S261747

IN THE SUPREME COURT OF THE STATE OF CALIFORNIA

THE PEOPLE,
Plaintiff and Respondent,

v.

PEDRO LOPEZ,
Defendant and Appellant.

Court of Appeal, Fifth Appellate District, No. F076295
Superior Court of Tulare County, No. VCF325028TT
Honorable Joseph Kalashian, Judge

APPELLANT'S REPLY BRIEF ON THE MERITS

Benjamin Owens
State Bar No. 244289
P.O. Box 64635
Baton Rouge, LA 70896
(707) 745-2092
bowens23@yahoo.com

Attorney for Appellant
Pedro Lopez
By appointment of the
Supreme Court

TABLE OF CONTENTS

TABLE OF AUTHORITIES

Cases

Statutes

Voter Initiatives

INTRODUCTION

In his opening brief on the merits, appellant argued that the alternate penalty provision of Penal Code[1] section 186.22, subdivision (b)(4)(B), does not apply to conspiracy to commit home invasion robbery. First, the plain language of the statute does permit such an interpretation because it expressly only applies to a person "convicted of" a listed offense and conspiracy is not listed. This Court's decision in *People v. Athar* (2005) 36 Cal.4th 396, which applied a money laundering enhancement to a conspiracy to commit money laundering in spite of the enhancement statute not mentioning conspiracy is distinguishable; the money laundering statute applied to those "punished under" listed offenses. Next, if *Athar* is controlling here it was incorrect and should not be followed. Although appellant maintained that the statutory language was clear, extrinsic evidence of the intent of the electorate and legislature also show that appellant's construction was the intended one. Finally, appellant argued that if there is ambiguity after examining this evidence, the rule of lenity requires excluding conspiracy to commit home invasion robbery from the scope of section 186.22, subdivision (b)(4)(B). This view is supported by the reasoning of Justice Kennard in her dissenting opinion in *Athar,* which appellant urges this Court to adopt as the better view than that of the majority.

---

[1] All subsequent section references are to sections of the Penal Code unless otherwise indicated.

Respondent argues to the contrary, relying on *Athar,* that the language of the conspiracy statute, section 182, requires that all enhancements and alternate penalty provisions applicable to a target offense also apply to a conspiracy to commit that offense without regard to the language of the statutes defining those provisions. The only exception to this purported rule is an express exclusion of conspiracy. Inherent in the argument is the rejection of the application of ordinary rules of statutory construction. In this way, respondent's approach would have the effect of giving section 182 an unjustifiable special status in the statutory scheme. It would also demand expanding other enhancements to conspiracies, such as the firearm enhancement of section 12022.5 that has not been read in that manner at least since 1975. This Court should reject respondent's reasoning and hold that section 186.22, subdivision (b)(4)(B), does not apply to conspiracy.

ARGUMENT

1. Penal Code section 186.22, subdivision (b)(4)(B), does not apply to a conspiracy to commit home invasion robbery because the plain language of subdivision (b)(4) excludes the possibility.

In his opening brief, appellant argued that section 186.22, subdivision (b)(4)(B), did not apply to a conspiracy to commit a listed offense because subdivision (b)(4) is expressly limited to defendants "convicted of" those offenses. (OBM 27–30.) As support, he cited *People v. Mares* (1975) 51 Cal.App.3d 1013 (*Mares*), *People v. Howard* (1995) 33 Cal.App.4th 1407 (*Howard*),

People v. Porter (1998) 65 Cal.App.4th 250 (*Porter*), and *In re Mitchell* (2000) 81 Cal.App.4th 653 (*Mitchell*). (OBM 27–29.) Respondent contends that these authorities are distinguishable, incorrect, or otherwise not persuasive. (ABM 27–32.)

Respondent argues that *Mares* is not helpful to appellant's position because the Court of Appeal did not spell out its reasoning in accepting the government's concession that the section 12022.5 firearm enhancement did not apply to a conspiracy, ordering it stricken, and suggesting that the legislature amend the statute to embrace conspiracies. (ABM 27–28; *Mares, supra,* 51 Cal.App.3d at pp. 1017, 1024.) Respondent invokes the principle that cases are not authority for propositions not considered. (ABM 28.) However, acceptance of a concession is not the same as the unquestioning application of an interpretation of the law. After all, a court is not bound to accept a concession, which implies that doing so entails an exercise of independent judgment even where the underlying reasoning is not made explicit. (*Morse v. E. A. Robey & Co.* (1963) 214 Cal.App.2d 464, 471.) Besides, the court did not just accept the concession but affirmatively indicated it had considered the issue independently by openly inviting the legislature to amend the statute. (*Mares,* at p. 1024.) Contrary to respondent's claim that it has no persuasive value, *Mares* demonstrates the reasonableness and obviousness of interpreting section 186.22, subdivision (b)(4)(B), as inapplicable to a conspiracy because subdivision (b)(4) explicitly only applies to offenses on a list that does not include conspiracy.

