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Attorney for Antonio Chavez Moses, III, Defendant and Appellant
By Appointment of the Supreme Court of California

IN THE SUPREME COURT OF THE STATE OF CALIFORNIA

THE PEOPLE OF THE STATE OF CALIFORNIA,

Plaintiff and Respondent,

v.

ANTONIO CHAVEZ, MOSES, III,

Defendant and Appellant.

Case No. S258143

(Court of Appeal Case
No. G055621)

(Orange County
Superior Court
No. 16NF1413)

APPELLANT’S MOTION FOR JUDICIAL NOTICE

Under rule 8.252, California Rules of Court, appellant Antonio Chavez Moses, III, respectfully moves this Court to take judicial notice of the file in *People v. Peterson*, G053721; Orange County Superior Court No. 15NF1847. Appellant requests this Court to judicially notice in *Peterson* that the Orange County District Attorney charged an attempted violation of Penal Code section 236.1, subdivision (c). Appellant is not relying on the analysis of the Court of Appeal’s unpublished opinion in that case. The *Peterson* file was not before the trial court in appellant’s case but is relevant to the issue raised on appeal and being considered by this Court.

This request is based upon the present moving papers, the supporting memorandum of points and authorities, and the briefs filed in this appeal.

Dated: March 20, 2020

Respectfully submitted,

MARK ALAN HART, Attorney at Law
State Bar No. 66134
Attorney for Appellant

**MEMORANDUM OF POINTS AND AUTHORITIES
IN SUPPORT OF JUDICIAL NOTICE**

I. FACTS SUPPORTING JUDICIAL NOTICE

The Orange County District Attorney charged appellant in count one with human trafficking of a minor in violation of Penal Code section 236.1, subdivision (c). The alleged victim was an adult police officer posing as a minor on the internet. (1 CT 185.) The Orange County District Attorney’s theory in appellant’s trial was the attempt prong in Penal Code section 236.1, subdivision (c), precludes a charge under the general attempt statute and punishment in accordance with Penal Code section 664. (2 CT 406-412.)

In *People v. Peterson*, Orange County Superior Court No. 15NF1847 (4th Dist. No. G053721; S.Ct. No. S248105), the Orange County District Attorney charged the defendant with an attempted violation of Penal Code section 236.1, subdivision (c). *Peterson* is a case also involving an adult decoy posing as a minor on the internet.

II. JUDICIAL NOTICE IS APPROPRIATE

Evidence Code section 452, subdivision (d), permits judicial notice of the records of any court in this state. Evidence Code section 459 permits this Court to judicially notice “any matter specified in Section 452.”

Appellant refers to the *Peterson* case in Appellant’s Answer Brief on the Merits as part of the challenge to respondent’s argument. (ABM 33.) Contrary to the argument

made by the same prosecutorial office that prosecuted appellant, the conduct at issue could have been charged under the attempt statutes.

III. CONCLUSION

For the foregoing reasons, appellant requests this Court to take judicial notice of the file in *People v. Peterson*, G053721; Orange County Superior Court No. 15NF1847.

Dated: March 20, 2020

Respectfully submitted,

MARK ALAN HART, Attorney at Law
State Bar No. 66134
Attorney for Appellant

By the Court:

IT IS SO ORDERED:

Chief Justice

**DECLARATION OF ELECTRONIC SERVICE AND
SERVICE BY MAIL**

RE: PEOPLE V. MOSES

No. S258143

I, Mark Alan Hart, declare that I am a citizen of the United States over 18 years of age, and not a party to the subject cause; my business address is PMB 520; 9420 Reseda Boulevard, Northridge, California 91324. On March 20, 2020, I electronically served the Appellant's Motion for Judicial Notice, of which a true and correct copy is affixed, by e-serving from hart66134@gmail.com by 5:00 p.m. to:

Xavier Becerra, Attorney General
(Counsel for Respondent)
Attn. Steve Oetting
e-served at: sdag.docketing@doj.ca.gov

Appellate Defenders, Inc.
e-served at: eservice-court
@adi-sandiego.com

Orange County District Attorney
Attorney, Attn. Daniel Varon e-served at: appellate@da.ocgov.com

and I placed a copy thereof in a separate envelope for each addressee named hereafter, addressed to each addressee respectively as follows:

Orange County Superior Court
Attn. Hon. Julian W. Bailey
700 Civic Center Drive West, 1st Fl
Santa Ana, CA 92701

Orange County Public Defender
Attn: Jennifer Ryan
14 Civic Center Plaza
Santa Ana, CA 92702

Antonio Chavez Moses, III, BE-6994
P.O. Box 4000
Vacaville, CA 95696

Court of Appeal, Fourth
Appellate District, Division Three
601 W. Santa Ana Blvd.
Santa Ana, CA 92701

Each envelope was then sealed and with the postage thereon fully prepaid deposited in the United States Mail by me at Northridge, California, on March 20, 2020. I declare under penalty of perjury that the foregoing is true and correct. Executed on March 20, 2020, at Northridge, California.

MARK ALAN HART, DECLARANT

STATE OF CALIFORNIA
Supreme Court of California

PROOF OF SERVICE

STATE OF CALIFORNIA
Supreme Court of California

Case Name: **PEOPLE v.**
MOSES

Case Number: **S258143**

Lower Court Case Number: **G055621**

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: **hart66134@gmail.com**
3. I served by email a copy of the following document(s) indicated below:

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Mark Hart Mark Alan Hart 66134	hart66134@gmail.com	e-Serve	3/20/2020 2:21:05 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.

3/20/2020

Date

/s/Mark Hart

Signature

Hart, Mark (66134)

Last Name, First Name (PNum)

Mark Alan Hart

Law Firm