

BENJAMIN OWENS | ATTORNEY AT LAW

January 10, 2022

Jorge E. Navarrete
Clerk of the Supreme Court
350 McAllister Street
San Francisco, CA 94102

Re: Oral argument
People v. Pedro Lopez
S261747

Dear Mr. Navarrete,

I am writing to inform the court of two matters that I intend to address at oral argument that were not addressed in the briefs. The first concerns an erroneous statement of the law on my part. In the reply brief, I argued that following respondent's approach would result in overturning *People v. Mares* (1975) 51 Cal.App.3d 1013 and expanding the firearm enhancement of Penal Code section 12022.5 to conspiracy. However, it does not appear to be the case that this expansion would occur because Penal Code section 12022.5 was amended long ago to apply to all felonies and thus presumably currently applies to felonious conspiracies. (*People v. Ledesma* (1997) 16 Cal.4th 90, 96.) Appellant maintains all of the other points he has made supporting his contention that the punishment imposed is improper.

The second matter concerns the requested relief. Appellant moved to expand review to address the applicability of Assembly Bill No. 333, which amended Penal Code section 186.22 in important respects. The request was denied. Appellant intends to ask this court to remand the case to the Court of Appeal for consideration of this issue along with the other issues presented in the appeal but not addressed on review. This was the approach taken in *People v. Ruiz* (2018) 4 Cal.5th 1100, a case discussed at length by the parties in the briefs:

Shortly before oral argument, defendant filed a request to submit supplemental briefing on two additional issues: (1) whether the criminal laboratory analysis fee and the drug program fee are subject to penalty assessments (see fn. 5, ante) and (2) whether a firearm sentence enhancement he received under Penal Code section 12022.53, subdivision (c), was affected by that statute's recent amendment (Stats. 2017, ch.

682, § 2). We denied his request. We leave it to the Court of Appeal to decide how to address these issues on remand should defendant elect to pursue them.

(*Ruiz*, at p. 1122.)

Very truly yours,

BENJAMIN OWENS

PROOF OF SERVICE

Re: *People v. Pedro Lopez*/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 **January 10, 2022**, I served the within **Letter Re: Oral Argument** by transmitting PDF copies to the following email addresses:

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

CCAP – eservice@capcentral.org

Darren Indermill – Darren.Indermill@doj.ca.gov

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

January 10, 2020

/s/

BENJAMIN OWENS