Respondent also argues that *Howard* and *Porter* lack persuasive value and are inapplicable. (ABM 28–29; *Howard, supra,* 33 Cal.App.4th 1407; *Porter, supra,* 65 Cal.App.4th 250.) Respondent acknowledges that the Court of Appeal in these cases discussed the amendments to Health and Safety Code sections 11370.2 and 11370.4 that made them explicitly apply to conspiracy. (ABM 29.) However, the analyses in the cases did not merely note the amendments, but clearly viewed them as making the enhancements applicable to conspiracy where they previous were not and in no way suggested they were cosmetic or unnecessary. "The addition of conspiracy to commit the enumerated drug offenses to the list of crimes that trigger the enhancement indicates an *intent to expand its application to situations previously not covered*." (*Howard,* at p. 1415, emphasis added.) "[Section 11370.2] was *changed to enhance the sentences for conspiracy as well as completed offenses*, and to permit the enhancements to be supported by prior conspiracy convictions as well as prior convictions of completed offenses." (*Porter,* at p. 253, emphasis added.)

Respondent also argues, citing *Athar,* that the legislature may have been simply been clarifying doubtful language when it amended these provisions. (ABM 30; *Athar, supra,* 36 Cal.4th at p. 405.) Respondent points to the existence of redundant amendments that apply statutes to offenses they already apply to. (ABM 30–31.) However, the legislative histories of Health and Safety Code sections 11370.2 and 11370.4 show that this is not the case. (OBM 47–49.) Respondent adds that the legislature was

simply wrong if it intended the amendments to be substantive because section 182 makes enhancements applicable to conspiracies. (ABM 30; *Athar,* at p. 405.) However, that is essentially the whole question here and to merely assert that conclusion does not help resolve it.

Respondent would distinguish *Mitchell* on the basis that the credit limitation of section 2933.1 is not punishment and so the case's holding is consistent with respondent's preferred construction of section 182. (ABM 32; *Mitchell, supra,* 81 Cal.App.4th 653.) But *Mitchell* did not distinguish section 2933.1 on this basis. (*Mitchell,* at p. 657.) Appellant maintains that its reasoning is thus equally applicable here.

2. In spite of the language of *Athar,* section 182 by itself does not compel applying section 186.22, subdivision (b)(4)(B), to a conspiracy to commit home invasion robbery.

2.1. *Athar* is distinguishable

Appellant argued in his opening brief that the plain language of section 182 does not by itself require applying section 186.22, subdivision (b)(4)(B), to conspiracy. He maintains *Athar* is distinguishable. (OBM 31; *Athar, supra,* 36 Cal.4th 396.) This is so because the money laundering statute it considered (§ 186.10, subds. (a), (c)) applies to those "punished under" listed statutes, whereas the gang alternate penalty provision applies to those "convicted of" specified offenses (§ 186.22, subd. (b)(4)). (OBM 31; see *Athar,* at pp. 401, 405; *id.* at pp. 408–409 (dis. opn. of Kennard, J.).)

Respondent disagrees, citing *Ruiz, Villela,* and *Vega* for the proposition that the distinction between "punished under" and "convicted of" is an empty one and maintains that *Athar* controls. (ABM 21–23, 25, 35–36; *People v. Ruiz* (2018) 4 Cal.5th 1100; *People v. Vega* (2005) 130 Cal.App.4th 183; *People v. Villela* (1994) 25 Cal.App.4th 54.) But the reliance on these cases is misplaced. None of them considered an enhancement but instead involved the direct consequences of the target offense of the conspiracy. (*Ruiz,* at pp. 1103–1104 [fees for narcotics offense convictions]; *Vega,* at p. 194 [same]; *Villela,* at pp. 60–61 [narcotics registration requirement].)

