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**In the Supreme Court of the State of California**

In re R.P., a Person Coming Under the  
Juvenile Court Law.

Case No. S230923

**THE PEOPLE OF THE STATE OF  
CALIFORNIA,**

SUPREME COURT  
**FILED**

DEC 17 2015

Plaintiff and Respondent,

v.

Frank A. McGuire Clerk

R.P.,

Deputy

Defendant and Appellant.

First Appellate District, Division One, Case No. A144149  
Alameda County Superior Court, Case No. SJ14023676  
The Honorable Leopoldo E. Dorado, Judge

**ANSWER TO PETITION FOR REVIEW**

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## ISSUE

Whether an electronic search condition of probation is statutorily unreasonable in the disposition of a minor's residential burglary case.

## STATEMENT

The procedural and factual background is drawn from the opinion of the Court of Appeal (241 Cal.App.4th 676):

In February 2014, when he was almost 18 years old, Ricardo and two adults broke into two homes in San Jose. They were chased out of the first home before they could take anything. A few hours later, they stole costume jewelry from the second home, and all three were soon apprehended.

Several months later, the Santa Clara County District Attorney filed a petition under Welfare and Institutions Code section 602, subdivision (a) seeking to have Ricardo declared a ward of the court. The petition alleged two felony counts of first degree burglary. After Ricardo admitted the petition's allegations, the case was transferred to Alameda County for disposition.

At the dispositional hearing, the juvenile court declared Ricardo a ward of the court and placed him on probation with various conditions. These included conditions prohibiting him from using or possessing controlled substances, associating with people he "know[s] to use, deal[,] or possess illegal drugs," and having any contact with the two adult co-participants in the burglaries. Additional conditions were imposed to facilitate monitoring of Ricardo's compliance with the terms of his probation. These included conditions requiring him to submit to drug testing and to "[s]ubmit person and any vehicle, room[,] or property, electronics including passwords under [his] control to search by Probation Officer or peace office[r] with or without a search warrant at any time of day or night."

(*Id.* at pp. 680-681, fns. omitted.)

## REASONS FOR GRANTING REVIEW

This court will order review “[w]hen necessary to secure conformity of decision or to settle an important question of law. . . .” (Cal. Rules of Court, rule 8.500(b)(1).) This case presents both grounds.

Petitioner contends that the electronics search condition was invalid under the tripartite test of *People v. Lent* (1975) 15 Cal.3d 481 (*Lent*). The Court of Appeal disagreed (241 Cal.App.4th at pp. 683-687), as did *In re Patrick F.* (2015) 242 Cal.App.4th 104. However, the argument that the electronics search condition violated *Lent* was upheld in *In re Erica R.* (2015) 240 Cal.App.4th 907 and *In re J.B.* (Nov. 25, 2015) \_\_\_ Cal.App.4th \_\_\_ [2015 Cal.App. LEXIS 1016]. Because those four cases were decided by the First Appellate District Court of Appeal, juvenile courts in this district have no clear guidance—indeed, no guidance at all—about the validity of this probation condition. The same is true of juvenile courts in the rest of this state. Uniformity is therefore essential.

The second ground—an important question of law—is also present. Electronic devices, particularly cell phones, play a significant role in the daily lives of this state’s inhabitants, including minors. (See *Riley v. California* (2014) 573 U.S. \_\_\_ [134 S.Ct. 2473].) To fashion an effective rehabilitative program for delinquent minors, a juvenile court must know whether, and to what extent, it can authorize the inspection of electronic devices of minors in the custody and control of the court.

Finally, petitioner asserts that the Court of Appeal’s opinion “eviscerates” *Lent*. (Pet. for Rev. at p. 8.) To the contrary, respondent submits, *In re Erica R.*, *supra*, 240 Cal.App.4th 907 and *In re J.B.*, *supra*, 2015 Cal.App. LEXIS 1016 have subverted the *Lent* test by conflating its first and third prongs. This fundamental disagreement about the *Lent* test, which will inform appellate dispositions of *all* challenges to juvenile *and* adult probation conditions, requires this court’s plenary review.

**CONCLUSION**

For the foregoing reasons, the People respectfully request this Court to grant review.

Dated: December 17, 2015      Respectfully submitted,

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## CERTIFICATE OF COMPLIANCE

I certify that the attached ANSWER TO PETITION FOR REVIEW  
uses a 13 point Times New Roman font and contains 609 words.

Dated: December 17, 2015

KAMALA D. HARRIS  
Attorney General of California

A handwritten signature in black ink, appearing to read "Ronald E. Niver". The signature is stylized with a large initial "R" and "N".

RONALD E. NIVER  
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**DECLARATION OF SERVICE BY U.S. MAIL**

Case Name: **In re R.P.**  
No.: **A144149**

I declare:

I am employed in the Office of the Attorney General, which is the office of a member of the California State Bar, at which member's direction this service is made. I am 18 years of age or older and not a party to this matter. I am familiar with the business practice at the Office of the Attorney General for collection and processing of correspondence for mailing with the United States Postal Service. In accordance with that practice, correspondence placed in the internal mail collection system at the Office of the Attorney General is deposited with the United States Postal Service with postage thereon fully prepaid that same day in the ordinary course of business.

On December 17, 2015, I served the attached **ANSWER TO PETITION FOR REVIEW** by placing a true copy thereof enclosed in a sealed envelope in the internal mail collection system at the Office of the Attorney General at 455 Golden Gate Avenue, Suite 11000, San Francisco, CA 94102-7004, addressed as follows:

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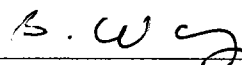
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I declare under penalty of perjury under the laws of the State of California the foregoing is true and correct and that this declaration was executed on December 17, 2015, at San Francisco, California.

\_\_\_\_\_  
B. Wong  
Declarant

\_\_\_\_\_  
  
Signature