Supreme Court of California
Jorge E. Navarrete, Clerk and Executive Officer of the Court
Electronically RECEIVED on 2/10/2021 at 4:07:38 PM

Supreme Court of California
Jorge E. Navarrete, Clerk and Executive Officer of the Court
Electronically FILED on 2/10/2021 by M. Chang, Deputy Clerk

No. S264219

IN THE SUPREME COURT OF THE STATE OF CALIFORNIA

THE PEOPLE OF THE STATE OF CALIFORNIA, Plaintiff and Respondent, vs. LEON WILLIAM TACARDON, Defendant and Petitioner.	)	Third District Court of Appeal No. C087681 (San Joaquin County Superior Court Case No. STKCRFER20180003729)

OPENING BRIEF ON THE MERITS

PAUL KLEVEN (SB# 95338)
LAW OFFICE OF PAUL KLEVEN
1604 Solano Avenue
Berkeley, CA. 94707
(510) 528-7347 Telephone
(510) 526-3672 Facsimile
Pkleven@Klevenlaw.com

By appointment of the Supreme Court

Attorneys for Petitioner
Leon William Tacardon

TABLE OF CONTENTS

ISSUES PRESENTED 7

INTRODUCTION 8

STATEMENT OF THE CASE 9

ARGUMENT 14

I. Petitioner Was Detained by the Actions of the Deputy Before and After He Activated the Spotlight, and Petitioner Was Entitled to Challenge the Deputy's Actions Under the Fourth Amendment 14

A. Encounters With Law Enforcement Officers Do Not Trigger the Protections of the Fourth Amendment Unless a Reasonable Person Would Not Feel Free to Leave 14

B. Law Enforcement Officers Can Seize the Occupants of a Car By Stopping the Car In Which They Are Riding or, If the Car Has Already Stopped, By Making Them Not Feel Free to Leave It 17

C. This Court Should Hold That a Reasonable Person in the Driver's Seat of a Parked Car Would Not Feel Free to Leave After the Deputy Had Made Eye Contact, Pulled Behind the Car With the High Beams On, and Then Activated a Spotlight. . . . 23

D. This Court Should Hold That a Reasonable Person Would Not Feel Free to Leave After The Deputy Had Activated a Spotlight and Approached the Car As Soon As Possible After Alerting Dispatch 27

E. This Court Should Hold That a Reasonable Person Would Not Feel Free to Leave After The Deputy Had Detained a Passenger in the Car Who Had Tried to Leave 30

CONCLUSION. 34

CERTIFICATE OF COUNSEL. 34

TABLE OF AUTHORITIES

CASES:

Arizona v. Gant
(2009) 556 U.S. 332 14

Brendlin v. California
(2007) 551 U.S. 249 . . . . 9, 16, 17, 19, 30, 33

Brown v. Illinois
(1975) 422 U.S. 590 33

California v. Hodari D.
(1991) 499 U.S. 621 16

Delaware v. Prouse
(1979) 440 U.S. 648 . . . . 17, 18

Dunaway v. New York
(1979) 442 U.S. 200 . . . . 14, 15

Florida v. Bostick
(1991) 501 U.S. 429 . . . . 8, 32

Florida v. Royer
(1983) 460 U.S. 491 . . . . 16, 26

In re Manuel G.
(1997) 16 Cal.4th 805. . . . . 8, 16, 26

Katz v. United States
(1967) 389 U.S. 347 14

People v. Avecedo
(2003) 105 Cal.App.4th 195 24

People v. Bailey
(1985) 176 Cal.App.3d 402 . . . . 19, 22, 25, 32

People v. Brown
(2015) 61 Cal.4th 968 . . . . 18-21, 23-32

People v. Franklin
(1987) 192 Cal.App.3d 935 21

People v. Garry
(2007) 156 Cal.App.4th 1100 . . . . 22, 27-29, 33

People v. Kidd
(2019) 36 Cal.App.5th 12. . . . . 8, 21, 22, 27, 29

People v. Perez
(1989) 211 Cal.App.3d 1492 . . . . 25, 26

People v. Rico
(1979) 97 Cal.App.3d 124 . . . . 21, 23

People v. Roth
(1990) 219 Cal.App.3d 211 . . . . 31, 32

People v. Tacardon
(2020) 53 Cal.App.5th 89 . . . . 8, 10, 24-26, 28, 30-32

People v. Wilkins
(1986) 186 Cal.App.2d 804. 22

Terry v. Ohio
(1968) 392 U.S. 1 14-17

Texas v. Brown
(1983) 460 U.S. 730. . . . . 9, 17, 18

United States v. Brignoni-Ponce
(1975) 422 U.S. 873 15

United States v. Drayton
(2002) 536 U.S. 194. 26

United States v. Lee
(1927) 274 U.S. 559 18

United States v. Mendenhall
(1980) 446 U.S. 544 . . . . 16, 26, 29

Wilson v. Superior Court
(1983) 34 Cal.3d 777 . . . . 8, 16

STATUTES:

United States Constitution, Fourth Amendment . . . . *passim*

Health and Safety Code § 11351 9

Health and Safety Code § 11359 9

Penal Code § 995 10

Penal Code § 1538.5 . . . . 9, 10

Vehicle Code § 25258 24

Vehicle Code § 25259 . . . . 9, 24

OTHER AUTHORITIES:

Butterfoss, *Criminal Law: Bright Line Seizures: The Need for Clarity in Determining When Fourth Amendment Activity Begins* (1988) 79 J. Crim. L. & Criminology 437 26

Kessler, *Criminal Law: Free to Leave? An Empirical Look at the Fourth Amendment's Seizure Standard* (2009) 99 J. Crim. L. & Criminology 51 26

Nadler, *No Need to Shout: Bus Sweeps and the Psychology of Coercion* (2002) 2002 Sup. Ct. Rev. 153 26

Sundby, *The Rugged Individual's Guide to the Fourth Amendment: How the Court's Idealized Citizen Shapes, Influences, and Excludes the Exercise of Constitutional Rights* (2018) 65 UCLA L. Rev. 690. 26

ISSUES PRESENTED

I. After a deputy in a patrol car approached a parked car at night from in front with the high beams on, made eye contact with the two front seat occupants, saw smoke coming out of the windows, made a U-turn, parked 15-20 feet behind the car, and turned on the spotlight with the high beams still on, would a reasonable person sitting in the driver's seat of the parked car have felt free to leave?