Respondent would paper over this distinction by describing section 186.22, subdivision (b)(4)(B), as providing the punishment for "gang-related home invasion robbery." (ABM 16, 20–21, 23–24, 36.) However, there is no such offense. (*People v. Jones* (2009) 47 Cal.4th 566, 576 [alternate penalty provision does not define a substantive offense].) Therefore, contrary to respondent's argument, the alternate penalty provision is not the same as a punitive measure that is the direct consequence of the target felony.

2.2. If *Athar* is not distinguishable, it should not be followed here.

Respondent also rejects appellant's criticisms of *Athar*. (ABM 37–42.) First, as to the point that *Mitchell*'s reasoning is contrary to *Athar*'s, respondent asserts again that the credit limitation was not punishment so its holding is consistent with *Athar*. (ABM 37; OBM 31–32; § 2933.1; *Mitchell, supra,* 81 Cal.App.4th 653.) However, as appellant has emphasized, the reasoning of *Mitchell* did not rely on this distinction and appellant maintains it is correct. (*Mitchell,* at p. 657.) In arguing against following *Mitchell*, respondent asserts, "The punishment statute for each crime need not expressly mention the crime of conspiracy in order for its punishment to apply to a conspiracy to commit that crime." (ABM 37.) Appellant agrees and he advances no such sweeping claim. Nor can *Mitchell,* which explicitly acknowledged that section 182 generally requires a conspiracy be

punished in the same manner as its target offense, fairly be read to imply such a requirement. (*Mitchell,* at p. 657.)

Respondent argues that *Kirby* is not helpful to appellant's argument because its statutory construction revolved around the definition of punishment. (ABM 38; *People v. Superior Court (Kirby)* (2003) 114 Cal.App.4th 102.) Respondent is correct that the case was concerned with whether probation ineligibility was punishment. (ABM 38.) However, the court also engaged in an alternative analysis that is highly relevant here.

The defendant in *Kirby* was convicted of conspiracy to pimp and conspiracy to pander and granted probation. (*Kirby, supra,* 114 Cal.App.4th, at p. 103; §§ 182, subd. (a), 266h.) The government sought a writ of mandate to require the trial court to reverse the grant of probation on the grounds that section 1203.065 made the defendant ineligible. (*Kirby,* at p. 104.) Under the terms of that statute, a pimping or pandering conviction triggered ineligibility but it was silent as to conspiracy. (*Id.* at p. 105.) The government argued that probation ineligibility was punishment and therefore section 182 made section 1203.065 applicable to the defendant. (*Ibid.*) The Court of Appeal rejected this argument. (*Id.* at p. 107.)

In the alternative, *Kirby* considered the applicability of the ineligibility provision *assuming* that it was punishment. (*Kirby, supra,* 114 Cal.App.4th, at p. 106.) It noted that in other statutes the legislature had explicitly stated that probation ineligibility applied to conspiracy. (§ 1203, subds. (e)(1), (e)(5); *Kirby, at p.* 106.) Interpreting section 1203.065 to extend to conspiracies

would both add new language to that statute while negating language in section 1203. (*Kirby,* at p. 106.) This would violate the rule of statutory construction that courts "'presume the Legislature intended everything in a statutory scheme, and we should not read statutes to omit expressed language or include omitted language." [Citation.]" (*Kirby,* at p. 106.)

In the instant case, section 186.22, subdivision (b)(4), plays the role that section 1203.065 did in *Kirby*, while Health and Safety Code sections 11370.2 and 11370.4 play the role of section 1203. Section 182 plays itself. Additional imprisonment (technically, a minimum period of parole ineligibility) takes the place of probation ineligibility. Interpreting section 186.22, subdivision (b)(4)(B), to apply to conspiracies would simultaneously add language to that statute while rendering surplusage language in Health and Safety Code sections 11370.2 and 11370.4. This should be rejected just like the parallel interpretation urged by the government in *Kirby*. (*Supra,* 114 Cal.App.4th, at p. 106.)

