In the Supreme Court of the State of California

THE PEOPLE OF THE STATE OF CALIFORNIA, **Plaintiff and Respondent,** **v.** **WILLIE OVIEDA,** **Defendant and Appellant.**

Case No. S247235

Second Appellate District, Division Six, Case No. B277860
Santa Barbara County Superior Court, Case No. 1476460
The Honorable Jean M. Dandona, Judge

RESPONDENT'S ANSWER TO AMICUS CURIAE BRIEF

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INTRODUCTION

This brief responds to the amicus brief filed by the American Civil Liberties Union Foundation of Southern California in support of defendant Willie Ovieda. The ACLU repeats many of the arguments made in Ovieda's briefing, which the People addressed in their answer brief on the merits (ABM). This brief will focus on arguments that are new or different from those presented by Ovieda. The ACLU principally objects to the standard for community caretaking searches set forth in the lead opinion in *People v. Ray* (1999) 21 Cal.4th 464, which it contends is unsupported by precedent and contrary to public policy. It also argues that the particular search in this case was unreasonable. These arguments are not persuasive.

ARGUMENT

I. THIS COURT SHOULD PRESERVE THE COMMUNITY CARETAKING DOCTRINE ANNOUNCED IN *PEOPLE V. RAY*

A. The Community Caretaking Doctrine Is Well Grounded in Precedent

The ACLU acknowledges that local law enforcement plays "an important community caretaking role" and "that this role can affect when a search or seizure" is reasonable. (ACLU Br. 24.) And it recognizes that courts may consider these principles in analyzing the constitutionality of automobile searches. (*Ibid.*) But it argues that, contrary to the lead opinion in *Ray*, community caretaking concerns may not "justify intrusion into a home without either a warrant or a legitimate exigency or emergency." (*Ibid.*)

This argument is premised on an unduly narrow reading of the United States Supreme Court's decision in *Cady v. Dombrowski* (1973) 413 U.S. 433. (See ACLU Br. 24-26; see also Reply 15-16.) In *Cady*, the Court articulated the "inventory search" exception to the Fourth Amendment's warrant requirement. Under that exception, officers may inventory the

contents of an impounded automobile and containers in the vehicle if they do so in accordance with their department's policy regarding impound inventories. (See, e.g., *Colorado v. Bertine* (1987) 479 U.S. 367, 372-376.) Neither reasonable suspicion nor probable cause is required. (See *id.*) In fashioning this exception, the Court was guided by the public and private interests implicated when police impound an automobile (see *id.* at p. 372), and it recognized the "constitutional difference between houses and cars" (*Cady*, *supra*, at p. 439, internal quotation marks omitted). But it did not consider the circumstances under which police may enter a home as community caretakers and did not foreclose the possibility that police might reasonably do so without a warrant.

The community caretaking doctrine adopted by the lead opinion in *Ray* does not simply extend *Cady*'s inventory doctrine to home entries. (See ABM 22.) Under *Ray*, law enforcement officials seeking to justify a particular warrantless entry of a home must point to "specific and articulable facts" from which they "concluded that [the] action was necessary." (*Ray*, *supra*, 21 Cal.4th at p. 477 (lead opn.).) And courts retain an important role in ensuring not only that the initial entry was justified, but also that any subsequent search was "carefully limited to achieving the objective which justified the entry." (*Ibid.*) *Ray* and *Cady* thus govern searches in different contexts and demand different showings.[1]

While *Cady* and later inventory-search cases do not foreclose the rule later adopted in *Ray*, they are still relevant to the analysis here, because

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[1] For these reasons, the State agrees with the Third Circuit's observation, noted by Professor LaFave and the ACLU (at 28), that *Ray* and other cases applying the community caretaking doctrine to home entries "do not simply rely on the community caretaking doctrine established in *Cady*." (3 LaFave, Search and Seizure (5th ed. 2018 update) § 6.6, fn. 4, quoting *Ray v. Township of Warren* (3d Cir. 2010) 626 F.3d 170, 176.)

