IN THE SUPREME COURT OF THE STATE OF CALIFORNIA

THE PEOPLE OF THE STATE OF CALIFORNIA, Plaintiff and Respondent, **v.** **VINCE E. LEWIS,** Defendant and Appellant.	Case No. S260598

Second Appellate District, Division One, Docket No. B295998
Los Angeles County Superior Court, Case No. TA117431
The Honorable Ricardo R. Ocampo, Judge

APPLICATION FOR PERMISSION TO FILE *AMICUS CURIAE* BRIEF; PROPOSED *AMICUS CURIAE* BRIEF ON BEHALF OF THE CALIFORNIA DISTRICT ATTORNEY'S ASSOCIATION IN SUPPORT OF TRIAL COURT'S DENIAL OF APPELLANT'S PENAL CODE SECTION 1170.95 PETITION

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APPLICATION TO FILE *AMICUS CURIAE* BRIEF

Pursuant to Rule 8.520, subdivision (f) of the California Rules of Court, Mark Zahner, Chief Executive Officer of the California District Attorneys Association, respectfully submits this application and proposed *amicus curiae* brief in support of the trial court's ruling below that Appellant's Penal Code[1] section 1170.95 petition was properly denied by the trial court prior to the issuance of an order show cause.

Neither the Attorney General of the State of California nor Appellant Lewis, or their counsel, authored any part of this brief, in whole or in part, or made a monetary contribution for the preparation or submission of this brief. Furthermore, no person or entity, other than amicus and her counsel, has contributed – monetarily or otherwise – to the preparation or submission of the attached amicus curiae brief.

IDENTITY AND INTERESTS OF *AMICUS CURIAE*

The offices of the District Attorney are charged with the execution of the laws of the State of California and ensuring that those laws are fairly and justly imposed upon the citizens. The California District Attorneys Association represents over 3,000 prosecutors throughout the state of California. These prosecutors and their respective offices are responsible for handling the thousands of petitions for relief filed pursuant to Penal Code section 1170.95 for individuals who have been convicted either by guilty plea or by jury trial of the crime of murder.

Because this area of the law is currently unsettled, Amicus has witnessed inconsistent rulings throughout the state and even within the same jurisdiction. This case will establish precedent which will govern all petitions and as such Amicus has an interest in how the court addresses the

[1] All further statutory references are to the Penal Code unless otherwise noted.

issues, particularly whether or not the superior court may consider the record of conviction in determining whether the defendant has made a prima facie showing of eligibility for relief under all three prongs of Penal Code section 1170.95, subdivision (a). This issue was raised by petitioner and not specifically addressed by the Attorney General.

Dated: October 16, 2020

Respectfully Submitted,

MARK ZAHNER
Chief Executive Officer
California District Attorney Association

NICOLE C. ROONEY
Deputy District Attorney

AMICUS CURIAE BRIEF

ISSUE PRESENTED

1. May superior courts consider the record of conviction in determining whether a defendant has made a prima facie showing of eligibility for relief under Penal Code section 1170.95?

INTRODUCTION

Senate Bill 1437 amended the law of murder as it relates to accomplices under the felony murder rule and the natural and probable consequences doctrine. The Legislature applied the changes retroactively by enacting section 1170.95, creating a petition process through which convicted murders may seek to vacate their prior murder convictions and be resentenced to a lesser related offense. Literally thousands of these petitions have been filed by convicted murders throughout the state with more filed every day.

Under section 1170.95 the initial burden falls upon the petitioner to make a prima facie showing that he or she comes within the provisions of the statute and is entitled to relief by establishing three separate factors required by the statute. Typically, most petitioners file a petition in the format of a declarative pre-printed check-the-box form provided by justice reform organizations but allege no existing facts or new evidence whatsoever in support of their checked-box petition. To promote judicial efficiency and weed out meritless petitions, courts have made the initial prima facie determination by comparing the filed petition against the record of conviction. In many cases, the record of conviction clearly shows the petitioner has not made a prima facie showing as to any one or all of the three factors the statute requires be established. When that occurs, the courts have correctly denied the petition without issuing an order to show

cause or holding an evidentiary hearing. And the record of conviction is essential to that determination.

Allowing the courts to engage in this necessary gate keeping function not only comports with the plain language of the statute and its legislative history, but also with other case law interpreting nearly identical post-conviction relief statutes. Sections 1170.18, 1170.126, and habeas corpus statutes and rules all allow for further hearing and potential relief only after a prima facie showing by the petitioner is made. In each of those similar post-conviction relief statutes, the court is permitted to use the record of conviction to determine if that showing has been made.

