Case No. S277910

IN THE SUPREME COURT
OF THE STATE OF CALIFORNIA

In re Gerald Kowalczyk,
on Habeas Corpus.

Court of Appeal Case No. A162977 (First Appellate District)
San Mateo Superior Court Case No. 21-SF-003700-A
The Honorable Susan Greenberg, Superior Court Judge
The Honorable Elizabeth K. Lee, Superior Court Judge
The Honorable Jeffrey R. Finigan, Superior Court Judge

APPLICATION FOR LEAVE TO FILE *AMICUS CURIAE* BRIEF AND *AMICUS CURIAE* BRIEF IN SUPPORT OF PETITIONER

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TO THE HONORABLE TANI G. CANTIL-SAKAUYE, CHIEF JUSTICE OF THE SUPREME COURT OF CALIFORNIA:

Pursuant to California Rules of Court, rule 8.200(c), undersigned counsel respectfully requests leave to file the attached *amicus* brief in support of the Petitioner. This brief is timely, as it is filed within 30 days after the last reply brief was filed.

STATEMENT OF INTEREST

Undersigned counsel is The Rosalinde and Arthur Gilbert Foundation Director of the Criminal Justice Program at UCLA School of Law. Counsel has conducted research and written numerous reports on issues related to pretrial justice. Most pertinent to this filing is counsel's report, co-authored with UC Berkeley's Policy Advocacy Clinic, which tracked the implementation of *In re Humphrey* (2021) 11 Cal.5th 135 across the state of California. Virani, Alicia et al., *Coming Up Short: The Unrealized Promise of In re Humphrey,* (2022) https://law.ucla.edu/sites/default/files/PDFs/Criminal_Justice_Program/Coming_Up_Short_Report_2022_WEB.pdf. This report relies on survey responses from 251 defense attorneys, from fifty counties across the state to understand if and how *Humphrey* was being implemented in the year and a half after this Court's decision in *Humphrey*. Counsel and the UC Berkeley Policy Advocacy Clinic administered round two of the survey during the summer of 2023, and these recent results also inform counsel's expertise in the matters of judicial decision-making and are reflected in this brief. The rigorous research of counsel on the implementation of *Humphrey* can provide a picture of what is occurring in California courts that can aid this court in

understanding where clarity is needed in the laws related to pretrial decision-making.

Additionally, Counsel has a compelling interest in this matter in her role as professor of the Pretrial Justice Clinic at UCLA School of Law, in which students represent clients in felony bail hearings. The clinic has operated since 2018 in collaboration with the Los Angeles County Public Defender's Office. Counsel has observed countless misinterpretations of *Humphrey* through the cases on which clinic students work, resulting in the unlawful pretrial detention of indigent individuals. During the fall semester of 2023, students in the Pretrial Justice Clinic engaged in a court watching project, observing felony arraignments during the month of October at the Clara Shortridge Foltz Courthouse and the Airport Courthouse in Los Angeles County, California. Results from this dedicated court watching project are also reflected in this brief. Counsel's observations of these courtroom practices and its effects on individuals charged with felonies gives counsel a stated interest in seeking clarity in the law such that the *Humphrey* decision is followed across the state and that people are not held in jail pretrial simply because they cannot afford to pay their bail.

The proposed amicus brief presents data indicating that the mandates of the *Humphrey* decision have not been tangibly felt by the people of California and that there is an opportunity to provide clarity such that pretrial release is the norm rather than pretrial detention.

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For the foregoing reasons, counsel respectfully requests that the Court grant this application, and permit the below brief on the merits to be filed with the Court.

Dated: November 8, 2023

Respectfully submitted,

By: Alicia Virani
Alicia Virani
Submitting Amicus in support of the Petitioner

ISSUE PRESENTED

(1) Which constitutional provision governs the denial of bail in noncapital cases – article I, section 12, subdivisions (b) and (c) or article I, section 28, subdivision (f)(3), of the California Constitution – or in the alternative, can these provisions be reconciled?

(2) May a superior court ever set pretrial bail above an arrestee's ability to pay?