they conclude that the standard warrant-and-probable-cause framework is "inapplicab[le]" when assessing the reasonableness of searches arising in "noncriminal" contexts. (*South Dakota v. Opperman* (1976) 428 U.S. 364, 370, fn. 5; see also *Bertine*, *supra*, 479 U.S. at p. 371; ABM 19-21, 23.) The Supreme Court reached that conclusion because the warrant-and-probable-cause framework is "peculiarly related to criminal investigations" (*Opperman*, *supra*, at p. 370, fn. 5), not because of any constitutional difference between automobiles and homes. That is why the People argued that "there is no logical basis for distinguishing homes from automobiles for purposes of determining the appropriate standard of reasonableness to govern noncriminal searches." (ABM 24.) Our argument is not that there is no constitutional difference between cars and homes (but see ACLU Br. 25; Reply 16), but only that the standard warrant-and-probable-cause framework is inappropriate when evaluating community caretaking searches in both contexts. Indeed, the People have acknowledged that the distinction between cars and homes "should bear on the determination of whether a particular community caretaking entry is reasonable." (ABM 27; see also *Cady*, *supra*, 413 U.S. at p. 440 [noting that the warrantless search of a car may be "a reasonable one although the result might be the opposite in a search of a home"].)

The ACLU takes issue with the People's discussion of Professor LaFave's Fourth Amendment treatise. (ACLU Br. 28.) The People quoted that treatise to describe the "wide variety of circumstances" in which courts have upheld entries of the home for community caretaking purposes, while acknowledging that many of the cases discussed by the treatise "hold that the need to render emergency aid justified the warrantless search." (ABM 16.) That was not a "mischaracteriz[ation]." (ACLU Br. 28; see also 3 LaFave, *supra*, § 6.6(a).) And to the extent the ACLU argues (at 29) that "all but one" of the cited cases were decided based on the exigency or

emergency exceptions to the warrant requirement, that is incorrect. Many of the cases relied expressly on the community caretaking doctrine.

For example, in *State v. Deneui* (S.D. 2009) 775 N.W.2d 221, 228, 241-242, police officers responded to a call regarding ammonia fumes near a home in a residential neighborhood and entered to "check to make sure nobody was incapacitated inside." Because "there were few facts to lead the officers to believe that someone was inside" (*id.* at p. 239), the South Dakota Supreme Court held that "the emergency doctrine and the emergency aid doctrine should not apply" (*id.* at p. 240). The court nonetheless upheld the officers' actions because the "community caretaker exception applies to the warrantless entry into this home." (*Id.* at p. 244.) Relying on *Ray* and other community caretaking cases, the court asked "whether there were sufficient reasons to act." (*Id.* at p. 239; see also *Ray*, *supra*, 21 Cal.4th at p. 477 (lead opn.) [asking whether a "prudent and reasonable officer [would] have perceived a need to act"].) The court answered that "the odor of a noxious gas," though not rising to the level of an emergency, "nonetheless merits further inquiry." (*Id.* at p. 240; see also *Ray*, *supra*, 21 Cal.4th at p. 478 (lead opn.) ["While the facts known to the officers may not have established exigent circumstances or the apparent need to render emergency aid, they warranted further inquiry to resolve the possibility someone inside required assistance or property needed protection."].)

The Supreme Courts of Wisconsin and Michigan reached similar conclusions in *State v. Pinkard* (Wisc. 2010) 785 N.W.2d 592 and *People v. Slaughter* (Mich. 2011) 803 N.W.2d 171—cases the ACLU incorrectly describes as resting on the presence of exigent or emergency circumstances (ACLU Br. 29). Both courts took care to distinguish the community caretaking doctrine from the emergency aid doctrine, and both grounded their decisions in the former. (*Pinkard*, *supra*, at p. 600, fn. 8; *Slaughter*,

supra, at pp. 186-187.) *Pinkard* observed that "[s]ome courts have mistakenly conflated the community caretaker exception and the emergency exception." (*Pinkard*, *supra*, at p. 600, fn. 8.) The difference, the court explained, is that "[t]he community caretaker exception does not require the circumstances to rise to the level of an emergency" to justify the warrantless entry. (*Ibid.*) The *Slaughter* court likewise explained why it was applying the community caretaking doctrine to the facts before it. (*Slaughter*, *supra*, at pp. 185-187.)[2]