It is the position of Amicus that the initial prima facie determination can and should be made by considering the record of conviction, including any facts contained in it, and including the opinion of a Court of Appeal and its factual summary arising out of a petitioner's direct appeal.

STATEMENT OF THE CASE

Appellant was convicted by a jury of first degree murder (§ 187) and sentenced to 25 years to life in prison. Two years after his conviction, the California Supreme Court decided *People v. Chiu* (2014) 59 Cal.4th 155 (*Chiu*), which held that a defendant cannot be convicted of first degree premeditated murder based upon the natural and probable consequences doctrine. Appellant filed a direct appeal contending that it was error to instruct on natural and probable consequences. The Second District Court of Appeal upheld his conviction, finding the instruction on natural and probable consequences liability to be harmless as the evidence clearly showed he was a direct aider and abettor. (*People v. Lewis* (July 14, 2014, B241236) 2014 WL 3405846 [nonpub. opn.] (*Lewis I*).)

After the passage of Senate Bill 1437 (SB 1437) and the enactment of section1170.95, petitioner filed a petition for resentencing. The trial court, after considering the record of conviction and the court of appeal

decision, denied his petition. Petitioner filed an appeal contending he should have had an attorney and the trial court should not have considered the record of conviction in determining eligibility. The appellate court affirmed the ruling of the trial court, holding that the trial court could consider the record of conviction in determining whether the petitioner made a prima facie showing of eligibility. (*People v. Lewis* (2020) 43 Cal.App.5th 1128, 1132 (*Lewis II*).) On March 18, 2020, this court granted review on two issues in *Lewis II* (S260598), the current matter on review.

ARGUMENT

SUPERIOR COURTS SHOULD BE PERMITTED TO CONSIDER THE RECORD OF CONVICTION IN DETERMINING WHETHER A DEFENDANT HAS MADE A PRIMA FACIE SHOWING OF ELIGIBILITY FOR RELIEF UNDER ALL THREE PRONGS OF PENAL CODE SECTION 1170.95, SUBDIVISION (A)

In a matter of first impression, the Second District Court of Appeal in *Lewis II* determined that the trial court could consider the record of conviction when determining whether a petitioner has made a prima facie showing that he or she is entitled to relief pursuant to section 1170.95, subdivision (a). Since *Lewis II*, numerous cases have addressed the use of the record of conviction to determine eligibility as to section 1170.95 subdivisions (1) and (2), however, the applicability to prong (3) has yet to be decided. It is the position of Amicus that the trial court should be permitted to consider the record of conviction including facts from the direct appeal to determine if a petitioner has met his or her prima facie burden under all three prongs of section 1170.95, subdivision (a).

A prima facie showing that petitioner falls within the provisions of section 1170.95 is made when the petition establishes that he or she was convicted of first or second degree murder under a theory of either felony murder or the natural probable consequences doctrine. (Pen. Code, §

1170.95, subds. (a)(1), (2).) For prong (3) of section 1170.95, subdivision (a), the prima facie showing is made when, assuming all facts in the petition to be true, the petitioner establishes that he or she "could not be convicted of first or second degree murder because of changes to Section 188 or 189 made effective January 1, 2019." (Pen. Code, § 1170.95, subd. (a)(3).)

Petitioner bears the initial burden to make a prima facie showing that he or she falls within the provisions of section 1170.95. (Pen. Code, § 1170.95, subd. (c).) Typically, petitioners makes this showing by submitting a pre-printed form in which they check the boxes they believe entitle them to relief as a matter of law. No specific facts are alleged, nor are any briefs filed in which petitioner asserts facts showing eligibility for relief. The court, based solely on this check-the-box form, is tasked with determining if a prima facie showing has been made.

In making this determination, the trial court must compare the checked form, which asserts no facts, with the record of conviction to determine if the petitioner is or is not entitled to relief. The record of conviction includes reliable documents "reflecting the facts of the offense for which the defendant was convicted" including charging documents, jury instructions, verdict forms and preliminary hearing transcripts. (*People v. Reed* (1996) 13 Cal.4th 217, 223.) The record of conviction is not limited to trial court documents. It has been held to include appellate court documents up until the finality of judgment. "A court of appeal opinion, whether or not published is part of the record of conviction." (*People v. Verdugo* (2020) 44 Cal.App.5th 320, 333, review granted Mar. 28, 2020, S260493, briefing deferred, citing *People v. Woodell* (1998) 17 Cal.4th 448, 456; *People v. Cruz* (2017) 15 Cal.App.5th 1105, 1110; *People v. Brimmer* (2014) 230 Cal.App.4th 782, 800.)