II. After a deputy in a patrol car approached a parked car at night from in front with the high beams on, made eye contact with the two front seat occupants, saw smoke coming out of the windows, made a U-turn, parked 15-20 feet behind the car, turned on the spotlight with the high beams still on, and began approaching the parked car as soon as possible after alerting dispatch, would a reasonable person sitting in the driver's seat have felt free to leave?

III. After a deputy in a patrol car approached a parked car at night from in front with the high beams on, made eye contact with the two front seat occupants, saw smoke coming out of the windows, made a U-turn, parked 15-20 feet behind the car, turned on the spotlight with the high beams still on, began approaching the parked car as soon as possible after alerting dispatch, and immediately stopped the rear seat passenger who was trying to leave the car to go to her house nearby, would a reasonable person sitting in the driver's seat have felt free to leave?

INTRODUCTION

The Third Appellate District held that shining a spotlight on the occupants of a parked car did not constitute a detention and so did not trigger their Fourth Amendment rights. (*People v. Tacardon* (2020) 53 Cal.App.5th 89, 99-101.) The Court focused primarily on the color of the light, recognizing that the use of emergency lights would have convinced a reasonable person that he or she was not free to leave (*id.* at p. 98), but determining that the deputy's actions in approaching a parked car at night with his high beams on, establishing eye contact with the driver, making a U-turn to pull in behind the car, activating his spotlight, getting out of the car as soon as possible, and promptly detaining the rear seat passenger as she attempted to leave, constituted a "consensual encounter that result[ed] in no restraint of liberty whatsoever." (*In re Manuel G.* (1997) 16 Cal.4th 805, 821.)

A detention occurs, and the Fourth Amendment's protections apply, when a person understands he or she is "the focus of the officer's particularized suspicion." (*Wilson v. Superior Court* (1983) 34 Cal.3d 777, 791.) In determining whether the Fourth Amendment applies to an encounter between officers and citizens, courts must consider the totality of the circumstances, including in this case the deputy's's actions before and after activating the spotlight. (*Florida v. Bostick* (1991) 501 U.S. 429, 437; *People v. Kidd* (2019) 36 Cal.App.5th 12, 20-22.) The Third Appellate District discounted those other circumstances, determining that the official scrutiny that resulted from the use of high beams and a spotlight did not constitute a detention (*Tacardon, supra*, 53 Cal.App.5th at p. 98), despite the deputy's actions surrounding activation of the spotlight to

focus and direct that scrutiny.

The question of whether Petitioner was entitled to raise a Fourth Amendment challenge to the search in this case should not depend solely on whether the light being directed at his car was white instead of tinted. Police officers in the performance of their duties may display steady burning white lights (Veh. Code § 25259, subd. (b)), and the spotlight in this case was not merely being used as a flashlight (*Texas v. Brown* (1983) 460 U.S. 730, 739-749), but also as a signal to the car's occupants that they were being detained. (*Kidd, supra,* 36 Cal.App.5th at p. 21.) Like passengers in a vehicle that has been stopped by authorities, any reasonable occupant of Petitioner's car would have "understood the police officers to be exercising control to the point that no one in the car was free to depart without police permission." (*Brendlin v. California* (2007) 551 U.S. 249, 257.)

This Court should reverse.

STATEMENT OF THE CASE

The San Joaquin County District Attorney alleged in an Information filed on May 1, 2018, that Petitioner Leon Tacardon had possessed a controlled substance for sale in violation of Health and Safety Code section 11351, and had possessed marijuana for sale, a misdemeanor violation of section 11359, subdivision (b). (Clerk's Transcript on Appeal ("CT") 141-142.)

As part of his Preliminary Hearing, Petitioner moved to suppress the evidence against him pursuant to Penal Code section 1538.5 (CT 7-23), but the magistrate denied the motion. (CT 24, 131-134.) Pursuant to sections 995 and 1538.5, Petitioner renewed the

motion in the trial court after the filing of the Information. (CT 146-179.) The trial court subsequently granted the motion to suppress and dismissed the case. (CT 180; Reporter's Transcript on Appeal ("RT") 24-25.)

The State timely appealed on July 30, 2018. (CT181.) In a published opinion issued on July 22, 2020, the Third Appellate District reversed the superior court's order, determining that the encounter did not trigger Petitioner's rights under the Fourth Amendment. (*Tacardon, supra,* 53 Cal.App.5th at pp. 100-101.)

STATEMENT OF FACTS

San Joaquin County Sheriff's Deputy Joel Grubb was patrolling in a residential part of Stockton at around 8:45 in the evening on March 20, 2018. (CT 32-33, 87.) He saw a gray BMW legally parked in front of a house directly ahead of him on the east side of Fairway Drive, where two streets meet in a "T" intersection. (CT 32-33, 87-88, 104.) The car was not far from a streetlight and, per his usual practice, Grubb had his high beams on for "extra visibility." (CT 87-88, 104, 115.) Grubb was driving his patrol car and wearing a uniform. (CT 107.)

The deputy noticed two people in the front seat of the car wearing hoodies while reclining slightly, and could see they had nothing in their mouths. (CT 34, 88.) There was also a third person sitting in the back seat. (CT 33-34, 87-89.) The car did not have its lights on and was not running, but Grubb could see smoke coming of the car windows, which were slightly cracked. (CT 33, 89, 105.) The car was "well lit up" due to Grubb's high beams, and he was able to make eye contact with the two people in the front. (CT 103-104.)

Grubb made a U-turn and pulled up about 15-20 feet behind the car so he could contact the car's occupants. (CT 33-34, 88-89, 103, 104.) The two front seat occupants continued to watch him as he conducted the U-turn. (CT 103-104.) While Grubb did not activate his emergency lights or siren, he did turn his spotlight on as soon as he got behind the car and illuminated it. (CT 34, 89, 105.) No one inside the car flinched or made any furtive gestures when Grubb turned on the spotlight. (CT 89-90.) He advised the dispatcher where he was and got out of the car as quickly as possible, within 15 to 20 seconds, leaving the spotlight on behind him. (CT 103, 115.)

As Grubb got out of his patrol car and began to approach the car, the female passenger in the rear seat jumped or got out of the car to his right, shutting the door behind her. (CT 34, 90, 92, 93, 106, 108.) Although the passenger, M. K., told Grubb she lived at the residence where the car was parked (CT 90-91, 109), he thought it was unusual for someone to "jump out of a vehicle when you're approaching it," and as a safety precaution he "asked her to stay out of the vehicle, but to stay within my view and off to the side, just behind the car where I could observe her." (CT 34; see also 94, 109.)

