

OCT 31 2016

Jorge Navarrete Clerk

Deputy

IN THE SUPREME COURT OF THE STATE OF CALIFORNIA

THE PEOPLE OF THE STATE OF)	
CALIFORNIA,)	
)	
PLAINTIFF AND)	
RESPONDENT,)	
)	CASE NO. S224564
VS.)	
)	
LEONEL CONTRERAS and,)	
WILLIAM S. RODRIGUEZ,)	
)	
DEFENDANTS AND)	
APPELLANTS.)	
)	

Fourth Appellate District, Division One, Case No. D063428
San Diego Superior Court, Case No. SCD236438
The Honorable Peter C. Deddeh, Judge

**WILLIAM S. RODRIGUEZ'S OPPOSITION TO
MOTION FOR JUDICIAL NOTICE**

Daniel J. Kessler, Esq. SBN 157163
KESSLER & SEECOF, LLP
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(619) 325-0795
Attorney for Appellant
William S. Rodriguez

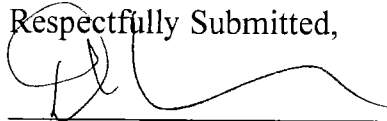
Appellant William S. Rodriguez **opposes** respondent's motion for this Court to take judicial notice of its proposed Exhibit 2, "The Board of Parole Hearings Elderly Parole Program June 16, 2014, Memorandum."

The grounds for Mr. Rodriguez's opposition are that the Memorandum does not appear to be a record of a court of this State, or a record of a court of the United States, and its facts and propositions are subject of possible dispute, and are not capable of immediate and accurate determination by resort to sources of reasonable indisputable accuracy so as to be judicially noticeable under Evidence Code section 452, subdivision (d).

Even if it is true, as respondent contends, that the unsigned Memorandum is included in the record of a case called *Plata v. Davis*, case number 3:01-cv-01351-THE, that fact does not establish that the Memorandum is a record of that unnamed court, or that its facts are readily capable of immediate and accurate determination. The Memorandum lacks authentication and contains the hearsay statements of an unknown declarant.

Dated October 27, 2016

Respectfully Submitted,



Daniel J. Kessler, Esq.
Kessler & Seecof, LLP
Attorney For Appellant
William S. Rodriguez

People v. Rodriguez, Supreme Court Case No. S224564

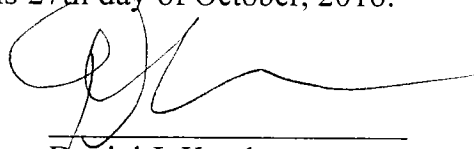
CERTIFICATE OF WORD COUNT

Pursuant to California Rules of Court, rule 8.204(c), I hereby certify that **WILLIAM S. RODRIGUEZ'S OPPOSITION TO MOTION FOR JUDICIAL NOTICE** has a word count of 297 words.

I declare under penalty of perjury that the foregoing is true and correct.

Executed in San Diego, California, this 27th day of October, 2016.

By:



Daniel J. Kessler
Attorney for Appellant
William S. Rodriguez

People v. Rodriguez, Supreme Court case no. S224564

PROOF OF SERVICE

I am an attorney in the County of San Diego, State of California. I am, and was at the time of the service hereinafter mentioned, over the age of 18 and not a party to this action. My business address is 2254 Moore Street, Suite 201, San Diego, California, 92110. On October 27, 2016, I served the following documents:

WILLIAM S. RODRIGUEZ'S OPPOSITION TO MOTION FOR JUDICIAL NOTICE

by placing a true copy thereof enclosed in a sealed envelope addressed as follows:

1. Office of the State Attorney General
600 West Broadway, Suite 1800
P.O. Box 85266, San Diego, CA 92186-5266

3. Office of the District Attorney, Appellate Division
330 W. Broadway, Suite 1300, San Diego, CA 92101

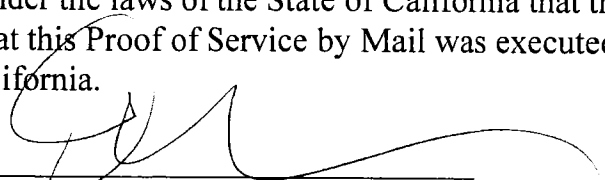
4. Hon. Peter C. Deddeh C/O Clerk of the Superior Court
220 W. Broadway, San Diego, CA 92101

5. Nancy J. King, Esq., Attorney for co-appellant Contreras
1901 First Avenue, Suite 138, San Diego, CA 92101

At that time there was regular delivery in the United States Mail between the place of deposit and the place of delivery.

I am readily familiar with the practice of Kessler & Seecof for the collection and processing of correspondence for mailing with the United States Postal Service. In accordance with the ordinary course of business, the above mentioned document(s) would have been deposited with the United States Postal Service on October 27, 2016, the same day on which it was placed at Kessler & Seecof, LLP for deposit.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct, and that this Proof of Service by Mail was executed on October 27, 2016, at San Diego, California.



Daniel J. Kessler