The doctrine of law of the case provides that when an appellate court has rendered a decision and states in its opinion a rule of law necessary to the decision, that rule is to be followed in all subsequent proceedings in the same action whether in the trial or appellate court, even if the current court believes the former decision is erroneous. (*People v. Whitt* (1990) 51 Cal.3d 620, 638; see also *People v. Murtishaw* (2011) 51 Cal.4th 574, 589; *People v. Alexander* (2010) 49 Cal.4th 846, 870; *People v. Iraheta* (2017) 14 Cal.App.5th 1228, 1242.) The doctrine applies to issues resolved on their merits either on appeal or by petition for extraordinary relief. (See *People v. Jurado* (2006) 38 Cal.4th 72, 94 [Supreme Court applies doctrine on automatic death penalty to pretrial writ decision by Court of Appeal].) It does not apply, however, to the summary denial of a writ petition. (*Rosato v. Superior Court* (1975) 51 Cal.App.3d 190, 230.) Nor does it apply to prior trial court rulings. (*People v. Sons* (2008) 164 Cal.App.4th 90, 100.)

In a series of decisions, the courts of appeal across California have ruled that superior courts may consider the record of conviction in deciding if a defendant has made a prima facie showing of eligibility for relief under Penal Code section 1170.95. Although those decisions are currently pending review in this court, the analysis, reasoning, and policy considerations found in those lower court decisions remain sound and should be adopted by this court.

The use of the record of conviction, including facts asserted in a court of appeals decision, has been upheld by the courts interpreting section 1170.95, starting with the instant matter *Lewis II* in January of 2020. In *Lewis II*, the court of appeal found Lewis had the burden to prove he was not a direct aider and abettor in order to be eligible for relief. (*People v. Lewis, supra*, 43 Cal.App.5th at p. 1137.) The court found the review of the record of conviction, including the prior opinion, was sound policy. (*Id*. at p. 1138.)

The following day, the Second District issued its second decision in *People v. Cornelius* (2020) 44 Cal.App.5th 54, 56-57 (review granted Mar. 28, 2020, S260410, briefing deferred) and found the trial court properly considered the verdict, the trial transcript and the prior appeal when determining that Cornelius was ineligible for relief as a matter of law because he was the actual killer.

One week later, the court issued the seminal decision of *Verdugo*, the first case to establish the two part prima facie review process. The Second District Court of Appeal again held that the lower court properly reviewed the record of conviction when determining that the defendant was not entitled to relief as a matter of law. (*People v. Verdugo*, *supra*, 44 Cal.App.5th at p. 323.) In *Verdugo*, defendant was convicted of first degree murder and multiple allegations for the use of a firearm and participation in a street gang. On January 16, 2019, Verdugo petitioned the court for relief pursuant to SB 1437. On January 24, 2019, Verdugo's petition was summarily denied based on the charges and the facts as stated in the appellate opinion which proved Verdugo was convicted as an aider and abettor, and not through either felony murder or natural and probable consequences. (*Id*. at p. 325.) The determination that Verdugo was ineligible was properly based upon a review of the record of conviction and not simply a determination of facial sufficiency. The record of conviction includes "documents in the court file or otherwise part of the record of conviction that are readily ascertainable." (*Id*. at p. 329.) The information, verdicts, factual basis, abstract of judgment, and charges were all found to be part of the record of conviction. (*Id*. at p. 330.) By reviewing the full record of conviction, the court was able to determine that Verdugo failed prong (2) of subdivision (a) because he was convicted as an aider and abettor.