INTRODUCTION

In 2021, after this Court issued the decision in *In re Humphrey* (2021) 11 Cal.5th 135, one could say there was a buzz in the air. Prior to *Humphrey*, although judicial and legal actors across the state had acknowledged the inequalities of wealth-based pretrial detention, the elimination of cash bail failed to stand in the state, and reforms around pretrial justice felt as though they were at a stalemate. When *In re Humphrey* was decided, defense attorneys and accused individuals felt as though the decision would breathe new life into their motions for pretrial release. It was anticipated by many court actors that more people would be released pretrial.

Unfortunately, this has been far from the truth for the majority of jurisdictions across the state. Judicial misinterpretation of the *Humphrey* decision is rampant, and *In re Kowalczyk's* (2022) 85 Cal.App.5th 667 holding around the ability of courts to continue to issue unaffordable cash bail has provided courts with a loophole that is perpetuating wealth-based detention in California.

What follows is a presentation of qualitative and quantitative data to help illuminate what is occurring in Superior Courts across the state in the

wake of *Humphrey.* Despite tremendous efforts by defense attorneys to wield the new legal arguments provided to them by *Humphrey*, courts have not interpreted the law appropriately and in many ways the status quo of pretrial detention of the poorest individuals in California remains.

ARGUMENT

Undersigned counsel, as professor of the Pretrial Justice Clinic[1], in collaboration with UC Berkeley's Policy Advocacy Clinic (hereinafter "research team"), authored a report on the implementation of *In re Humphrey* in 2022. Virani, Alicia et al., *Coming Up Short: The Unrealized Promise of In re Humphrey,* (2022) https://law.ucla.edu/sites/default/files/PDFs/Criminal_Justice_Program/Coming_Up_Short_Report_2022_WEB.pdf (hereinafter *Coming Up Short*). The report was based on data received via a survey for defense attorneys (yielding 251 responses) and prosecutors (yielding 1 response), roundtables with public defenders across the state, a review of news articles covering pretrial release decisions, California Public Records Act requests[2], data from the Board of State and Community Corrections ("BSCC"), and a review of writs filed. *Coming Up Short* at 9.

As a follow up to the initial report, the research team issued another survey for defense attorneys in 2023 (yielding 79 responses) and prosecutors (yielding zero responses), submitted new California Public Records Act requests[3], reviewed any new writs received, and analyzed

[1] Formerly called the "UCLA School of Law Bail Practicum".
[2] The research team submitted requests pursuant to the California Public Records Act to Probation departments, Sheriff departments, District Attorney offices, and Superior Courts in all 58 counties, as well as to the California Judicial Council.
[3] For the second round of California Public Records Act requests, requests were submitted to San Mateo, San Joaquin, and Merced Counties, as well as to the California Judicial Council, requesting updated data on pretrial

BSCC data. The following is a summary of the findings that bear on this Court's decision in the instant case.

I. COURTS ARE NOT CONSIDERING AN INDIVIDUAL'S ABILITY TO PAY, EVEN THOUGH *IN RE HUMPHREY* REQUIRES THIS INQUIRY WHEN BAIL IS SET.

Upon review of the counties for which reliable data on bail amounts was received via California Public Records Act requests, the research team found that there was no evidence that *Humphrey* led to a decrease in median bail amounts across California. *Coming Up Short* at 16. For example, in San Mateo County, initially due to the Emergency Bail Schedule[4] median bail amounts dropped from $7,500 to $250. *Coming Up Short* at 18. Recent data from 2023 shows that the median bail amount, since the recission of the Emergency Bail Schedule, shot back up to a median of $10,000. This would suggest that judges in San Mateo County are not taking into account individuals' ability to pay as the U.S. Federal Reserve's reporting has revealed that at least 32% of all adults would not be able to afford an expense of $400 on their own. U.S. Federal Reserve., *Report on the Economic Well-Being of U.S. Households in 2021* (2022), https://www.federalreserve.gov/publications/files/2021-report-economic-well-being-us-households-202205.pdf.