Appellant argued in the opening brief that applying *Athar* in the instant case would be contrary to *Hernandez*. (OBM 36–37; *People v. Hernandez* (2003) 30 Cal.4th 835; *Athar, supra,* 36 Cal.4th at p. 404.) The instant case and *Hernandez* both involved an alternate penalty provision expressly applicable to certain listed offenses. (OBM 36; § 190.2, subd. (a); *Hernandez,* at p. 865.) If *Athar* applies to the plain language here it certainly does to the language in *Hernandez*. It is true, as appellant acknowledged and discussed, that *Hernandez* involved weighty constitutional

concerns not presented here or in *Athar*. (OBM 36; *Hernandez,* at p. 865; *Athar,* at p. 404.) But those concerns would have permitted reforming or otherwise conforming the statute to the constitution, not ignoring the plain language. (See *Kopp v. Fair Pol. Practices Com*. (1995) 11 Cal.4th 607, 693.) Instead, *Hernandez* explicitly found that the plain language did not compel applying section 190.2 to conspiracy. (*Hernandez,* at p. 865.) Respondent disputes this. (ABM 40.) But even if it did not, by construing the statute the way it did, *Hernandez* impliedly found that the plain language did not compel the treatment given to the enhancement statute in *Athar*. In this way, applying *Athar* in the instant case would be inconsistent with *Hernandez*.

Respondent contends that appellant misinterprets *Ruiz* in not recognizing that it approvingly cited *Athar*'s language about punishment not being limited to the base term. (ABM 42; *Ruiz, supra,* 4 Cal.5th at p. 1107; *Athar, supra,* 36 Cal.4th at p. 405.) But it remains the case that *Ruiz* did not concern an enhancement and therefore is not helpful in the present case. It did not extend *Athar* in any meaningful way. *Villela* similarly did not involve an enhancement and therefore does not support respondent's argument. (ABM 43; *Villela, supra,* 25 Cal.App.4th at pp. 57–61.)

Respondent suggests that even if *Athar* were limited it should still apply to section 186.22, subdivision (b)(4)(B), because the subdivision provides for "an alternate penalty provision," not an enhancement. (ABM 44.) However, as noted above an alternate penalty provision does not define an offense any more than an

enhancement does so this argument should be rejected. (*Jones, supra,* 47 Cal.4th at p. 576; *Hernandez, supra,* 30 Cal.4th at p. 845.)

Respondent finally contends that interpreting section 182 to not apply to section 186.22, subdivision (b)(4)(B) would create an complex situation where many factors would have to be considered in determining whether a "punishment statute" applied to conspiracy. (ABM 44.) These considerations would include whether the wording included "punished under" or "convicted of," and when the statute was enacted in relation to the publication of case law. (ABM 44.) In contrast, respondent's construction would be simple and straightforward to apply. (ABM 44.) However, all appellant is urging is the consistent application of ordinary rules of statutory construction. And in any case respondent's approach does not remove complexity from the analysis of penal statutes in connection with conspiracy. For instance, section 186.22, subdivision (b)(1)(C), expressly applies a 10-year enhancement for anyone convicted of a "violent felony, as defined in subdivision (c) of Section 667.5," where the gang enhancement elements have also been satisfied. Under appellant's approach, this clearly does not apply to a conspiracy to commit a violent felony. It might under respondent's interpretation because subdivision (b)(1)(C) does not expressly state it does not apply to conspiracy. Yet the question cannot be so easily resolved given the legislature and electorate have clearly decided that conspiracies to commit violent felonies are

not generally subject to the same sanctions as those felonies. (§ 667.5, subd. (c); *Mitchell, supra,* 81 Cal.App.4th at p. 657.)

3. Extrinsic evidence demonstrates the electorate's and legislature's intent to exclude conspiracies from the application of section 186.22, subdivision (b)(4)(B).

Appellant argued in the opening brief that if there is ambiguity in the application of section 186.22, subdivision (b)(4)(B), to conspiracies, extrinsic evidence of the intent of the electorate and legislature compels his proposed construction. This evidence is found in the text of Proposition 21 and the ballot pamphlet materials addressing it, case law interpreting similar language in other statutes and the legislative history of the same statues, and in the legislative history of section 182. (OBM 41–50.) Respondent argues that these materials do not support appellant's construction, which would be contrary to the purpose of Proposition 21 if adopted. (ABM 45.)

