

ARGUMENT

I. The Records and Opinion from the Appeal Are Proper Subjects for Judicial Notice

Evidence Code section 459 provides that a “reviewing court may take judicial notice of any matter specified in Section 452.” (Evid. Code, § 459, subd. (a).) Evidence Code section 452 authorizes a court to take judicial notice of “[r]ecords of (1) any court of this state.” (Evid. Code, § 452, subd. (d).) Thus, it is proper for this Court to take judicial notice of the records of the appeal – *People v. William Milton*, Second Appellate District case number B131757 – and the opinion in the appeal. (See, e.g., *Duggal v. G.E. Capital Communications Services, Inc.* (2000) 81 Cal.App.4th 81, 86 [“records of a California court”].)

II. The Records and Opinion from the Appeal Are Relevant to the Instant Proceeding

The subject of judicial notice must also be relevant to the current proceeding. (*People v. Rowland* (1992) 4 Cal.4th 238, 268, fn. 6; Cal. Rules of Court, rule 8.252(a)(2)(A).) Here, the records from the appeal contain briefs, exhibits, and discussions pertaining to the use of petitioner’s prior Illinois convictions as strikes, which is pertinent to the issue for which this Court has granted review.¹ The opinion also addresses the use of

¹ This Court has granted review on the following question: Do the limitations of *People v. Gallardo* (2017) 4 Cal.5th 120 (*Gallardo*) on judicial-fact finding about the basis for a prior conviction apply retroactively to final judgments? (Compare *In re Milton*

petitioner's prior Illinois convictions as strikes. Moreover, both the records and opinion are relevant because they provide additional factual and procedural background regarding the instant matter.

CONCLUSION

As the records and unpublished opinion from the appeal are proper subjects of judicial notice and are relevant to the current proceeding, it is respectfully requested that this Court take judicial notice of the records and unpublished opinion from *People v. William Milton*, B131757.

Respectfully submitted,

Date: May 13, 2020

/S/ BRAD KAISERMAN

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(2019) 42 Cal.App.5th 977 (*Milton*) with *In re Brown* (2020) 45 Cal.App.5th 699 (*Brown*).

STATE OF CALIFORNIA
Supreme Court of California**PROOF OF SERVICE**STATE OF CALIFORNIA
Supreme Court of CaliforniaCase Name: **MILTON (WILLIAM) ON H.C.**Case Number: **S259954**Lower Court Case Number: **B297354**

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