Following *Verdugo*, the use of the record of conviction to make the first prima facie determination of eligibility was followed by the First District Court of Appeals in *People v. Edwards*. (*People v. Edwards* (2020) 48 Cal.App.5th 666, review granted July 8, 2020, briefing deferred.) In *Edwards*, the defendant was convicted of murder with the personal use of a firearm. In June of 2019, he filed a petition for relief pursuant to SB 1437, and it was summarily denied on June 14, 2019. On June 24, 2019, the superior court issued a formal order explaining its decision, stating "based upon a review of the record of conviction and our prior opinion in the direct appeal in *People v. Edwards*, *supra*, A132814, the court found the conviction for second-degree murder was based on Edwards being the killer and a finding of implied malice liability, not solely Edwards's participation in the crime." (*Id*. at p. 671.) Edwards appealed this denial on the basis that the trial court erred by considering the record of conviction rather than accepting the truth of his allegations. (*Id* at p. 672.) The appellate court found no error and found that a denial of a petition after a review of the record of conviction was not only authorized by the statute but by its legislative history. (*Id.* at p. 674.) The *Edwards* court justified the review of the record by looking at *Lewis II* and its reasoning: "Allowing the [superior] court to consider its file and the record of conviction is . . . sound policy. . . 'It would be a gross misuse of judicial resources to require the issuance of an order to show cause or even appointment of counsel based solely on the allegations of a petition, which frequently are erroneous, when even a cursory review of the court file would show as a matter of law that the petitioner is not eligible for relief." (*Id*., citing *People v. Lewis*, *supra*, 43 Cal.App.5th at p. 1138.) The record of conviction was once again determined to include charging documents, jury instructions, and prior opinions from direct appeals.

This same sound logic was continued in *People v. Tarkington* (2020) 49 Cal.App.5th 892 (review granted Aug. 12, 2020, briefing deferred). In *Tarkington*, the defendant was convicted of murder and the personal use of a knife in 1997. He filed his petition January 28, 2019 and it was summarily denied February 13, 2019. (*Id*. at p. 895.) In its order denying the petition, the trial court used facts relating to the crime to find Tarkington was the actual killer and ineligible for relief as a matter of law. (*Id*.) The factual basis was taken from the statement of facts as presented in the direct appeal, the jury instructions, and the verdict forms. (*Id*. at p. 899.) The court denied the petition without any briefing and without the assistance of counsel. (*Id*. at p. 895.) The summary denial of a petition when the record of conviction showed ineligibility for relief as a matter of law was supported by the decision in *Verdugo*, as well as the decisions of *Edwards, supra*, 48 Cal.App.5th at p. 674 and *People v. Torres* (2020) 46 Cal.App.5th 1168, 1178 (review granted June 24, 2020, briefing deferred).

Most recently, the Second District Court of Appeal found no error when the trial court denied a petition for relief based upon evidence adduced at a preliminary hearing and change of plea without issuing an order to show cause or holding an evidentiary hearing. (*People v. Nguyen* (Aug. 25, 2020, B298575) 2020 WL 5015289, petn. for review pending, petn. filed Sept. 30, 2020.) The court noted that the transcripts from the preliminary hearing and plea hearings conclusively proved that Nguyen was a direct aider and abettor, and as such he did not meet the eligibility requirements of section 1170.95, subdivision (a). (*Id*. at p. 1.) The appellate court noted that aiding and abetting "was the only theory put forth by the prosecutor, not only at the June 15, 2006 preliminary hearing, but also on October 25, 2006, the date trial was set to commence, when the prosecutor sought to introduce at trial statements that both Nguyen and Barry told others that Nguyen instructed Barry to kill Kim, and Nguyen paid Barry for

doing so." (*Id*. at p. 7.) The absence of any underlying felony which could be used as the basis of felony murder or natural and probable consequence was also of importance to the court. "There is no mention in the record, prior to the guilty pleas, of any underlying felony that could be used as the basis of felony murder liability, or any target offense that could be used as the basis of liability under the natural and probable consequences doctrine." (*Id*. at p. 8.)

These cases establish that the record of conviction, including the facts contained in an appellate court opinion, clearly can and should be used to find a petitioner is ineligible for relief as a matter of law under prongs (1) and (2) of section 1170.95, subdivision (a). The question remains, however, whether the trial court can use the record of conviction to determine whether a petitioner is ineligible under prong (3) – that he or she could still be convicted despite the changes in the law.

It is the position of Amicus that the trial court should be able to make that determination by reviewing any facts contained in the record of conviction. For example, when determining prong (1), that the petitioner was convicted of first or second degree murder, the court can look at the charging document, the verdict forms, and the facts to see what crimes the petitioner was convicted of. If the petitioner was only convicted of voluntary manslaughter or the underlying felony in a felony murder case – the petition fails and should be denied.