As to the text of Proposition 21, appellant argued that the conspicuous references to conspiracy suggest that the omission of a reference to it in the gang penalty provision was deliberate. (OBM 41–42.) Even if the language on its own did not require this conclusion, it in no way supported the contrary reading of the statute as intended to apply to conspiracy. (OBM 42.) Respondent's counterargument is largely that section 182 made it unnecessary to mention conspiracy in that context. (OBM 46–50.) Specifically, it was necessary to mention conspiracy in amending the definition of a "pattern of criminal gang activity" in section 186.22, subdivision (e), creating the gang conspiracy offense of

section 182.5, and in amending the list of serious felonies in section 1192.7, subdivision (c), to include conspiracies. However, mention of conspiracy in connection with section 186.22, subdivision (b)(4)(B), was not required because section 182 already made the provision applicable to conspiracies. Appellant would point out that this argument is predicated on an the assumption that *Athar* is determinative, which of course would render any examination of extrinsic evidence superfluous.

It should also be noticed that respondent argues section 1192.7 already applied to conspiracy and therefore the amendment was only to avoid confusion and not for substantive effect. (ABM 47–48.) Furthermore, the amendment was necessary because of the myriad nonpunitive effects of a serious felony designation, which the electorate could not rely on section 182 for. (ABM 48–49.) Again, this argument is founded on the assumption that *Athar*'s construction of section 182 is controlling. But the starting place of appellant's examination of the text of Proposition 21 was that there is ambiguity in the statutory scheme. In this way, respondent's argument does not really address appellant's claims.

Respondent's argument concerning the ballot pamphlet is similar. Essentially, there was no need to mention conspiracy because section 182 made it automatically applicable. (ABM 50.) Beyond that, respondent contends that applying appellant's analysis would require the legislature or electorate to explicitly state whether a punishment applied to conspiracy or attempt. (ABM 51.) This is not so. The instant case concerns a narrow

issue regarding specific language in an enhancement statute. Particularly, the issue really only arises when it involves an enhancement that expressly only applies to persons convicted of specified offenses.

Appellant argued in his opening brief that *Mares, Porter, Howard, Mitchell,* and the legislative history of Health and Safety Code sections 11370.2 and 11370.4 would have informed the electorate as to how the language of section 186.22, subdivision (b)(4), would be interpreted. (OBM 45–46; *Mares, supra,* 51 Cal.App.3d 1013; *Howard, supra,* 33 Cal.App.4th 1407; *Porter, supra,* 65 Cal.App.4th 250; *Mitchell, supra,* 81 Cal.App.4th 653.) Respondent argues that these authorities would not have provided guidance, which appellant addresses above. (ABM 53.) Beyond that, however, respondent argues that the cases were mistaken to the extent they "hold or suggest that a punishment provision for an offense, including an enhancement provision, does not apply to a conspiracy to commit that offense unless the provision expressly says so, … ."[2] (ABM 53.) As appellant has already discussed, his argument is not that broad. Moreover, for purposes of determining their effect on the electorate's intent, the correctness of these decisions and legislative judgments is irrelevant. There is absolutely no basis for the notion that the electorate somehow conducts an

[2] Respondent would have this court overrule the 45-year-old decision in *Mares* so that section 12022.5 can be applied to conspiracy. (ABM 28; *Mares, supra,* 51 Cal.App.3d 1013.)

independent analysis of relevant cases or legislative history and then only pays attention to the "correct" ones.

Respondent does acknowledge that neither the text of Proposition 21 nor the ballot pamphlet show an affirmative intent that section 186.22, subdivision (b)(4)(B), apply to a conspiracy. (ABM 51.) But respondent claims that a contrary reading would defeat the purpose of the initiative. (ABM 33–35; 51–52.) It is important here to observe that this argument proves too much. For example, the initiative did not make the 10-year enhancement of section 186.22, subdivision (b)(1)(C), applicable to conspiracies to commit violent felonies, although that would defeat the purpose of the statute by respondent's logic. (To the extent that respondent might contend that the 10-year enhancement applies to conspiracy, appellant obviously disagrees.) Thus, the argument ignores that Proposition 21 did not in general maximize punishment nor apply its harshest provisions in the most expansive fashion.

Respondent argues that "punishment" in the conspiracy statute must include offense specific enhancements in spite of the fact that no such enhancements existed when the modern language of section 182 was first enacted. (ABM 54–55.) Respondent cites *Hernandez* to support this. (*Hernandez, supra,* 30 Cal.4th 835.) But *Hernandez's* discussion of the conspiracy statute concerned the specific provision for punishing conspiracy to commit murder, not the general provision at issue here. (§ 182, subd. (a); *Hernandez,* at pp. 864–865.) More importantly, *Hernandez* concluded that the section 190.2 special circumstance

did not apply to conspiracy to commit murder, which would seem to go against what respondent suggests is the import of the case. (*Hernandez,* at p. 870.)

