daniel was harmless because there was nothing counsel could have done to make a prima facie case under section 1170.95. (See also *Tarkington,* 49 Cal.App.5th at p. 899 [unquestioned that Tarkington was the sole perpetrator].) The problem with this reasoning is that it is impossible to draw a clear and enforceable line between cases like *Daniel* and *Tarkington* on the one hand and the present case on the other hand, in which the courts below relied on vigorously-disputed propositions of fact to conclude erroneously that there was nothing counsel could do to make a prima facie case for Mr. Lewis. There will be gray-area cases in which it is impossible to know what counsel might have been able to find and argue, unless counsel is actually appointed. RBM 25-27 explains why this reasoning should not be relied upon to limit the right to counsel. It follows that it should not be relied upon to find the denial of counsel harmless.

Even if this Court, like the Court of Appeal in *Daniel*, leaves open the possibility of harmless error, the error was not harmless in this case. Counsel could have assisted Mr. Lewis in

making a prima facie factual case that his conviction for murder rests on now-forbidden natural and probable consequences reasoning. (OBM 35-36.)

* * * * *

CONCLUSION

The decisions of the Court of Appeal and the superior court should be reversed. The superior court should be directed to appoint counsel for Mr. Lewis and thereafter to proceed in the manner prescribed by section 1170.95.

Respectfully submitted January 16, 2021.

/s/ *Robert D. Bacon*
ROBERT D. BACON
Attorney for Appellant

CERTIFICATE OF BRIEF LENGTH
(Rule 8.520(c)(1))

This brief contains **4,682** words.

I certify under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

/s/ *Robert D. Bacon*
ROBERT D. BACON

DECLARATION OF SERVICE BY MAIL & E-MAIL

I am over the age of 18 years and not a party to this case. My business address is: PMB 110, 484 Lake Park Avenue, Oakland, California 94610; bacon2254@aol.com.

On January 16, 2021, I served **APPELLANT/PETITIONER'S REPLY TO BRIEFS OF AMICI** by placing a true copy thereof in an envelope addressed to each of the persons named below at the addresses shown, and by sealing and depositing the envelope in the U.S. Mail at Oakland, California, with postage fully pre-paid. There is delivery service by U.S. Mail at each of the places so addressed, and there is regular communication by mail between the place of mailing and each of the places so addressed.

Clerk of the Superior Court
[ATTN: Hon. Ricardo Ocampo]
200 W. Compton Blvd.
Compton, CA 90220

Mr. Vince Lewis, AL6235
Substance Abuse Treatment Facility
P.O. Box 5248
Corcoran, CA 93212

On the same day, I also served the same document on each of the persons named below by attaching a PDF copy to an E-mail addressed as indicated:
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I declare under penalty of perjury that the foregoing is true and correct. Signed on January 16, 2021, at Oakland, California.

/s/ Robert D. Bacon