Grubb by that time had not seen anything in M.K.'s hands, had not seen a bulge in her clothing that gave him concern, and had not seen any threatening movements, but he wanted to keep an eye on her while keeping the car between them in case she was armed or started to act irrationally. (CT 109-110, 113-114.) Grubb did not draw his gun or taser, and used a moderate voice. (CT 114-115.) He did not ask her to stop based on the smell of marijuana, as he could not yet detect that smell. (CT 34, 90-92, 94, 106-107, 108-109.)

M.K. submitted, standing off to the side at the rear of the car. (CT 109-110.) Grubb testified that, as of that moment, neither M.K. nor the two other occupants of the car were free to leave. (CT 91, 92.) As Grubb got to within a couple feet of the driver's window, he smelled what he recognized from his training as marijuana coming through the front windows and the rear door. (CT 36, 48, 91, 92, 93, 94, 105-106, 108-109.)

Grubb had to use his flashlight to get a good view of the inside the car because the windows on the rear were tinted. (CT 34-35.) On the rear passenger floorboard, Grubb saw three large clear plastic bags containing a green leafy substance. (CT 35-36, 38.) Grubb also saw a custom-rolled, dark brown and green cigarette in the center console, with a burnt, green, leafy substance. (CT 36-38, 96-97.)

Petitioner, who was seated in the driver's seat, identified himself, as did the other passenger, though only the other passenger produced identification. (CR 39-40, 92, 94-95, 110, 111.) They discussed the cigarette, and Petitioner said he was on probation, though he did not say whether he was on searchable probation; Grubb did not mention Petitioner's probation status in his report of the arrest. (CT 101-103.)

After his talk, Grubb went to his patrol car and conducted a records search to determine the terms and conditions of Petitioner's probation, and to confirm the identification of all three occupants. (CT 97-98.) Grubb placed Petitioner in the back of his patrol car. (CT 112-113.) During a probation search conducted about 10-15 minutes after Grubb first saw the marijuana, deputies found a clear orange prescription bottle with 76 white oblong pills in a little cubby area on the rear passenger door. (CT 40-41, 45, 46, 112.) After

Petitioner was placed under arrest, deputies found $1,904 in cash loose in his sweat pants pocket. (CT 42, 112.) The Department of Justice confirmed that the leafy substance was marijuana and the pills were hydrocodone. (CT 49-61.)

When Petitioner moved to suppress the evidence at the preliminary hearing, the magistrate characterized the encounter as "a police contact … in other words, he didn't stop the defendant. There certainly was a point at which the defendant wasn't free to go, but that still would not preclude it being characterized as a contact." (CT 133.) The magistrate concluded the search was valid because the car was already stopped, Grubb was entitled to seize the marijuana once he saw it, and the pills were discovered during a search incident to a lawful arrest. (CT 133.)

Upon renewal of the motion, the trial court determined that the encounter was initially consensual but that Petitioner was detained once Grubb told M.K. to stop. (RT 21-22, 24-25.) The court rejected the prosecutor's contention that M.K.'s detention had no effect on Petitioner and, given Grubb's complete failure to articulate facts supporting any reasonable suspicion that Petitioner was involved in criminal activity, the court granted the motion to suppress. (RT 25.)

ARGUMENT

I. Petitioner Was Detained by the Actions of the Deputy Before and After He Activated the Spotlight, and Petitioner Was Entitled to Challenge the Deputy's Actions Under the Fourth Amendment

A. Encounters With Law Enforcement Officers Do Not Trigger the Protections of the Fourth Amendment Unless a Reasonable Person Would Not Feel Free to Leave

The Fourth Amendment provides, "The right of the people to be secure in their persons, houses, papers, and effects, against unreasonable searches and seizures, shall not be violated, and no Warrants shall issue, but upon probable cause,..."

Prior to *Terry v. Ohio* (1968) 392 U.S. 1, "the Fourth Amendment's guarantee against unreasonable seizures of persons was analyzed in terms of arrest, probable cause for arrest, and warrants based on such probable cause." (*Dunaway v. New York* (1979) 442 U.S. 200, 207-208.) While warrants were not always required, the need for probable cause "was treated as absolute." *(Id.* at p. 208.) Warrantless searches were, and still are, "*per se* unreasonable under the Fourth Amendment – subject to a few specifically established and well-delineated exceptions." (*Katz v. United States* (1967) 389 U.S. 347, 357 ; see also *Arizona v. Gant* (2009) 556 U.S. 332, 338 (2009).)

Terry established a new exception to the warrant requirement, holding that an officer could briefly detain an individual without probable cause if the officer observed "unusual conduct which leads him reasonably to conclude in light of his experience that criminal

activity may be afoot." (*Terry, supra*, 392 U.S. at p. 30.) The Court "emphatically" rejected the suggestion that police actions short of a traditional arrest fell outside the Fourth Amendment, "recogniz[ing] that whenever a police officer accosts an individual and restrains his freedom to walk away, he has 'seized' that person." (*Id.* at p. 16.) But because the detention was substantially less intrusive than an arrest, the Court determined that probable cause was not required. (*Dunaway*, 442 U.S. at pp. 209-210, citing *Terry*, 392 U.S. at pp. 20-27.)

Despite the lower standard the Court was adopting in *Terry*, the "notions" underlying both probable cause and the Warrant requirement "remain fully relevant in this context." (*Terry, supra,* 392 U.S. at p. 21.) In determining whether an officer has seized an individual, courts must consider the totality of the circumstances rather than "a single fact" (*Bostick, supra*, 501 U.S. at p. 437), and the Fourth Amendment requires every seizure to be supported by reasonable suspicion that the citizen is, or shortly will be, engaged in criminal activities. (*United States v. Brignoni-Ponce* (1975) 422 U.S. 873, 884.) The officer cannot rely on "an inchoate and unparticularized suspicion or 'hunch,'" (*Terry, supra,* 392 U.S. at p. 27), and "in justifying the particular intrusion, the officer must be able to point to specific and articulable facts which, taken together with the rational inferences from those facts, reasonably warrant that intrusion." (*Id.* at p. 21.)