To the extent the ACLU's argument is that the circumstances in these cases could plausibly be *described* as presenting potential emergencies, the People agree. The same could be said of the circumstances facing officers here. But it would be wrong to suggest that these courts necessarily would have upheld the warrantless entries under the exigency or emergency doctrines. To the contrary, the reasoning of *Deneui* and *Pinkard* suggests the opposite. (See, e.g., *Deneui*, *supra*, 775 N.W.2d at p. 240 ["the emergency doctrine and the emergency aid doctrine should not apply here"]; *Pinkard*, *supra*, 785 N.W.2d at p. 600, fn. 8 ["the community caretaker exception does not require the circumstances to rise to the level of an emergency"].) Similarly, in *Ray*, the lead opinion concluded that the "record fails to meet" the emergency aid standard, and upheld the search

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[2] The Eighth Circuit also continues to draw a line between the emergency aid and community caretaking exceptions. (See *Burke v. Sullivan* (8th Cir. 2012) 677 F.3d 367, 371 ["The emergency aid and community caretaker exceptions are similar in nature, but not identical."]; see also *Graham v. Barnette* (D. Minn. Dec. 14, 2018, No. 17-cv-2920) 2018 WL 6592666, *5 ["Although Graham argues that the emergency aid exception applies to the officers' entry into her home, the Court finds that the community caretaking standard is appropriate since the officers entered the home on a welfare check."].)

only because "circumstances short of a perceived emergency may justify a warrantless entry." (*Ray*, *supra*, 21 Cal.4th at p. 473 (lead opn.).)[3]

To be sure, cases applying the community caretaking doctrine to home entries lend support to the Third Circuit's observation, noted by Professor LaFave and the ACLU (at 28), that courts "apply what appears to be a modified exigent circumstances test, with perhaps a lower threshold for exigency if the officer [is] acting in a community caretaking role." (3 LaFave, *supra*, § 6.6, fn. 4, quoting *Township of Warren*, *supra*, 626 F.3d at p. 176.) As the People have explained, *Ray*'s standard for community caretaking entries resembles the test for exigent circumstances in that an "objective assessment of necessity [is] central to the reasonableness inquiry" under both tests. (ABM 34.) But the standards are not the same. Unlike the exigent circumstances doctrine, the community caretaking doctrine properly recognizes that "circumstances short of a perceived emergency" may present real dangers or problems justifying further inquiry, including warrantless entry, in certain circumstances. (See *Ray*, *supra*, 21 Cal.4th at p. 473 (lead opn.); accord *Deneui*, *supra*, 775 N.W.2d at p. 240; *Pinkard*, *supra*, 785 N.W.2d at p. 600, fn. 8.)

B. The ACLU's Policy Arguments Provide No Basis for Abandoning the Rule Adopted in *Ray*

The ACLU asserts that reaffirming *Ray* may lead to "hundreds of thousands of Californians" facing searches or seizures, undermining personal privacy. (ACLU Br. 35.) It also argues that "fear about the

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[3] *Slaughter* is less clear on this point. Although the court explained why it was applying the community caretaking doctrine and not "standards specifically applicable to emergency aid entries," the court's description of the circumstances facing the officers—"an imminent threat of fire" (*Slaughter*, *supra*, 803 N.W.2d at p. 186, fn. 59)—makes it less clear whether the court would have reached the same conclusion under the emergency aid standard.

likelihood of warrantless home entries would deter those in physical or behavioral health crisis from calling authorities for assistance." (*Ibid.*) But *Ray* was decided nearly two decades ago, and there is no indication that its recognition of the community caretaking doctrine has undermined privacy or chilled 911 calls in the way suggested by the ACLU.

More fundamentally, these policy arguments proceed from a misunderstanding of the community caretaking doctrine. The ACLU suggests that *Ray* permits police to enter a home whenever "officers face an 'emotional,' 'dynamic' or 'volatile' emergency call and assert a benevolent purpose." (ACLU Br. 44; see also *id.* at pp. 35-36, 43.) That is not what *Ray* held, nor is it an accurate characterization of the People's position here. Without question, many 911 calls present responding officers with emotional, volatile, or dynamic situations. But for the community caretaking doctrine to justify entering a home in response to such a call, an official must point to "specific and articulable facts" that "reasonably warrant [the] intrusion." (*Ray*, *supra*, 21 Cal.4th at p. 476 (lead opn.); see also ABM 34-35.) And an objective assessment of necessity remains central to the reasonableness inquiry. (ABM 34.)

