

# S248730

REBECCA P. JONES, Attorney

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August 5, 2019

SUPREME COURT  
**FILED**

AUG 08 2019

Jorge Navarrete Clerk

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Deputy

Hon. Tani Cantil-Sakauye  
Chief Justice, California Supreme Court  
350 McAllister Street  
San Francisco, CA 94102

RE: People v. Chavez, S248730

Dear Chief Justice Cantil-Sakauye:

Edgar Chavez Navarro submits this response to the prosecution's supplemental brief, submitted on July 25, 2019, in compliance with this Court's July 17, 2019, ordering additional briefing.

Respondent's attempt to explain its contradictory positions in this case, *People v. Perez*, F073736, and *People v. Coronado*, F072867, demonstrates why both a hearsay and a confrontation clause objection would have been futile at the time of Mr. Chavez's trial.

Respondent claims that "the unique facts" of *People v. Coronado* led the Attorney General to believe an objection in the trial could have been futile, but Respondent fails to explain how the facts of *Coronado* are different from the facts of Mr. Chavez's case. Although Mr. Chavez does not have access to the *Coronado* trial record, respondent's brief in that case does not seem to include any allegation that *Coronado*'s trial counsel made a hearsay objection or confrontation clause objection, or that the trial court made any comments about hearsay or the Sixth Amendment that would have rendered an objection futile.

Respondent also claims that the Attorney General declined to argue forfeiture in *Perez* because the only published law on forfeiture in that case had found an objection would be futile. But in Mr. Chavez's case, by the time the parties argued the case on September 21, 2017, three published cases expressly said *Sanchez* error was not forfeited because an objection would have been futile: *Conservatorship of K.W.* (2017) 13 Cal.App.5th 1274, 1283; *People v. Jeffrey G.* (2017) 13 Cal.App.5th 501; *People v. Iraheta* (2017) 14 Cal.App.5th 1228 (supplemental authorities letter submitted before argument). Mr.

REBECCA P. JONES, Attorney

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Hon. Tani Cantil-Sakauye

August 5, 2019

Page 2

Chavez submitted a supplemental authorities letter to the Court of Appeal, prior to argument, pointing out those cases. Nonetheless, the Attorney General did not change its position on forfeiture in light of those cases.

When Mr. Chavez pointed out in his reply brief that the Attorney General had conceded the forfeiture issue in other cases, he was not arguing that the Attorney General had no right to argue the *Sanchez* claim was forfeited in this case. He was arguing that that office's contrary positions on this issue support the assertion that an objection in the trial court would have been futile in Mr. Chavez's trial. Nothing in respondent's supplemental brief undermines that argument.

Respectfully submitted,

REBECCA P. JONES  
Attorney for EDGAR CHAVEZ

People v. PEREZ et al.  
Case No. S248730

PROOF OF SERVICE (CCP 1013a, 2015.5)

I declare under penalty of perjury that the following is true and correct:

I am a citizen of the United States and employed in the City and County of San Diego. I am over the age of eighteen (18) years and not a party to the within above-entitled action; my business address is 3549 Camino del Rio South, Suite D, San Diego, California 92108; on this date I mailed **APPELLANT CHAVEZ'S SUPPLEMENTAL LETTER BRIEF** addressed as follows:

Edgar Ivan Chavez Navarro,  
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PO Box 8500  
Coalinga, CA 9321

I also served, via the TrueFiling system, the following parties:

Raymond Mark DiGuiseppe  
Counsel for Perez

Court of Appeal  
Fourth Appellate District  
Division Two

Attorney General  
San Diego, CA 92186-5266

Henry Russell Halpern  
Counsel for Sandoval

Appellate Defenders, Inc.

The above copies were deposited in the United States mail, first class postage prepaid, at San Diego, California. I declare under penalty of perjury that the foregoing is true and correct. Executed August 5, 2019, at San Diego, California.

/s/ Rebecca P. Jones

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