As *Terry* made clear, "not all personal intercourse between policemen and citizens involves 'seizures' of persons. Only when the officer, by means of physical force or show of authority, has in some way restrained the liberty of a citizen may we conclude that a

'seizure' has occurred." (*Terry, supra*, 392 U.S. at p. 19, fn. 16.) Consensual encounters "result in no restraint of an individual's liberty whatsoever – *i.e.*, no 'seizure,' however minimal ...." (*Wilson, supra,* 34 Cal.3d at p. 784, citing *Florida v. Royer* (1983) 460 U.S. 491, 497-498 (plur. opn. of White, J.).) "Consensual encounters ... require no articulable suspicion that the person has committed or is about to commit a crime." (*Manuel G., supra,* 16 Cal.4th at p. 821.)

> [A] seizure does not occur simply because a police officer approaches an individual and asks a few questions. So long as a reasonable person would feel free "to disregard the police and go about his business," [Citation], the encounter is consensual and no reasonable suspicion is required. The encounter will not trigger Fourth Amendment scrutiny unless it loses its consensual nature.

(*Bostick, supra*, 501 U.S. 429 at p. 434.)

In order for an officer to effect a seizure by a show of authority, not only must a reasonable person have believed that he or she was "not free to leave" (*United States v. Mendenhall* (1980) 446 U.S. 544, 554 (principal opinion)), but that person must have submitted to the officer's show of authority. (*California v. Hodari D.* (1991) 499 U.S. 621, 627-628.) "A police officer may make a seizure by show of authority and without the use of physical force, but there is no seizure without actual submission; otherwise, there is at most an attempted seizure, so far as the Fourth Amendment is concerned." (*Brendlin, supra,* 551 U.S. at p. 254.)

B. Law Enforcement Officers Can Seize the Occupants of a Car By Stopping the Car In Which They Are Riding or, If the Car Has Already Stopped, By Making Them Not Feel Free to Leave It

One common form of seizure that falls within *Terry* is the routine traffic stop of individual vehicles on public roads and highways. "[S]topping an automobile and detaining its occupants constitute a 'seizure' ..., even though the purpose of the stop is limited and the resulting detention quite brief." (*Delaware v. Prouse* (1979) 440 U.S. 648, 653.) Although this Court held that only the driver was detained by a traffic stop (*People v. Brendlin* (2006) 38 Cal.4th 1107), *Brendlin* determined that a passenger as well as a driver:

> is seized by the police and thus entitled to challenge the government's action under the Fourth Amendment .... [T]he traffic stop curtails the travel a passenger has chosen just as much as it halts the driver,... [E]ven when the wrongdoing is only bad driving, the passenger will expect to be subject to some scrutiny, and his attempt to leave the scene would be so obviously likely to prompt an objection that no passenger would feel free to leave in the first place.

(*Brendlin, supra*, 551 U.S. at pp. 254, 257.)

The United States Supreme Court has not gone beyond the issue of passenger detentions to consider whether the occupants of a vehicle that was stopped without any action on the part of authorities can be detained. In *Texas v. Brown, supra*, 460 U.S. 730, an officer using a flashlight noticed the driver of a car that had stopped at a routine driver's license checkpoint had a balloon that looked like it could contain narcotics, but the validity of the stop at a license

checkpoint was not questioned. (*Id.* at pp. 734, 739, citing *Prouse, supra*, 440 U.S. at pp. 654-655) Regarding the flashlight, the Court agreed with multiple decisions that "the use of artificial means to illuminate a darkened area simply does not constitute a search, and thus triggers no Fourth Amendment protection." (*Texas v. Brown, supra*, 460 U.S. at p. 740.) "It is likewise beyond dispute that [the officer's] action in shining his flashlight to illuminate the interior of Brown's car trenched upon no rights secured to the latter by the Fourth Amendment." (*Id.* at pp. 739-740.) "'[The] use of a searchlight is comparable to the use of a marine glass or a field glass. It is not prohibited by the Constitution.'" (*Id.* at p. 740, quoting *United States v. Lee* (1927) 274 U.S. 559, 563 (Probation era case involving search of a motor boat at sea).)

But this Court has addressed the issue of whether the occupants of a stopped vehicle can be detained, holding that the driver of a car was detained when a deputy "stopped behind the parked car and turned on his emergency lights." (*People v. Brown* (2015) 61 Cal.4th 968, 980.) In *Brown*, a deputy responding to a call about fighting in an alley saw a car driving toward him from the fight and asked the driver, Brown, if he had seen a fight, to which Brown did not respond. (*Brown, supra*, 61 Cal.4th at p. 973.) Suspecting Brown had been involved in the fight, the deputy turned around and followed him, finding Brown's car parked not far from where the fight had occurred. (*Ibid.*) The deputy "pulled behind Brown's car and activated the emergency lights on his patrol car." (*Ibid.*) When the deputy approached, he could smell alcohol and noticed signs of intoxication in Brown, who subsequently admitted drinking and being involved in the fight. (*Ibid.*)

As the Court observed, "[t]he critical question is when Brown's detention occurred. If the encounter with [the deputy] was consensual, it required no justification." (*Brown, supra*, 61 Cal.4th at p. 974.) In determining that the encounter had not been consensual, the Court first concluded that Brown had submitted to the deputy's show of authority. (*Brown, supra*, 61 Cal.4th at pp. 975-977.) The Court followed *People v. Bailey* (1985) 176 Cal.App.3d 402, which also involved an officer who had stopped behind a parked car and activated emergency lights, and held that the driver was detained because "'[a]ny reasonable person in a similar situation would expect that, if he [or she] drove off, the officer would respond by following with red lights on and siren sounding, in order to accomplish control of the individual.'" (*Brown, supra*, 61 Cal.4th at p. 975, quoting *Bailey, supra*, 176 Cal.App.3d at p406.) The Court also relied on *Brendlin*, noting that "'one sitting in a chair may submit to authority by not getting up to run away.'... Similarly, here, Brown submitted to the deputy's show of authority by staying in his car at the scene." (*Brown, supra*, 61 Cal.4th at p. 977, quoting *Brendlin, supra*, 551 U.S. at p. 262.)

The Court next determined that the test for evaluating whether an encounter that begins with an officer coming upon a parked car has become a detention is "whether a reasonable person in [the defendant's] position would have felt free to leave." (*Brown, supra*, 61 Cal.App.4th at p. 980, citing *Brendlin, supra*, 551 U.S. at p. 257.) The Court determined Brown would not have felt free to leave because "[n]othing, other than the officer's show of authority, prevented his willful departure." (*Id.* at p. 979.) Brown remained in the driver's seat, there was no reason to believe the car was disabled,

and he "could also have left on foot, leaving the car legally parked." (*Id.* at pp. 979-980.)