The data gathered by the research team suggest that courts are extremely reluctant to set bail at an amount that is affordable. The majority (80%) of the defense attorneys surveyed in 2021-2022 stated that judges do not decrease bail during bail review hearings. *Coming Up Short* at 18.

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release outcomes, internal policies, and correspondence related to the Humphrey decision. A new request was also sent to the California Attorney General's Office for arrest data, disaggregated by release type.

[4] Superior Court, San Mateo County, Emergency Bail Schedule (Oct. 29, 2021), https://sanmateo.courts.ca.gov/system/files/102921a.pdf.

Further, over half of defense attorneys stated that in the instances when bail amounts are being reduced, judges reduce bail to an amount that is still unaffordable. *Id.* It is unclear what calculus a judge would be making that would lead them to reduce bail (presumably then the individual is not considered a risk to public safety) but refuse to reduce it to an affordable amount. The updated 2023 survey shows no change in this regard in judicial behavior around reducing bail, according to the defense attorneys.[5] This obstinacy by the judiciary to refuse to reduce bail to an affordable amount even when they concede that bail should be reduced, defies logic and the *Humphrey* decision.

Further, data from court watching in Los Angeles County is illustrative. In 188 cases viewed across two different felony arraignment courtrooms in the county, judges did not mention or consider an individual's ability to pay in seventy-five percent of the cases.[6] A similar court watching project in San Mateo County found that an individual's ability to pay was only taken into consideration in .9% of all cases observed. Silicon Valley De-Bug, *Discord & Inaction: Bail and Detention Decisions One Year After Humphrey* (2022) https://www.siliconvalleydebug.org/stories/discord-inaction-bail-and-detention-decisions-one-year-after-humphrey.

Defense attorneys' responses to the surveys indicate a great deal of frustration with courts failing to consider an individual's ability to pay:

> "They have an ability to pay form that is completely ignored."
> –Public Defender, Stanislaus County[7]

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[5] Data on file with the research team, (report forthcoming).
[6] *Id.*
[7] Data on file with the research team (quote in response to the 2021-2022 defense attorney survey).

> "They [judges] are not using evidence nor applying any standard to determine ability to pay for purposes of an individualized determination of an affordable bail amount." –Public Defender, Shasta County[8]

> "Not requiring evidence, they just say my client is dangerous or a flight risk and ignore his ability to pay and ignore *Humphrey*. They do not think *Humphrey* requires them to address ability to pay as long as they find my client dangerous or a flight risk." –Public Defender, San Luis Obispo County[9]

> "There is no standard and 99.99% bail is set at schedule without any regard for ability to pay even with proof of indigency."–Public Defender, Los Angeles County[10]

Kowalczyk held that unaffordable bail was appropriate if there is "clear and convincing evidence that no other conditions of release, including affordable bail, can reasonably protect the state's interests in assuring public safety and victim safety and the arrestee's appearance in court." *Kowalczyk* at 664-665. It also stated that "it will be the rare case where such a monetary condition is truly necessary to sufficiently protect the state's compelling interests…". *Kowalczyk* at 666-667.

Given the data, it seems that unaffordable bail is being used a majority of the time when bail is set, rather than in the rare instance where there are no appropriate non-financial conditions of release. In addition to this practical reality, the reasoning of *Kowalczyk*, and the small loophole in *Humphrey* that allow for unaffordable bail in some instances do not comport with the overall premise and understanding that wealth-based detention is unconstitutional. High bail amounts will always impact those with the least means. Just because a court states that an individual is not

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[8] Data on file with the research team (quote in response to the 2021-2022 defense attorney survey).
[9] *Id.*
[10] *Id.*

detained solely because they cannot afford it, but because there are no non-financial conditions that would vindicate the state's interests, does not negate the fact that the individual will likely remain in custody because they cannot afford the bail amount when a wealthier individual could. It would stand to reason that if courts were applying this same logic for wealthy individuals, setting unaffordable cash bail to prevent their release due to public safety concerns, that wealthy individuals would have their bail set at astronomical sums in the tens of millions of dollars. There is no indication that this is what courts are doing. Thus, it seems, that these loopholes have allowed for wealth-based detention to continue and for courts to avoid any consideration of an individual's ability to pay.