When looking at prong (2) – whether petitioner was convicted under the felony murder or natural and probable consequences doctrine – the charging documents or verdict forms will not be enough. The court must dig deeper into the record of conviction, into the jury instructions or the facts as stated on appeal. In *People v. Soto*, the jury instructions "on their face and as a matter of law" demonstrated that petitioner was not and could not have been convicted of second degree murder under the natural and

probable consequences doctrine because the jury was not instructed on that theory of liability. (*People v. Soto* (2020) 51 Cal.App.4th 1043, 1055.) Instead, they jury instructions showed that the petitioner was a direct aider and abettor in the murder. As such, the petition was properly summarily denied. (*Id*.)

For prong (3) – whether the petitioner could no longer be convicted due to the changes in the law, the court can look at the facts of the appeal, or other record of conviction documents reasonably reflecting the facts of the case to determine whether the petitioner was the actual killer, a direct aider and abettor of murder, or a major participant in the commission of a felony listed in section 189 acting with reckless indifference to human life.

For example, if the evidence in the record of conviction showed that the petitioner was the one who initially planned the underlying target felony, recruited coparticipants, supplied deadly weapons to his coparticipants, was himself armed with a deadly weapon, was present during the killing, acted to increase rather than decrease the risk of violence to the victim during the commission of the felony, neither stopped the violence nor rendered aid to the victim, fled the scene with his coparticipants, and disposed of the weapons after the murder – the court would be well within its purview to deny the petition under prong (3), because the record would clearly show that the petitioner could still be convicted of first degree felony murder even after the changes made to section 189. In this example, the petitioner was a major participant in the target felony who acted with reckless indifference to human life in its commission.

Similarly, in a case where both direct aiding and abetting murder and the natural and probable consequences doctrine were presented as theories of liability, if the evidence in the record of conviction showed that the petitioner and a coparticipant chased their victim down an alley, beat him,

and then petitioner held the victim while his coparticipant stabbed the victim to death, the record would clearly show that the petitioner could still be convicted as a direct aider and abettor to murder even after the changes made to section 188.

In considering the record of conviction, including any facts contained within it, the trial court is not engaging in "independent fact finding." "Just as in habeas corpus, if the record 'contain[s] facts refuting the allegations made in the petition . . . the court is justified in making a credibility determination adverse to the petitioner.' [citation omitted.]" (*People v. Drayton* (2020) 47 Cal.App.5th 965, 980; see also *People v. Law* (2020) 48 Cal.App.5th 811, 980, review granted July 8, 2020, S262490.) Even assuming the petition is true, the court is well within its purview by comparing those asserted facts, if any, to the record of conviction to determine whether petitioner is ineligible as a matter of law. Whatever factual disputes existed at trial were resolved by the jury in rendering its guilty verdict. Thus, the court is not engaging in any independent fact finding when taking those established facts and juxtaposing them with the petition to determine eligibility.

Lewis II correctly determined that use of the record of conviction to make the initial prima facie showing is no different under section 1170.95 than section 1170.18, section 1170.126 and habeas petitions. Section 1170.18, enacted by Proposition 47, permits use of the record of conviction to determine if a person convicted of certain felonies have made a prima facie showing that they are entitled to have those felonies converted to misdemeanors. (*People v. Page* (2017) 3 Cal.5th 175, 1179, *People v. Washington* (2018) 23 Cal.App.5th 948, 953.) Additionally, the comparison of the petition to the record of conviction was approved of in that situation. (*People v. Washington*, *supra*, 23 Cal.App.5th at p. 955.)

Section 1170.126, enacted by Proposition 36, also puts an initial prima facie burden on petitioners seeking relief under the statute. (*People v. Thomas* (2019) 39 Cal.App.5th 930, 935.) The court is entitled to look at the record of conviction in making that finding. (*People v. Bradford* (2014) 227 Cal.App.4th 1322, 1341.) In the context of habeas corpus, the use of "conclusory allegations made without any explanation of the basis for the allegations do not warrant relief, let alone an evidentiary hearing.' [citation omitted.]" (*People v. Duvall* (1995) 9 Cal.4th 464, 474.) Rather, the petition should be compared to the record of conviction to determine if a prima facie case has been established. (*In re Serrano* (1995) 10 Cal.4th 447, 456.)