Applying these standards, the Court determined that Brown was detained as soon as the deputy pulled behind his car and activated the emergency lights, before the deputy approached the car. (*Brown, supra*, 61 Cal.App.4th at pp. 978-980.) Noting that "[t]he Supreme Court has long recognized that activating sirens or flashing lights can amount to a show of authority" (*id.* at p.978), the Court determined that a reasonable person in a legally parked car "would have perceived [the deputy's] actions as a show of authority, directed at him and requiring that he submit by remaining where he was." (*Id.* at p. 978.) A reasonable person would have been aware that he or she was engaged in "'an encounter with the police'" before the deputy approached the car on foot and made contact with the driver, because the "reasonable inference to be drawn from the record was that Brown was aware of the deputy's overhead emergency lights flashing in the dark immediately behind his car." (*Id.* at p. 980.) While a stranded motorist might not view the deputy's use of lights as signaling an intent to investigate a crime, the Court concluded that under these facts "no circumstances would have conveyed to a reasonable person that [the deputy] was doing anything other than effecting a detention." (*Ibid.*)

Brown did not address the precise issue presented in this case because, even though the State had argued that the record did not establish whether the deputy had activated emergency or some other type of lights, including white lights and spotlights, the Court determined that the most logical inference from the evidence was that the deputy had activated his overhead emergency lights, and

accepted the appellate court's statement to that effect. (*Brown, supra*, 61 Cal.4th at pp. 978-979.)

Kidd, supra, 36 Cal.App.5th 12, arrived at the same holding as *Brown* in a case where spotlights were activated instead of emergency lights. The officer in *Kidd* was on patrol early one morning when he saw a car parked on a residential street with fog lights on, containing two passengers. (*Kidd, supra,* 36 Cal.App.5th at p. 15.) The officer, thinking the occupants might be stranded or live there, made a U-turn to park 10 feet behind the car, and pointed two spotlights at it. (*Ibid.*) As the officer got out of his patrol car and began to approach the parked car, he smelled marijuana. (*Ibid.*) Upon reaching the window of the driver, Kidd, the officer asked what the occupants were doing and used his flashlight, allowing him to see the passenger attempting to conceal bags of what he suspected was marijuana. (*Ibid.*) After advising the officer that he was on probation, Kidd told the officer there was a gun in the center console. (*Id.* at pp. 15-16.)

Reviewing prior case law, *Kidd* acknowledged that an officer simply parking behind a suspect would not be construed as a detention. (*Kidd, supra,* 36 Cal.App.5th at p. 21, citing *People v. Franklin* (1987) 192 Cal.App.3d 935, 940 (after officer shone a spotlight on a pedestrian and stopped car behind him, the pedestrian approached the officer's car).) Similarly, there would be no detention if an officer shone a spotlight on a person. (*Kidd, supra*, 36 Cal.App.5th at p. 21, citing *People v. Rico* (1979) 97 Cal.App.3d 124, 128-130 (officer momentarily shone a spotlight on a car as it drove down the freeway).) On the other hand, there would be a detention if the officer parked the patrol car so as to prevent a parked

car from leaving (*Kidd, supra*, 36 Cal.App.5th at p. 21, citing *People v. Wilkins* (1986) 186 Cal.App.2d 804, 809), or pulled in behind a car and turned on colored emergency lights. (*Kidd, supra*, 36 Cal.App.5th at p. 21, citing *Bailey, supra*, 176 Cal.App.3d at p. 406.) The Court also noted that *People v. Garry* (2007) 156 Cal.App.4th 1100, had found there was a detention where the officer's actions, including use of a spotlight and walking briskly toward a pedestrian while questioning his legal status, had communicated that the pedestrian was not free to leave. (*Kidd, supra*, 36 Cal.App.5th at p. 21, citing *Garry, supra*, 156 Cal.App.4th at pp. 1111-1112.)

Considering the totality of the circumstances, *Kidd* found the defendant "was detained when the officer made a U-turn to pull in behind him and trained spotlights on his car." (*Kidd, supra,* 36 Cal.App.5th at p. 21.) Although the officer had not blocked Kidd's car or used the emergency lights, which would "unambiguously signal a detention," the Court noted that "motorists are trained to yield immediately when a law enforcement vehicle pulls in behind them and turns on its lights." (*Ibid.*) "Regardless of the color of the lights, a reasonable person in Kidd's circumstances 'would expect that if he drove off, the officer would respond by following with red lights on and sirens sounding ...,'" (*Ibid.*, quoting *Bailey, supra*, 176 Cal.App.3d at p. 406.)

C. This Court Should Hold That a Reasonable Person in the Driver's Seat of a Parked Car Would Not Feel Free to Leave After the Deputy Had Made Eye Contact, Pulled Behind the Car With the High Beams On, and Then Activated a Spotlight

This Court should extend its holding in *Brown* and adopt *Kidd's* thoughtful analysis by refusing to draw an artificial distinction between the use of spotlights and emergency lights.

Courts must consider all of the circumstances in determining whether a person has been detained, not just a single fact (*Bostick, supra*, 501 U.S. at p. 437), and no reasonable person would have felt free to leave the car simply because Grubb turned on a spotlight rather than emergency lights. The deputy ensured that Petitioner was aware of his scrutiny even before he turned on the spotlight, explaining that "I had my high beams on and it was well lit up, they – they saw me as well too. As they were leaning back, I could see them looking at me as I turned by them." (CT 104.) The deputy then made a U-turn to pull up behind the car while leaving his high beams on, and then trained his spotlight on the car to further illuminate it. (CT 33-34, 88-89, 103-105.) Like the defendant in *Brown*, Petitioner knew he was engaged in an encounter with the authorities even before the deputy approached the car on foot, and was well aware of the light glaring immediately behind his car. (*Brown, supra*, 61 Cal.4th at p. 980.)

The deputy did not use his spotlight merely to shine a light momentarily on a car going down the highway, as in *Rico, supra*, 97 Cal.App.3d at pp. 128-130, but to continue an investigation he had already begun, as in *Brown, supra*, 61 Cal.4th at pp. 973, 977-978, and *Kidd, supra,* 36 Cal.App.5th at pp. 15, 21-22. While the

spotlight illuminated the car, it also alerted Petitioner that Grubb's scrutiny was not over.