II. NO BAIL HOLDS HAVE INCREASED AFTER *HUMPHREY*, CAUSING A CHILLING EFFECT FOR ACCUSED INDIVIDUALS WISHING TO SEEK PRETRIAL RELEASE.

In *Coming Up Short*, the research team reported that half of defense attorneys stated that judges were more likely to order no bail holds (preventive detention) than before *Humphrey*. *Coming Up Short,* at 22. In the follow-up survey in 2023, this remained constant, indicating that no bail holds continue to be an unintended consequence of *Humphrey*. This is an issue for two reasons. First, because judges are ordering no bail holds in misdemeanors as well as in cases that fall outside of the limited exceptions provided by article I, section 12 of the California Constitution. Second, because judges are placing no bail holds on more people, this has had a chilling effect on defense attorneys such that they report refraining from bringing bail motions or making arguments for fear of a no bail hold. Both issues will be taken in turn below.

A. Courts are issuing no bail holds outside of the exceptions listed under article I, section 12 of the California Constitution.

In the research team's first survey for defense attorneys, one-third of respondents stated that no bail holds were being used for cases that fall outside of the provisions of article I, section 12. *Coming Up Short*, at 22. In the 2023 defense attorney survey, the research team asked more specific questions to better understand for what type of cases judges are ordering no bail holds. Their responses revealed the following:

- **21% of defense attorneys** stated that no bail holds are being ordered by judges in **misdemeanor cases**, and
- **51% of defense attorneys** stated that no bail holds are being ordered by judges in **non-serious, non-violent cases.**[11]

As an illustration of a no bail hold issued in a misdemeanor case, one can look to a writ that was filed in Fresno County in August 2023. Petition for Writ of Mandate, *Woodruff v. Superior Court of Fresno County,* No. M23909358 (Fresno Sup. Ct., Aug. 31, 2023). The writ challenged a judicial ruling of a no bail hold in a misdemeanor case (the charge was exhibiting a weapon). *Id.* The judge in that case stated that there were no financial conditions that would protect the public and thus issued a no bail hold. *Id.* The judge completely failed to mention or acknowledge the defense attorney's arguments that no bail holds are limited to certain types of felony cases after meeting strict evidentiary requirements. *Id.*

Defense attorneys' qualitative responses highlight more specific, and troubling instances of this:

[11] Data on file with the research team (data received as part of the 2023 defense attorney survey).

> "[The] [b]ench believes that Humphrey gives the court the ability to issue NO BAIL for all cases." Panel Attorney, Tehama County[12]

> "I think they took Humphrey seriously for about a month. Then they realized there were no repercussions for detaining clients on no bail holds usually due to prior criminal history." Public Defender, San Diego County[13]

Defense attorneys also reported that no bail holds were being issued in the following circumstances:

> "'All charges. It happened for a public intoxication 647(f) [a misdemeanor] for one client. Also suspended license cases. Most often, felonies and DV (domestic violence) will get denied bail.' – Public Defender, Kern County." *Coming Up Short,* at 22.

> "'Everything from petty theft, driving on a suspended license, shoplifting, to DV.'—Public Defender, Contra Costa County." *Id.*

The research team remarked that this may have occurred because of the lack of clarity about whether article I, section 12 and article I, section 28(f)(3) could be reconciled. Some judges believed article I, section 28 (f)(3) gave them a greater foundation to issue no bail holds, and in fact trainings were conducted across the state and a memo was circulated to judges that suggested just this. *Coming Up Short*, at 21. However, the second iteration of the defense attorney survey, occurred after the Court of Appeal decision in *Kowalczyk*, which clarified that no bail holds are limited to the provisions laid out in article I, section 12. And yet, we see the trend persists:

> "A big point of contention is that our Superior Court judges believe (erroneously, we believe) that Humphrey actually gave them carte blanche to deny bail on clients whom they consider unreasonable risks to public safety even in cases where the clients' offenses are not

[12] Data on file with the research team (quote in response to the 2021-2022 defense attorney survey).
[13] *Id.*

