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**In the Supreme Court of the State of California**

**THE PEOPLE OF THE STATE OF CALIFORNIA,**

Plaintiff and Respondent,

v.

**HEATHER ROSE BROWN,**

Defendant and Appellant.

Case No. S257631

Appellate District  
Third, Case No.  
C085998

County Superior  
Court, Case No.  
15F2440

**ANSWER TO AMICUS CURIAE BRIEF**

The arguments made in sections I and II of Amicus Populi’s amicus curiae brief, addressing the reasoning behind, and proper application of, first-degree murder by poison largely track the

People's arguments and therefore do not require a response. In section III of the brief, however, amicus makes the following request: "[I]f this Court concludes the instant offense does not warrant first degree murder liability, amicus urges this Court to confine its holding to the unique context of a pregnant woman's self-poisoning and not extend it to cases where the defendant applies it externally, to another human being." (Amicus Curiae Brief of Amicus Populi 21.)

Amicus's proposition appears to be based on a faulty factual premise that the People wish to correct. Appellant Brown was convicted of the first-degree murder by poison of *another human being*: her five-day-old baby, Dae-Lynn. (People's Answer Brief on the Merits (ABM) 17.) The baby was born alive—"pink and chubby," as the unlicensed midwife described. (*Id.* 14.) Brown used illegal drugs after Dae-Lynn was born, and those drugs reached Brown's breast milk. (*Id.* 11-12, 15.) The evidence showed that during the five days Dae-Lynn was alive, in addition to formula, Brown fed the baby heroin and methamphetamine tainted breast milk in an attempt to address the baby's drug-withdrawal symptoms, such as fussiness. (*Id.* 14-17.) She did so in order to avoid professional help and potential intervention by law enforcement and child protective services. (*Ibid.*) Dae-Lynn lived for five days before succumbing to the drugs. (*Id.* 16; 1 RT 403.)

The jury had sufficient evidence before it to find that Brown understood the powerful and dangerous effects that methamphetamine and heroin can have on human life. (ABM 11-

12; see also 3 CT 619-621.) Brown administered breast milk containing these drugs to Dae-Lynn in a dangerous attempt at home treatment, making the circumstances of this case analogous to those in *People v. Jennings* (2010) 50 Cal.4th 616. (*Id.* at pp. 640-641 [evidence sufficient to support first degree murder-by-poison conviction where parent gave powerful sedatives to a five-year-old child contrary to package warnings].) Because Brown acted with the knowledge that her actions were dangerous to baby Dae-Lynn and in conscious disregard of that risk, requisite malice is implied.

The judgment should be affirmed.

Dated: September 23,  
2020

Respectfully submitted,

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*/s/ A. KAY LAUTERBACH*  
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DECLARATION OF ELECTRONIC SERVICE AND SERVICE BY U.S.  
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Case Name: People v. Brown  
No.: S257631

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Shasta County District Attorney's  
Office  
1355 West Street  
Redding, CA 96001

Clerk of the Court  
Shasta County Superior Court  
1500 Court Street, Room 219  
Redding, CA 96001

Jorge Navarette, Clerk  
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San Francisco, CA 94102

I declare under penalty of perjury under the laws of the State of California and the United States of America the foregoing is true and correct and that this declaration was executed on September 23, 2020, at Sacramento, California.

M. Sanchez

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Declarant

*/s/ M. Sanchez*

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Signature

**STATE OF CALIFORNIA**  
Supreme Court of California

**PROOF OF SERVICE**

**STATE OF CALIFORNIA**  
Supreme Court of California

Case Name: **PEOPLE v. BROWN**

Case Number: **S257631**

Lower Court Case Number: **C085998**

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/s/Mialyssa Sanchez

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