Kidd correctly concluded that the "color of the lights" was not determinative in evaluating whether there was a detention. (*Kidd, supra*, 36 Cal.App.5th at p. 21.) "[W]hile we agree it is common knowledge that police cars carry red lights, it is equally well known that police cars display different colored lights. (See [Veh. Code] §§ 25258, 25259 [amber, white or blue lights permitted].)" (*People v. Avecedo* (2003) 105 Cal.App.4th 195, 199.)[1] Coupled with their prior interaction, a reasonable person would have recognized the deputy's actions "as a show of authority, directed at him and requiring that he submit by remaining where he was." (*Brown, supra*, 61 Cal.4th at p. 978.)

The Third Appellate District in this case determined that Petitioner could not exercise his rights under the Fourth Amendment because he was not detained until Grubb had smelled the marijuana and seen bags of it on the floorboard. (*Tacardon, supra*, 53 Cal.App.5th at pp. 100-101.) In arriving at its holding the Court erroneously focused on the fact that Grubb activated his spotlight rather than his emergency lights. (*Bostick, supra*, 501 U.S. at p. 437.) While acknowledging that "the use of emergency lights is a sufficient show of authority to communicate to a reasonable person that he or she is not free to leave" (*Tacardon, supra*, 53 Cal.App.5th

---

1 Vehicle Code section 25259, subdivision (b) provides that a "vehicle operated by a police or traffic officer while in the actual performance of his or her duties may display steady burning or flashing white lights to either side mounted above the roofline of the vehicle." (Veh. Code § 25259, subd. (b).)

at p. 98, citing *Bailey, supra,* 176 Cal.App.3d at pp. 405-406), the Court simply determined that a spotlight was an insufficient show of authority, even though it also acknowledged that "'the use of high beams and spotlights might cause a reasonable person to feel himself [or herself] the object of official scrutiny.'" (*Tacardon, supra*, 53 Cal.App.5th at p. 99, quoting *People v. Perez* (1989) 211 Cal.App.3d 1492, 1496.)

The appellate court never considered the totality of the circumstances facing a reasonable person in Petitioner's position (*Bostick, supra*, 501 U.S. at p. 437), including Petitioner's knowledge that he was the object of official scrutiny before the spotlight was even activated because Grubb had already made eye contact with Petitioner, who continued to follow the deputy's actions as he made a U-turn and pulled up behind Petitioner's car. (CT 33-34, 88-89, 103-104.) At the end of that sequence, Grubb significantly ratcheted up the level of felt official scrutiny by activating the searchlight and bathing the area in even more light. (CT 34, 89, 105.) Given the level of directed, official scrutiny which Petitioner was feeling at that time, it is difficult to imagine why a reasonable person in his position would feel free to start the car and drive away, or just open the door and walk away because, as in *Brown*, "no circumstances would have conveyed to a reasonable person that [the deputy] was doing anything other than effecting a detention." (*Brown, supra*, 61 Cal.4th at p. 980.) In either case, a reasonable person would have known that any attempt to leave would have been met with a firm, negative response from the deputy (*Kidd, supra*, 36 Cal.App.5th at pp. 21-22; *Bailey, supra*, 176 Cal.App.3d at pp. 405-406.)

Under all the circumstances, no reasonable person would have

decided the encounter was over upon noticing that the deputy had activated a spotlight instead of emergency lights, and no one would feel comfortable pulling away while the deputy sat in his patrol car. Other than relying on *Perez* (*Tacardon, supra*, 53 Cal.App.5th at pp. 98-99), the Third Appellate District does not provide any explanation for its determination that, given Petitioner's awareness that he was already engaged in an encounter with police (*Brown, supra*, 61 Cal.3d at p. 980), a reasonable person in his position would have felt free to leave, believing he or she was under "no restraint of liberty whatsoever" after Grubb activated the spotlight. (*Manuel G., supra*, 16 Cal.4th at p. 821)

As Justice Souter has noted, holdings in this area sometimes have an "air of unreality" about them (*United States v. Drayton* (2002) 536 U.S. 194, 208 (Souter, J., dissenting)), and the "not free to leave" standard adopted in *Mendenhall, supra*, 446 U.S. at p. 554, and *Royer, supra,* 460 U.S. at p. 502, has been the subject of criticism, with scholars arguing that people in real life are never as intrepid in the face of law enforcement as the hypothetical "reasonable person" discussed in caselaw.[2] "[T]he Court's Fourth

---

[2] See, *e.g.*, Sundby, *The Rugged Individual's Guide to the Fourth Amendment: How the Court's Idealized Citizen Shapes, Influences, and Excludes the Exercise of Constitutional Rights,* 65 UCLA L. Rev. 690 (2018); Kessler, *Criminal Law: Free to Leave? An Empirical Look at the Fourth Amendment's Seizure Standard*, 99 J. Crim. L. & Criminology 51 (2009); Nadler, *No Need to Shout: Bus Sweeps and the Psychology of Coercion*, 2002 Sup. Ct. Rev. 153 (2002); and Butterfoss, *Criminal Law: Bright Line Seizures: The Need for Clarity in Determining When Fourth Amendment Activity Begins*, 79 J. Crim. L. & Criminology 437 (1988).

Amendment consent jurisprudence is ... based on serious errors about human behavior and judgment ....” (Nadler, *supra*, 2002 Sup. Ct. Rev. at p. 155.)

This Court should hold that Petitioner was entitled to exercise his rights under the Fourth Amendment because no reasonable person in Petitioner’s position would have felt free to leave after Grubb activated his spotlight.

D. This Court Should Hold That a Reasonable Person Would Not Feel Free to Leave After The Deputy Had Activated a Spotlight and Approached the Car As Soon As Possible After Alerting Dispatch

Although *Brown, supra,* 61 Cal.4th at p. 980, and *Kidd,* 36 Cal.App.5th at p. 21, did not find it necessary to consider the officer’s actions after activating the lights to determine that there had been a detention, *Kidd* acknowledged that the officer had not signaled the detention “unambiguously.” (*Ibid.*) *Brown* had cited *Garry* as a case to consider in resolving ambiguity based on “the officer’s conduct when approaching” (*Brown, supra*, 61 Cal.4th at p, 980, citing *Garry, supra,* 156 CAl.App.4th at pp. 1110-1112), and *Kidd* went on to explain:

> [A]ny ambiguity was removed when the officer more or less immediately exited his patrol vehicles and began to approach Kidd’s car. Although the officer’s approach was, according to record, not made in a particularly aggressive or intimidating manner, a reasonable person in Kidd’s circumstances would not have felt free to leave.

(*Kidd, supra,* 36 Cal.App.5th at pp. 21-22.)