> within bail-denial provisions of article I, section 12." –Public Defender, San Joaquin County[14]
>
> "Courts immediately after Humphreys [sic] tried to find a way to avoid having to set affordable bail. No bailing clients became extremely common whereas it was super rare before then." –Public Defender, Fresno County[15]
>
> "The judge, after finding non-financial conditions [in]adequate will take the notion that my client cannot afford to pay the bail schedule to mean that he must set no bail since client cannot afford bail schedule." –Public Defender, San Diego County[16]

This last quote illuminates another illogic that several other defense attorneys identified through the survey. That is, because people are indigent and setting affordable bail would mean zero dollars, judges are holding them in on no bail because they do not want to release the individual. This clearly does not comport with the requirements in article I, section 12 and shows how misguided pretrial release decisions have become.

A handful of attorneys in response to the prior survey indicated that courts were ordering no bail holds when an individual had a record of failing to appear. In 2023, at least two attorneys volunteered similar information:

> "If a client has even one FTA, lots of judges are revoking bail altogether."—Public Defender, San Diego County[17]
>
> "The biggest increase from pre [H]umphrey in no bail holds that I see is by far the failure to appear prong. If there is a failure to appear history at all (even only one or two in the past 2 years) that often is enough to trigger no bail holds no matter the case (driving

[14] Data on file with the research team (quote in response to the 2023 defense attorney survey).
[15] *Id.*
[16] *Id.*
[17] *Id.*

> on suspended, petty theft, vandalism, simple possession, etc.) much less felonies or strike offenses. –Private Attorney, Del Norte County[18]

This information from defense attorneys surfaces the everyday implementation of *Humphrey*: that courts are feeling more emboldened to issue no bail holds than prior to *Humphrey*. It is perhaps most troubling that judges are issuing no bail holds in misdemeanor cases, where the presumption is own recognizance release as well as when individuals have prior failures to appear. Cal. Penal Code §1270. This seems to be a trend since *Humphrey* and is one of the issues that this court can clarify in the instant case, in line with the ruling in *Kowalczyk.*

B. The widespread practice of issuing no bail holds has a chilling effect on accused individuals exercising their rights.

In 2022, the research team found that defense attorneys in thirteen counties across the state noted that the fear of no bail holds was "a significant factor in their decision to even make an argument based on the *Humphrey* case." *Coming Up Short,* at 25.

> "One attorney from Riverside County recounted that, in one day, six clients charged with felonies all had their bail revoked after a hearing. This was so aggressive and persistent that his client with a scheduled hearing later that day requested a cancellation of the bail hearing and the client borrowed money to make bail instead of even attempting to make a Humphrey argument. Another case documented in the news from Sacramento County quotes a judge instilling this type of chilling effect in attorneys, stating, 'I would caution you Humphrey is a double-edged sword…this $50,000 can go to no bail very easily on this type of charge.'" *Id.*

[18] Data on file with the research team (quote in response to the 2023 defense attorney survey).

Given this type of communication by judges through their "cautioning" words and regular practice of no bail holds, it stands to reason that defense attorneys would fear such an outcome for their clients. And yet, it should remain troubling that some in the judiciary are making decisions so far outside the legal bounds that it is interfering with an accused individual's right to bring a righteous bail motion.

Defense attorneys also responded to the survey by characterizing this type of judicial behavior as punitive or retaliatory:

> "If there is bail set I never argue to reduce bail anymore because the judges will punish you by setting no bail." –Private Attorney, San Mateo County[19]

> "If you ask for pre-trial release WITHOUT mentioning Humphrey then we have some judges that are decent on ordering releases…But if you mention the word Humphrey then the judge will 100% of the time issue a no bail order. 100% of the time." Public Defender, Riverside County[20]

These responses to the surveys indicate that clarity from the Court about when no bail holds are appropriate (in line with the *Kowalczyk* decision) could go a long way in ensuring that the promise of *Humphrey* is realized.