It may be true, as the ACLU asserts (at 43-46), that some individuals avoid seeking public assistance because they keep illegal drugs or other contraband in their home. But such concerns provide no legitimate basis for prohibiting law enforcement officials from providing objectively reasonable assistance when they *are* called upon to do so, or when other circumstances indicate that providing such assistance is necessary to fulfill their caretaking obligations. Moreover, in theory, other exceptions to the Fourth Amendment's warrant requirement, including the exigency and emergency aid exceptions, might similarly deter calls to 911. The ACLU acknowledges, however, that public officials may enter a person's home without consent to provide aid in circumstances that satisfy those

exceptions (ACLU Br. 42, fn. 36)—regardless of any deterrent effect that the possibility of such searches might have.

C. The United States Supreme Court's Decision in *Brigham City v. Stuart* Does Not Undermine the Community Caretaking Doctrine

Like Ovieda, the ACLU argues that several decisions of the United States Supreme Court, particularly *Brigham City, Utah v. Stuart* (2006) 547 U.S. 398, undermine *Ray*'s standard for assessing community caretaking entries. (ACLU Br. 19-24, 33-34; OBM 23, 32.) *Brigham City* addressed the appropriate standard for the emergency aid exception to the warrant requirement. (See *People v. Troyer* (2011) 51 Cal.4th 599, 602 [discussing *Brigham City*].) The Court held that police may enter a home without a warrant when they have "an objectively reasonable basis for believing that an occupant is seriously injured or imminently threatened with such injury." (*Brigham City*, *supra*, at p. 400; see also *Michigan v. Fisher* (2009) 558 U.S. 45 (per curiam); *Ryburn v. Huff* (2012) 565 U.S. 469 (per curiam).) In so holding, the Court rejected the argument that the entry was unreasonable because the officers "were more interested in making arrests than quelling violence." (*Brigham City*, *supra*, at p. 404.) The Court concluded that an urgent need to prevent imminent, serious injury to an occupant satisfied the Fourth Amendment's reasonableness requirement regardless of the responding officer's motivations. (*Id.* at pp. 404-405; see also *Troyer*, *supra*, at p. 610 [*Brigham City* rejected an "inquiry into an officer's subjective motivation"].)

The ACLU suggests (at 33-34) that *Brigham City* undermines *Ray* because *Ray* inquires into whether a search justified on community caretaking grounds was in fact a pretext to investigate crime. (See also Reply 31, fn. 7.) But *Brigham City* did not address what role, if any, individual motivations may play under the community caretaking exception,

and, as the People explained in their answer brief (ABM 36, fn. 17), the purpose behind a search remains relevant under some exceptions to the warrant requirement.[4] In any event, even if this Court were to hold that *Ray* is problematic insofar as it contemplates an inquiry into the motivations of police officers, the proper solution would be to replace it with a fully objective standard, not to abandon the community caretaking doctrine altogether. An objective inquiry could continue to "guard against pretextual reliance on community caretaking interests" by making clear that "[i]ncidental community caretaking concerns" are not "sufficient to invoke the reasonableness approach in the presence of" circumstances that reasonably give rise to "strong law enforcement motives." (Livingston, *Police, Community Caretaking, and the Fourth Amendment* (1998) 1998 U. Chi. Legal F. 261, 304-305, 306.) And it would do so without probing an

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[4] *Brigham City* read earlier cases as permitting an inquiry into the "programmatic purpose" behind a category of search, not an "individual officer's state of mind." (*Brigham City*, *supra*, 547 U.S. at pp. 404-405.) But in *Ashcroft v. al-Kidd* (2011) 563 U.S. 731, decided five years after *Brigham City*, the Court stated that "actual motivations do matter" under the special needs and administrative search exceptions (*id.* at p. 736); these exceptions "do not apply where the officer's purpose is not to attend to the special needs or to the investigation for which the administrative inspection is justified" (*id.* at p. 737). Lower courts are divided on whether individual motivations provide grounds to declare searches unreasonable under some exceptions to the warrant requirement. (Compare *United States v. Orozco* (2017) 858 F.3d 1204, 1210-1213 [individual motivations are relevant under the special needs and administrative search exceptions] and *United States v. Banks* (4th Cir. 2007) 482 F.3d 733, 741 [same under inventory search exception] with *United States v. McKinnon* (5th Cir. 2012) 681 F.3d 203, 210 [individual motivations irrelevant under the inventory search exception].)