Finally, appellant cited *Shull* only for its discussion of the history of enhancements. (OBM 50; *In re Shull* (1944) 23 Cal.2d 745, 750.) Respondent cites the case for its language describing an enhancement as imposing additional punishment for a felony. (ABM 55.) However, *Shull* did not address the meaning of "punishment of that felony" in the conspiracy statute or address conspiracy in any manner. (§ 182, subd. (a).) Thus, it is not helpful in that respect.

4. The rule of lenity prevents the application of section 186.22, subdivision (b)(4)(B), to a conspiracy to commit home invasion robbery.

In his opening brief on the merits, appellant discussed why the rule of lenity must apply to exclude application of section 186.22, subdivision (b)(4)(B), to conspiracies even if rules of statutory construction do not require that conclusion. (OBM 51–54.) Essentially, the statute was *at best* ambiguous. Respondent disagrees, again citing *Athar*. (ABM 55–56.)

Respondent notes that *Athar* refused to apply the rule of lenity in a situation which, like the present one, did not implicate imposition of the death penalty absent a homicide or otherwise raise concerns over the constitutionality of a punishment. (AB 56; *Athar, supra,* 36 Cal.4th at p. 404.) This is true, but was not the basis for the Court's holding given its clear finding that the statute was unambiguous; the rule of lenity has no application in

the presence of legislative clarity. (*People v. Manzo* (2012) 53 Cal.4th 880, 889; *Athar,* at p. 405.)

Respondent argues that Justice Kennard's view in her dissent in *Athar* should not be adopted. (ABM 56; *Athar, supra,* 36 Cal.4th at p. 410.) First, respondent points out that the Justice's reasoning was not followed by a majority, which of course is true. (ABM 56.) But as appellant demonstrated in the opening brief, considerations of stare decisis do not militate against adopting her reasoning in the current context. (OBM 56–57.) Also, respondent contends that *Ruiz* goes against Justice Kennard's reasoning in *Athar* because *Ruiz* found that drug lab and program fees were "punishment." (ABM 56–57; *Ruiz, supra,* 4 Cal.5th at p. 1105) What respondent does not address on this point is that a fine or fee is a direct consequence of a target offense, not an enhancement. Thus, this is an apples to oranges comparison and *Ruiz* does not shed much light on the question before this Court.

CONCLUSION

For the foregoing reasons and those stated in appellant's opening brief on the merits, this Court should hold that the 15-years-to-life alternate penalty provision of section 186.22, subdivision (b)(4)(B), does not apply to a conspiracy to commit home invasion robbery.

March 5, 2021

_____

BENJAMIN OWENS
Attorney for Appellant
PEDRO LOPEZ

CERTIFICATION OF WORD COUNT

Re: *People v. Pedro Lopez*/S261747

The attached document—Appellant's Reply Brief on the Merits—was prepared using Microsoft Word and, according to that program, contains 3,953 words, excluding the cover information, tables and signature block. The type is 13-point and one-and-a-half-spaced.

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

March 5, 2021

/s/

_____

Benjamin Owens
Attorney for Appellant
Pedro Lopez

PROOF OF SERVICE

Re: *People v. Pedro Lopez*/Ct.App. 5 S261747

My business address is P.O. Box 64635, Baton Rouge, LA 70896. My electronic service address is bowens23@yahoo.com. I am an active member of the State Bar of California (No. 244289). I am not a party to this action.

On **March 5, 2021**, I served the within **Appellant's Reply Brief on the Merits** by placing a true copy thereof in a sealed envelope, with postage thereon fully prepaid, and depositing the same in a United States Postal Service mailbox at Baton Rouge, Louisiana, addressed as follows:

Pedro Lopez CDCR # BD9812
California State Prison, Sacramento
P.O. Box 290066
Represa, CA 95671

Clerk of Court, Tulare County Superior Court
County Civic Center
221 South Mooney Boulevard
Visalia, CA 93291

Tulare County District Attorney
221 S Mooney Blvd, Rm 224
Visalia, CA 93291

PDF copies of the same document were sent the same date to the following email addresses or delivered via electronic upload:

Court of Appeal
Fifth Appellate District

Office of the Attorney General
SacAWTTrueFiling@doj.ca.gov

Central California Appellate Program
eservice@capcentral.org

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

March 5, 2021

/s/

_____
Benjamin Owens