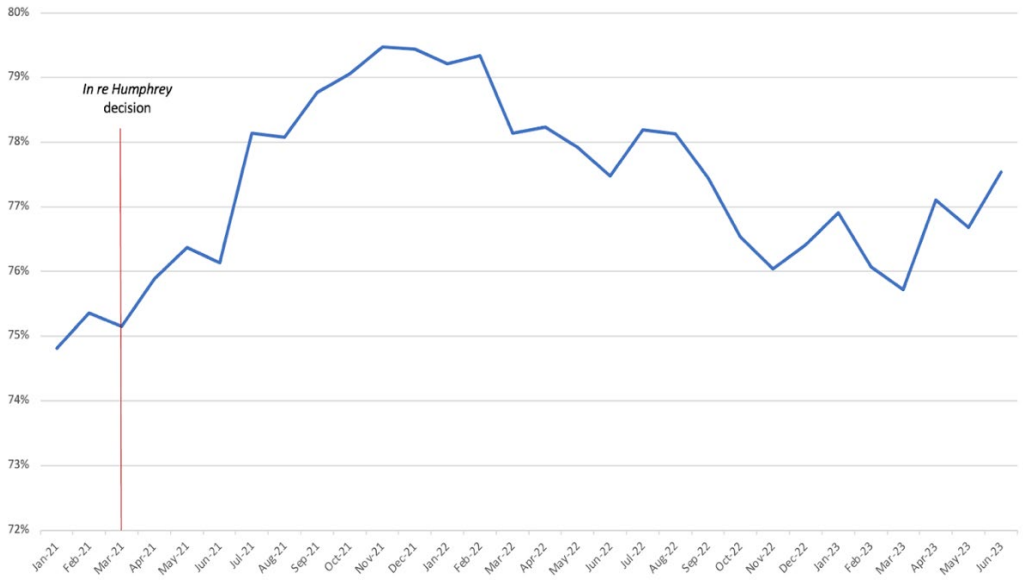
III. JUDICIAL MISINTERPRETATION AND/OR REFUSAL TO FOLLOW *HUMPHREY* WILL CONTINUE TO NEGATIVELY AFFECT POOR COMMUNITIES AND COMMUNITIES OF COLOR IN CALIFORNIA.

As elucidated by the data above, courts have widely different interpretations of the *Humphrey* decision. In addition to the data gathered

[19] Data on file with the research team (quote in response to the 2023 defense attorney survey).
[20] *Id.*

by the research team, data from the Board of State and Community Corrections (BSCC) regarding the unsentenced population in the state's jails is illustrative. California Board of State and Community Corrections, 2002 - Q2-2023, Jail Profile Survey - Query [Dataset], https://jpjdreporting.bscc.ca.gov/jps-query. If *Humphrey* was being appropriately implemented, the expectation would be that the percentage of the average daily jail population that is unsentenced would decrease over time. However, the opposite trend is occurring. *Id.* Figure one, below, shows that the statewide unsentenced population by percentage of the total average daily population has actually *increased* since the *Humphrey* decision and has remained higher than before March 2021. *Id.* While the overall numbers in the jails have decreased (both sentenced and unsentenced) slightly since *Humphrey*, the percentage of those unsentenced in the jails has increased.

Figure 1: Statewide Unsentenced Population as a Percentage of Average Daily Jail Population, 2021-2023



Given the qualitative and quantitative data presented, it is clear that implementation of the new pretrial release procedures laid out in *Humphrey* have not taken hold. As this Court noted in *Humphrey,* pretrial detention

leads to a host of negative consequences including the potential that incarcerated people will lose their jobs, housing, and custody of their children. *Humphrey* at 147. These ongoing, negative consequences affect Black, brown, and indigenous people of the state disproportionately. *Coming Up Short* at 6.

The widespread misapplication of *Humphrey,* and sometimes outright willful refusal by courts to follow the letter of *Humphrey*, perpetuates the inequalities and negative consequences of pretrial incarceration. This will likely continue to occur and perhaps even be exacerbated if the reasoning from *Kowalczyk* is upheld that unaffordable bail is appropriate if there are no non-financial conditions that would protect public safety and ensure return to court. This Court must make clear that *any time* bail is being set, an individualized inquiry into ability to pay must be conducted and bail *must* be affordable.