"individual officer's state of mind." (*Brigham City*, *supra*, 547 U.S. at pp. 404-405.)[5]

The ACLU also argues that *Brigham City*'s statement of the standard governing emergency aid searches sets the terms under which police may enter a home for community caretaking purposes. (ACLU Br. 19, 23 [asserting that the Supreme Court has permitted warrantless entry "only" when that standard is satisfied].) That standard requires an "objectively reasonable basis for believing that an occupant is seriously injured or imminently threatened with such injury." (*Brigham City*, *supra*, 547 U.S. at p. 400.) As explained in the People's answer brief, however, that standard would foreclose some objectively reasonable and desirable community caretaking activities, such as entries to provide aid or prevent harm to persons outside the home or to protect personal property. (ABM 28-34.) While the Fourth Amendment requires a careful assessment of whether entering a home is reasonably necessary based on the particular facts of each case, it does not categorically prohibit public officials from entering a home to protect public welfare simply because they may not have a sufficient basis for concluding that a current occupant faces imminent serious injury.[6]

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[5] For example, Professor Livingston proposed the following objective standard: "[W]hether in all the circumstances, objectively viewed, a legitimate community caretaking purpose clearly predominated over any law enforcement purpose that was also present." (Livingston, *supra*, at p. 303.)

[6] See, e.g., *Armijo v. Peterson* (10th Cir. 2010) 601 F.3d 1065, 1071 [permitting warrantless entry "to protect not the house's occupants, but the students and staff at a nearby high school" in response to a bomb threat; officers may enter a home where they "reasonably believe that some actor or object in a house may immediately cause harm to persons or property not in or near the house"]; *United States v. Mayes* (9th Cir. 1982) 670 F.2d 126, 127-128 [entry to retrieve object which had obstructed breathing passage of (continued...)

Indeed, the ACLU's view of the appropriate standard appears in tension with Ovieda's. Although the People initially understood Ovieda to argue that *Brigham City* sets the terms of permissible community caretaking entries (see ABM 28-29), he has since clarified that, in his view, the emergency aid exception is a "more specific" variation of "other exceptions" that are "not as narrow." (Reply 20; see also *ibid.* [an emergency may require "entering a home even though a potential victim is outside"].) The disagreement between the ACLU and Ovieda regarding the appropriate standard highlights the need for clarification in this area. The People submit that the community caretaking doctrine best accommodates those circumstances falling outside *Brigham City*'s emergency aid standard where it is nonetheless reasonable and expected that public officials would act. But if this Court holds that the community caretaking exception is no longer available for entries into the home, it should at least clarify the scope of the exigency or emergency aid doctrines to avoid interference with the critical caretaking responsibilities of local law enforcement.

In particular, the Court should hold that the exigency or emergency aid doctrines permit law enforcement to enter a home when officers have a "reasonable belief" (*Troyer*, *supra*, 51 Cal.4th at p. 612) that doing so is necessary to provide aid or prevent imminent injury to a person—regardless of whether that person is located in the home—or to prevent serious damage to property (see, e.g., *People v. Ramey* (1976) 16 Cal.3d 263, 276;

(...continued)
child who was receiving treatment in a hospital]; *United States v. Moskow* (3d Cir. 1978) 588 F.2d 882, 892 [entry of building in response to strong odor of gasoline necessary to protect "safety of the occupants of neighboring buildings"]; *Mora v. City of Gaithersburg, Md.* (4th Cir. 2008) 519 F.3d 216, 220, 226-227 [entry of apartment and seizure of weapons from a man, already in custody at the time of the search, who had threatened to take his own life and harm his co-workers].)