Garry determined a pedestrian had been detained even

though the officer had parked a distance away from the pedestrian, did not use emergency lights or draw a weapon, and did not prevent the pedestrian from leaving. (*Garry, supra*, 156 Cal.App.4th at p. 1110-1112.) After observing the pedestrian from a marked patrol car for only 5-8 seconds, the officer "bathed defendant in light, exited his police vehicle, and, armed and in uniform, 'briskly' walked 35 feet in 'two and a half, three seconds' directly to him while questioning him about his legal status." (*Id.* at p. 1111.) *Garry* concluded the show of authority was sufficiently intimidating that no reasonable person would have felt free to decline the officer's requests or terminate the encounter. (*Id.* at p. 1112.)

The Third Appellate District did not consider Grubb's actions after activating the spotlight sufficient to constitute a detention because after activating the spotlight he had not moved quickly enough toward the car or questioned Petitioner aggressively. (*Tacardon, supra*, 53 Cal.App.5th at p. 99.) Once again, the Court focuses on those individual facts following activation rather than on the totality of the circumstances. (*Bostick, supra*, 501 U.S. at p. 437.) Although Grubb, like the officer in *Kidd,* did not approach the car aggressively, he approached the car as soon as he could after activating the spotlight and alerting dispatch, and while he did not question Petitioner, he immediately detained M.K. when she got out of the car to go to her home. (CT 34, 90-94, 103, 106-110, 113-115.) There was also no evidence in *Kidd* or *Garry* regarding the defendant's awareness of the officer prior to activation of the spotlight (*Kidd, supra*, 36 Cal.App.4th at pp. 15, 21--22; *Garry, supra*, 156 Cal.App.4th at pp. 1103-1104, 1111-1112), while Grubb testified that Petitioner had made eye contact with him and followed

his progression as he made his U-turn to pull in behind the car. (CT 33-34, 88-89, 103-104.)

Considering the totality of the circumstances, including Grubb's prior actions in making eye contact with Petitioner, making a U-turn to pull up behind Petitioner's car, and turning on the spotlight, his actions after turning on the spotlight in starting to walk toward that car as soon as possible would inevitably remove any possible ambiguity in Petitioner's mind that Grubb intended to detain everyone in his car. (*Brown, supra,* 61 Cal.4th at p. 980; *Kidd, supra*, 36 Cal.App.5th at pp. 21-22.)

This was not a situation where an officer simply activated a spotlight, pointed it at a car, and left it on indefinitely. A reasonable person in that circumstance might eventually conclude that the officer was not interested in the car or its occupants and feel free to leave. (*Mendenhall, supra,* 446 U.S. at p. 554.) But when an officer who had already established a connection with the car's driver made a U-turn to pull up behind the car, activated a spotlight, and promptly began walking toward the car, any reasonable person would have to believe that the officer intended to seize the car and its occupants. (*Brendlin, supra*, 551 U.S. at pp. 254, 257; *Brown, supra,* 61 Cal.4th at p. 980; *Kidd, supra*, 36 Cal.App.5th at pp. 21-22.)

This Court should hold that Petitioner was entitled to exercise his rights under the Fourth Amendment because no reasonable person in Petitioner's position would have felt free to leave after Grubb activated his spotlight and approached his car as soon as that was possible.

E. This Court Should Hold That a Reasonable Person Would Not Feel Free to Leave After The Deputy Had Detained a Passenger in the Car Who Had Tried to Leave

Although *Brown, supra,* 61 Cal.4th at p. 980, and *Kidd,* 36 Cal.App.5th at p. 21, did not find it necessary to consider the officer's actions after activating the lights to determine that there had been a detention, neither of those cases involved the officer's detention of another occupant of the car. The Third Appellate District concluded that Petitioner could not challenge the search under the Fourth Amendment even after Grubb detained M.K. because he would still have felt free to drive or walk away from the scene: "there is no evidence defendant observed the deputy's interaction with M.K., or that the deputy conveyed to defendant that he, like M.K., was required to remain." (*Tacardon, supra*, 53 Cal.App.5th at p. 100, citing *Bostick, supra*, 501 U.S. at pp. 434-437.)

Like the State's contention in *Brown* that the driver of the car would not have been aware of the emergency lights flashing behind his car, this argument is not supported by substantial evidence. (*Brown, supra,* 61 Cal.4th at p. 980.)[3] Petitioner was the driver of a

---

[3] Similarly, the Court's conclusion that "the implied finding that defendant was not detained at this point is supported by substantial evidence" (*Tacardon, supra*, 53 Cal.App.5th at p. 100), must be rejected. The question of whether there was a detention is a legal one (*Brown, supra*, 61 Cal.4th at p. 975), and there was no indication the magistrate made an implied finding to that effect, because the magistrate only considered that Grubb's actions had not caused Petitioner's car to stop, and that Grubb had then seen the marijuana in plain sight. (CT 133.) If the magistrate had made such a finding it would have been a legal error, not supported by substantial evidence. (*People v. Magee* (2011) 194 Cal.App.4th 178, 182-183.)

small car with the windows cracked open, not a large metropolitan bus with a separate rear exit. (CT 32-33, 87-88, 104.) Petitioner became aware of Grubb's scrutiny when the deputy drove by his car with the high beams on and made eye contact with him, and had remained aware when Grubb made a U-turn, pulled up behind him, activated the spotlight, and began approaching the car. (CT 33-34, 89-93, 103-105.) M.K.'s exit from the car took place a few feet from where Petitioner was sitting, and Petitioner was certainly aware that Grubb had prevented M.K. from keaving. There is also no substantial evidence that Petitioner could have imagined that Grubb, after seizing a passenger like M.K., would have allowed the driver of the car to leave.

The appellate court relied on *People v. Roth* (1990) 219 Cal.App.3d 211, in determining that M.K. "was required to remain," but *Roth* supports the conclusion that Petitioner was also detained. (*Tacardon, supra*, 53 Cal.App.5th at p. 100.) *Roth* held that a pedestrian had been detained when a deputy shined a spotlight on him, got out of the patrol car with another deputy, and promptly asked the person to approach so they could speak to him. (*Roth, supra*, 219 Cal.App.3d at pp. 213, 215, 215 fn. 3.) In shining a spotlight on Petitioner's car, getting out of his patrol car, and promptly detaining M.K., Grubb's actions were as coercive toward Petitioner as the deputy's were toward Roth. As in *Roth*, and particularly considering the prior eye contact establishing a connection between Grubb and the Petitioner, "[i]n this situation, a reasonable person would not believe himself or herself free to leave." (*Id.* at p. 215, citing *Bailey, supra*, 176 Cal.App.3d at pp. 405-406.)