While this may mean in many instances, when the accused individual is indigent, that bail be set at zero dollars, courts must understand that jurisdictions across the country are releasing more people pretrial without any negative impact to public safety or return to court rates. For example, in Los Angeles County, where a new pre-arraignment release protocol went into effect October 1, 2023, only three percent of individuals released via the new protocol were re-booked into jail. Superior Court of California, *County of Los Angeles, Preliminary Report, Pre-Arraignment Release Protocols* (Oct. 30, 2023), https://www.lacourt.org/newsmedia/uploads/142023103010291423NREARLYDATAREVEALSPUBLICSAFETYBENEFITOFNEWPREARRAIGNMENTRELEASEPROTOCOLS.pdf. In 2017, the state Supreme Court in Kentucky adopted a non-financial administrative release program for certain charges. Spalding, Ashley, Kentucky Center for Economic Policy, *New Data Help Pave the Way for Bail Reform in Kentucky* (Jan. 21, 2021), https://kypolicy.org/new-data-

helps-pave-way-for-bail-reform-in-kentucky/. The number of people released pretrial via administrative release roughly doubled in 2020 and the research shows that public safety was not compromised: rearrest rates stayed largely consistent and remained low (only eleven percent of people were re-arrested). *Id.*

CONCLUSION

The data, from a variety of sources, make clear that *Humphrey* has not led to the substantial increase in the release of people pretrial. In many instances, it has led to a host of unintended consequences due to either judicial misinterpretation or in some cases the willful refusal to follow the mandates of *Humphrey*. Because there is room left for judges to set unaffordable cash bail, it seems they will do so every time, rather than in the rare instance for which it was reserved. Thus, in accordance with petitioner's briefings, this Court should rule that unaffordable cash bail is never allowed because it will always disproportionately and unfairly affect indigent accused individuals.

Further, given the data on no bail holds being ordered far outside the bounds of what was even considered prior to *Humphrey,* undersigned counsel also agrees with petitioner's briefings that the *Kowalczyk* court was correct in its decision limiting no bail holds to the exceptions in article I, section 12 subdivisions (b) and (c). The reaffirmation of the reasoning of the *Kowalczyk* court will serve to cabin unlawful no bail holds that have become rampant in the wake of *Humphrey*.

This Court aligned the state's pretrial decision-making approach with constitutional principles of Due Process and Equal Protection when it made its ruling in *Humphrey*. However, it seems that more guidance and greater clarity is needed around these procedural changes so that all judges can conform their practice and so that indigent individuals across the state

are treated equally and fairly no matter where they are charged and no matter the size of their bank account.

Respectfully submitted,

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CERTIFICATE OF COMPLIANCE

According to the word-count function of the computer program used to prepare it, the foregoing brief contains 4,005 words, excluding the portions exempted by California Rule of Court 8.520(c)(3).

Alicia Virani

Alicia Virani

PROOF OF SERVICE

I, the undersigned, declare that I am over 18 years of age and not a party to the within cause; my business address is 405 Hilgard Avenue, Los Angeles, CA 90095.

On November 8, 2023, I served a true copy of the attached **APPLICATION FOR LEAVE TO FILE *AMICUS CURIAE* BRIEF AND *AMICUS CURIAE* BRIEF** on each of the following, by electronic service to each of the following addresses:

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The Honorable Elizabeth K. Lee
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Executed in Los Angeles, California on November 8, 2023.

Alicia Virani
Alicia Virani

STATE OF CALIFORNIA
Supreme Court of California

PROOF OF SERVICE

STATE OF CALIFORNIA
Supreme Court of California

Case Name: **KOWALCZYK (GERALD JOHN) ON H.C.**
Case Number: **S277910**
Lower Court Case Number: **A162977**

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

2. My email address used to e-serve: **virani@law.ucla.edu**

3. I served by email a copy of the following document(s) indicated below:

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BRIEF	Kowalczyk_Amicus_Brief-Alicia-Virani.11.8.2023

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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.

11/8/2023

Date

/s/Alicia Virani

Signature

Virani, Alicia (281187)

Last Name, First Name (PNum)

Law Firm