Fisher, *supra*, 558 U.S. at p. 49 (per curiam) [police must possess "an objectively reasonable basis for believing that medical assistance was needed, or persons were in danger"].) And the Court should reiterate that "[t]here is no ready litmus test" for determining whether an exigency exists (*Troyer*, *supra*, at p. 603); that courts must approach each case with "at least some measure of pragmatism" (*id.* at p. 606); and that public officials do not need "ironclad proof" of an emergency, only an "objectively reasonable basis" for believing that one exists (*id.* at p. 605; see also *United States v. Najar* (10th Cir. 2006) 451 F.3d 710, 719 [officers must possess a "reasonable belief" that "there existed an immediate need justifying their entry"]; *United States v. Holloway* (11th Cir. 2002) 290 F.3d 1331, 1338 [officers must "reasonably believe a person is in danger"].)

II. THE EVIDENCE AT ISSUE HERE WAS PROPERLY ADMITTED

In this case, it was reasonable for the officers to enter Ovieda's home to locate and secure any weapons that Ovieda could have used to hurt himself. (ABM 37-38.) The ACLU argues that "officers may have lacked sufficient factual basis to believe Mr. Ovieda posed a risk to himself at all." (ACLU Br. 47.) But the police here received a call from Ovieda's sister reporting that he had recently threatened to kill himself while reaching for a gun; two of his friends confirmed that account; and the friends added that they had physically restrained Ovieda to prevent him from accessing a firearm. (RT 36-38.) That provided a sufficient "factual basis" for the officers to believe that Ovieda posed a risk to himself; they were not required to accept his version of events. (See ABM 38; *Sutterfield v. City of Milwaukee* (7th Cir. 2014) 751 F.3d 542, 561 [questioning whether a woman described as suicidal by her psychiatrist should be deemed "competent to assess the state of her own mental health"].)

The ACLU also argues that the officers acted unreasonably because they could have eliminated any risk Ovieda posed to himself by arresting

him for outstanding misdemeanor warrants or seeking his detention under section 5150 of the California Welfare and Institutions Code. (ACLU Br. 47-48; see also Reply 33-34.) But "the fact that the protection of the public might, in the abstract, have been accomplished by 'less intrusive' means does not, by itself, render the search unreasonable." (*Cady*, *supra*, 413 U.S. at p. 447.) The officers here had reason to believe that Ovieda was suicidal and kept at least three firearms in his home. (RT 38.) It was reasonable for them to attempt to secure those weapons before releasing him.

Finally, the ACLU contends that any need to secure Ovieda's weapons expired once police detained him outside his home, reasoning that "the Fourth Amendment cannot support an entry, search or seizure in circumstances where the person sought to be protected from imminent harm has in fact already been detained by police." (ACLU Br. 47; see also Reply 33.) Courts have properly rejected such a bright-line rule. (See, e.g., *Mora*, *supra*, 519 F.3d at p. 228 [sustaining search of an apartment and seizure of firearms from a man who was already detained for a mental health evaluation; rejecting the "remarkable suggestion" that police "relinquished authority" over public safety by putting the defendant in the custody of medical authorities]; cf. *Sutterfield*, *supra*, 751 F.3d at p. 570 [granting qualified immunity to officers who searched and seized weapons of a woman already in police custody; "it was natural, logical, and prudent for them to believe that her firearm should be seized for safekeeping until such time as she was evaluated and it was clear that she no longer posed a danger to herself"].) To be sure, the urgency of a threat and the likelihood that it will come to pass should inform whether—and what sort of—preventative action is appropriate (see, e.g., *Mora*, *supra*, at pp. 224-225); but this Court should not adopt any bright-line rule that would foreclose otherwise appropriate action whenever the subject of the search is in police custody.

CONCLUSION

The judgment of the Court of Appeal should be affirmed.

Dated: April 11, 2019

Respectfully submitted,

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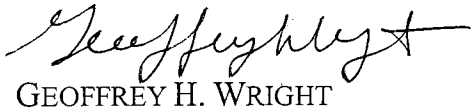

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CERTIFICATE OF COMPLIANCE

I certify that the attached Answer Brief on the Merits uses a 13 point Times New Roman font and contains 4,131 words.

Dated: April 11, 2019

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DECLARATION OF SERVICE BY U.S. MAIL

Case Name: **People v. Ovieda**
Case No.: **S247235**

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 April 11, 2019, I served the attached **RESPONDENT'S ANSWER TO AMICUS CURIAE BRIEF** 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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Via TrueFiling

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 April 11, 2019, at San Francisco, California.

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Declarant

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Signature

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