It is not clear why the Third Appellate District considered

Bostick pertinent to evaluating the effect of M.K.'s seizure on the issue of whether Petitioner was also detained. (*Tacardon, supra*, 53 Cal.App.5th at p. 100.) *Bostick* dealt primarily with the standard for determining whether a person in an enclosed space has been detained, when a person may not have felt free to leave for reasons other than police conduct, and decided that in such circumstances the normal "not free to leave" rule should be changed to whether a person "would feel free to decline the officers' requests or otherwise terminate the encounter." (*Bostick, supra*, 501 U.S. at p. 436.) But this Court determined in *Brown* that the appropriate rule in cases involving parked cars was the original "not free to leave" rule. (*Brown, supra*, 61 Cal.4th at pp. 976-980.)

Bostick actually reversed and remanded the case for further proceedings after determining that the lower court had erroneously "rested its decision on a single fact -- that the encounter took place on a bus -- rather than on the totality of the circumstances." (*Bostick, supra*, 501 U.S. at p. 437.) As Petitioner has argued throughout this brief, the Third Appellate District also rested its decision on the fact that Grubb activated a spotlight instead of emergency lights, and did not consider the totality of the circumstances.

The totality of the circumstances here must include Grubb making eye contact with Petitioner before activating the spotlight, ensuring Petitioner was aware of his scrutiny and "looking at me as I turned by them." (CT 104.) After the deputy pulled up behind Petitioner's car, activated a spotlight and began walking toward the car as soon as possible, his prompt detention of one out of the three occupants of a small car would constitute an additional, intimidating

show of authority sufficient to communicate to any reasonable person sitting in the driver's seat that he was not free to leave. (*Brendlin, supra*, 551 U.S. at pp. 254, 257; *Garry, supra*, 156 Cal.App.4th at p. 1112.)

Even if somewhat naive people might have hoped the deputy had not meant to detain them by activating the spotlight, once the deputy started to approach the car and detained another occupant those hopes would have evaporated, because the officer's actions removed "any ambiguity" about his intention to seize everyone in that car. (*Kidd, supra,* 36 Cal.App.5th at pp. 21-22.) Only an unreasonable person would have felt free to drive or walk away before the officer reached the car. For those reasonable people who did not feel they could leave, the Third Appellate District's decision allows officers to do what the deputy did in this case – use a spotlight to effectively detain people before embarking on an "expedition for evidence in the hope that something might turn up." (*Brown v. Illinois* (1975) 422 U.S. 590, 605.)

CONCLUSION

For all the above reasons, Leon Tacardon asks this Court to determine that his Fourth Amendment rights were violated and remand the case for further proceedings in accordance with its decision.

DATED: February 10, 2021 LAW OFFICE OF PAUL KLEVEN

/s/ Paul Kleven
PAUL KLEVEN
Attorney for Petitioner
Leon William Tacardon

CERTIFICATE OF COUNSEL

I certify that this Opening Brief on the Merits contains 7,630 words, as calculated by my WordPerfect x9 word processing program.

/s/ Paul Kleven
PAUL KLEVEN

PROOF OF SERVICE

STATE OF CALIFORNIA, COUNTY OF ALAMEDA:

I am a citizen of the United States. My business address is 1604 Solano Avenue, Berkeley, CA. 94707. I am employed in the County of Alameda, where this mailing occurs. I am over the age of 18 years, and not a party to the within cause. On the date set forth below, I served the foregoing document(s) described as:

OPENING BRIEF ON THE MERITS

on the following person(s) in this action by:

Clerk
San Joaquin County Superior Court
222 E. Weber Ave, Ste 303
Stockton, CA 95202

Office of the District Attorney
San Joaquin County
222 East Weber Avenue
Second Floor, Suite 202
Stockton, CA 95202

Leon Tacardon
(Address last known to Attorney)

[✔] (BY MAIL) I am readily familiar with my firm's practice for collection and processing of correspondence for mailing with the United States Postal Service, to wit, that correspondence will be deposited with the United States Postal Service this same day in the ordinary course of business. I sealed said envelope and placed it for collection and mailing on February 10, 2021, following ordinary business practices.

And,

Attorney General
Department of Justice
P.O. Box 944255
Sacramento, CA 94244-2550
sacawttruefiling@doj.ca.gov

Central California Appellate Program
2150 River Plaza Dr., Ste. 300
Sacramento, CA 95833
eservice@capcentral.org

Clerk of the Court
Third District Court of Appeal
914 Capitol Mall, Suite 400
Sacramento, CA 95814
(Through TrueFiling at the Supreme Court)

[✔] (BY TRUEFILING SERVICE) On February 10, 2021, a PDF version of this document will be e-Served through TrueFiling electronic service.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct and that this declaration was executed on February 10, 2021 at Berkeley, California.

s/ Kathy Yam
KATHY YAM

People v. Tacardon
California Supreme Court Case No. S264219
Third District Court of Appeal No. C087681

Supreme Court of California
Jorge E. Navarrete, Clerk and Executive Officer of the Court
Electronically FILED on 2/10/2021 by M. Chang, Deputy Clerk

STATE OF CALIFORNIA
Supreme Court of California

PROOF OF SERVICE

STATE OF CALIFORNIA
Supreme Court of California

Case Name: **PEOPLE v. TACARDON**
Case Number: **S264219**
Lower Court Case Number: **C087681**

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: **PKleven@Klevenlaw.com**

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

Title(s) of papers e-served:

Filing Type	Document Title
BRIEF	S264219_OBM_Tacardon

Service Recipients:

Person Served	Email Address	Type	Date / Time
Attorney Attorney General - Sacramento Office Christopher Rench, Deputy Attorney General 242001	Christopher.Rench@doj.ca.gov	e-Serve	2/10/2021 4:07:38 PM
Paul Kleven Law Office of Paul Kleven 95338	PKleven@Klevenlaw.com	e-Serve	2/10/2021 4:07:38 PM
Central California Appellate Program CCAP-0001	eservice@capcentral.org	e-Serve	2/10/2021 4:07:38 PM

This proof of service was automatically created, submitted and signed on my behalf through my agreements with TrueFiling and its contents are true to the best of my information, knowledge, and belief.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

2/10/2021
Date

/s/Kathy Yam
Signature

Kleven, Paul (95338)
Last Name, First Name (PNum)

Law Office of Paul Kleven
Law Firm