Use of the record of conviction to determine if a petitioner has met his prima facie burden is also supported by the language of section 1170.95. Section 1170.95, subdivision (d)(3) states, "The prosecutor and the petitioner may rely on the record of conviction or offer new or additional evidence to meet their respective burdens." The only place the petitioner has a burden is when showing whether he or she has made a prima facie showing of the three prongs of section 1170.95, subdivision (a). Only after the petitioner makes the prima facie showing on all three prongs does the burden shift to the People to prove ineligibility beyond a reasonable doubt. This unambiguous language clearly supports the position of Amicus that the record of conviction may be used to determine whether the petitioner is ineligible as a matter of law.

Amicus is concerned that if the court adopts the narrow view suggested by petitioner, i.e., that the court may not look beyond the four corners of the petition when determining eligibility, then the courts will be unable to perform the gate keeping function intended by the legislature, courts will be flooded with meritless petitions for relief, and already-scarce judicial resources will be spent on months-long, if not years-long, litigation

that could have been resolved at early stages based upon a simple review of the record of conviction. To hold that the record of conviction cannot be used to make this primary determination of eligibility would be a misuse of resources as the court of appeal found in *Lewis II*:

> Allowing the trial court to consider its file and the record of conviction is also sound policy. As a respected commentator has explained: 'It would be a gross misuse of judicial resources to require the issuance of an order to show cause or even appointment of counsel based solely on the allegations of the petition, which frequently are erroneous, when even a cursory review of the court file would show as a matter of law that the petitioner is not eligible for relief. For example, if the petition contains sufficient summary allegations that would entitle the petitioner to relief, but a review of the court file shows the petitioner was convicted of murder without instruction or argument based on the felony murder rule or [the natural and probable consequences doctrine], . . . it would be entirely appropriate to summarily deny the petition based on petitioner's failure to establish even a prima facie basis of eligibility for resentencing.' (Couzens et al., Sentencing Cal. Crimes, supra, ¶ 23:51(H)(1), pp. 23-150 to 23-151.) We agree with this view[.]

(*Lewis*, *supra*, 43 Cal.App.5th at p. 1138; *Verdugo*, *supra*, 44 Cal.App.5th at p. 332.) This sound policy of allowing the trial court to consider its file and the record of conviction is especially important in circumstances when a petition provides inaccurate facts, either through mistake or false assertions, or simply when no facts are provided at all, such as with the check-the-box petitions. The statute allowing these petitions should not be interpreted as allowing an opportunity for a second appeal or a retrial.

For the above stated reasons, Amicus urges this court to find that the record of conviction may be considered by the trial court when making the initial determination of whether or not the petitioner has made a prima facie showing that he or she is eligible for relief pursuant to section 1170.95, subdivision (a).

CONCLUSION

Accordingly, Amicus respectfully requests this court affirm the lower court decision and rule that the record of conviction may be considered by superior courts to determine whether a section 1170.95 petitioner has made a prima facie showing of eligibility for relief under Penal Code section 1170.95, under all three prongs of subdivision (a), as a matter of law.

Dated: October 16, 2020

Respectfully Submitted,

MARK ZAHNER
Chief Executive Officer
California District Attorney Association

NICOLE C. ROONEY
Deputy District Attorney

CERTIFICATE OF COMPLIANCE

I certify that the attached *AMICUS CURIAE* BRIEF uses a 13-point Times New Roman font and contains 4,660 words excluding title page, tables, word count and signature blocks.

NICOLE C. ROONEY
Deputy District Attorney

DECLARATION OF SERVICE

I am over the age of 18 years and am employed by the California District Attorneys Association. I am not a party to this action. On October 16, 2020, I served the within

> APPLICATION FOR PERMISSION TO FILE *AMICUS CURIAE* BRIEF; PROPOSED *AMICUS CURIAE* BRIEF ON BEHALF OF THE CALIFORNIA DISTRICT ATTORNEY'S ASSOCIATION IN SUPPORT OF TRIAL COURT'S DENIAL OF APPELLANT'S PENAL CODE SECTION 1170.95 PETITION

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I declare under penalty of perjury that the foregoing is true and correct, and was executed October 16, 2020 at Sacramento, California.

Laura Bell

STATE OF CALIFORNIA
Supreme Court of California

PROOF OF SERVICE

STATE OF CALIFORNIA
Supreme Court of California

Case Name: **PEOPLE v. LEWIS**
Case Number: **S260598**
Lower Court Case Number: **B295998**

1. At the time of service I was at least 18 years of age and not a party to this legal action.

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/s/Laura Bell
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