

**IN THE SUPREME COURT OF THE STATE OF CALIFORNIA**

In re Christopher Lee White,

Petitioner,

On Habeas Corpus.

Case No. S248125

SUPREME COURT

**FILED**

OCT 24 2018

Jorge Navarrete Clerk

Deputy

Fourth District Court of Appeal, Division One, Case No. D073054

San Diego County Superior Court Case No. SCN376029

**PETITIONER'S REPLY TO RESPONDENT'S  
SUPPLEMENTAL BRIEF**

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**Petitioner's Reply to Respondent's Supplemental Brief**

Petitioner Christopher White respectfully submits this Reply to the Supplemental Brief filed by respondent.

**Argument**

- I. This Court should decline respondent's invitation to speculate regarding the validity of White's detention under Senate Bill No. 10 (2017-2018 Reg. Sess.), a law that does not take effect until October 2019.**

Respondent correctly argues that Senate Bill No 10, should be given prospective application only, but then contends that, if the law had been in effect at the time of White's detention, the trial court's decision would be "consistent with" the new statute. (Respondent's Supplemental Brief, p. 5.) Evaluating the propriety of White's detention under a new statute that was not considered by the trial and appellate courts is an exercise in speculation.

The Legislature passed and the Governor signed into law Senate Bill No. 10 on August 28, 2018, but it does not even take effect until October 2019. (Pen. Code<sup>1</sup> § 1320.34.) The statute requires that a new agency be

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<sup>1</sup> All statutory references are to the Penal Code unless otherwise noted.

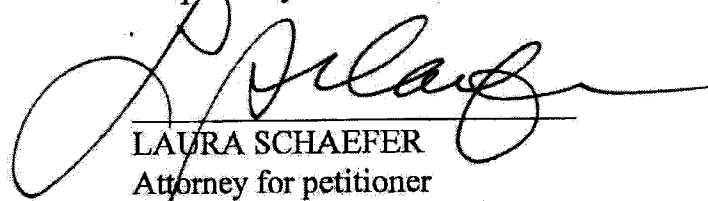
established to conduct risk assessments of arrested individuals using “validated risk assessment tools.” (§§ 1320.7, subds. (g)(k); 1320.9.) This assessment is required to be considered by the court before any pretrial detention decision is rendered. (§1320.13, subd. (c).) The Judicial Council will be required to promulgate rules of court governing the new “review and release standards” to guide the pretrial risk assessment process and convene a panel of experts to assist in the process of formulating risk categories. (§§ 1320.11, subd. (a); 1320.24; 1320.25.) In sum, the new legislation requires the establishment of an elaborate risk assessment system, the development of “risk assessment” tools, and promulgation of new rules, standards and procedures governing pretrial release and detention.

This Court cannot evaluate the legality of Mr. White’s detention under this new statute because the risk assessment rules, procedures and tools have not yet been developed. Inviting the court to speculate about whether Mr. White would be deemed a candidate for detention under this new statute is a contrived inquiry not appropriate for judicial resolution.

## **II. Conclusion**

The new legislation has no effect on the issues to be decided in this case .

Respectfully submitted,



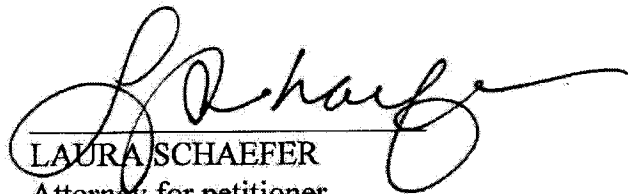
LAURA SCHAEFER  
Attorney for petitioner  
CHRISTOPHER LEE WHITE

Dated: October 23, 2018

**Certificate of Word Count**

I, Laura Schaefer, counsel for appellant certify pursuant to the California Rules of Court, rule 8.504(d)(1) that this brief contains 361 words as calculated by the Word Perfect software in which it was created.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct. Executed on October 23, 2018, at San Diego, California.

  
LAURA SCHAEFER  
Attorney for petitioner  
CHRISTOPHER LEE WHITE

*People v. White*  
*Case No. S248125*

**Proof of service**

I, the undersigned declare that: I am over the age of 18 years and not a party to the case; I am a resident of the County of San Diego, State of California, where the mailing occurs; and my business address is 934 23rd Street, San Diego, California 92102.

I further declare that I am readily familiar with the business practice for collection and processing of correspondence for mailing with the United States Postal Service; and that the correspondence shall be deposited with the United States Postal Service this same day in the ordinary course of business.

On October 23, 2018, I caused to be served the following document: **PETITIONER'S REPLY TO RESPONDENT'S SUPPLEMENTAL BRIEF** by placing a copy of the document in an envelope addressed to each addressee, respectively, as follows:

Christopher Lee White  
c/o 934 23rd Street  
San Diego, CA 92102

I then sealed each envelope and, with postage thereon fully prepaid, I placed each for deposit in the United States Postal Service, this same day, at my business address shown above, following ordinary business practices.

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**Proof of electronic service**

Furthermore, I declare that I electronically served from my electronic service address of [mj@boyce-schaefer.com](mailto:mj@boyce-schaefer.com) on October 23, 2018, to the following entities:

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I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct. Executed on October 23, 2018, at San Diego, California.

  
Mary Elena Joslyn