

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

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

Plaintiff and Respondent,

v.

**MARIO SALVADOR PADILLA,**

Defendant and Appellant.

Case No. S263375

Second Appellate District, Division Four Case No. B297213  
Los Angeles County Superior Court, Case No. TA051184  
The Honorable Ricardo Ocampo, Judge

### **REPLY TO APPELLANT'S ANSWER TO PETITION FOR REVIEW**

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**TO THE HONORABLE CHIEF JUSTICE TANI  
CANTIL-SAKAUYE AND ASSOCIATE JUSTICES OF THE  
CALIFORNIA SUPREME COURT:**

The People of the State of California submit this reply to appellant's answer to the petition for review in this case. Appellant filed his answer on August 6, 2020.

**ARGUMENT**

**THE PETITION FOR REVIEW SHOULD BE GRANTED  
BECAUSE THIS CASE PRESENTS AN IMPORTANT  
QUESTION CONCERNING THE NATURE AND SCOPE OF  
*ESTRADA*'S PRESUMPTION OF RETROACTIVITY FOR NEW  
AMELIORATIVE LAWS**

As explained in the petition for review, this Court should review the published opinion of the California Court of Appeal, Second Appellate District, Division Four, in *People v. Mario Salvador Padilla*, case number B297213, to decide whether the presumption of retroactivity established by *In re Estrada* (1965) 63 Cal.2d 740 should extend to a judgment that was final after initial review but is "reopened" after the enactment of an ameliorative law.

In his answer, appellant argues that review is unwarranted because the issue presented "appears to have little or no relevance to this case." (Answer at 5.) Appellant contends that his sentence was not final for retroactivity purposes because it was *vacated* by the superior court in 2014, as opposed to being *altered or amended*; so, resolving whether the *Estrada* presumption extends to a final judgment that was subsequently altered or amended would have no bearing on his case. (Answer at 5.) Appellant also argues (Answer at 6-8) that there is no

conflict between the appellate opinion in his case and the appellate opinion in *People v. Federico* (2020) 50 Cal.App.5th 318, which held that a resentencing under Penal Code section 1170, subdivision (d), does not “reopen” a judgment for *Estrada* purposes or for purposes of the “full resentencing rule.” (*Id.* at pp. 326-327.)

Appellant reads the issue presented far too narrowly. The issue of broad importance presented by both the instant case and *Federico* is whether the *Estrada* presumption applies when a judgment that was final before an ameliorative change in the law is later “reopened” for a reason unrelated to the new law, through either collateral review or some other resentencing procedure. Whether courts should treat “reopened” judgments differently for purposes of *Estrada* depending on whether they have been vacated, altered, or amended by subsequent action is a component of the issue presented. Although this case and *Federico* involved slightly different circumstances, each case applied *Estrada* differently to the retroactivity issue. And to the extent the circumstances of the two cases are distinguishable for *Estrada* purposes, that is itself something that should be clarified by this Court.

As discussed in the petition for review, this Court has not had occasion to address whether the *Estrada* presumption should extend to a judgment that was final after initial review but is “reopened” through alteration or amendment, or any other procedural mechanism, after the enactment of an ameliorative law. That is an important question that has generated

conflicting decisions in the courts below, and this Court can ensure uniformity by deciding the issue in this case.

**CONCLUSION**

The petition for review should be granted.

Dated: August 14, 2020      Respectfully submitted,

XAVIER BECERRA  
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**CERTIFICATE OF COMPLIANCE**

I certify that the attached **REPLY TO APPELLANT'S ANSWER TO PETITION FOR REVIEW** uses a 13 point Century Schoolbook font and contains 506 words.

Dated: August 14, 2020

XAVIER BECERRA  
Attorney General of California

/s/ DAVID E. MADEO  
DAVID E. MADEO  
Deputy Attorney General  
*Attorneys for Respondent*

**DECLARATION OF ELECTRONIC SERVICE AND SERVICE BY U.S. MAIL**

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No.: **S263375**

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Sherri R. Carter, Clerk of the Court  
Los Angeles Superior Court  
111 North Hill Street  
Los Angeles, CA 90012  
For delivery to:  
The Honorable Ricardo R. Ocampo, Judge  
(Served via US mail)

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 August 14, 2020, at Los Angeles, California.

\_\_\_\_\_  
E. Obeso  
Declarant

\_\_\_\_\_  
/s/ E. Obeso  
Signature



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**STATE OF CALIFORNIA**  
Supreme Court of California

**PROOF OF SERVICE**

**STATE OF CALIFORNIA**  
Supreme Court of California

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Case Name: **PEOPLE v.**  
**PADILLA**

Case Number: **S263375**

Lower Court Case Number: **B297213**

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/s/Edith Marroquin-Obeso

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Madeo, David (180106)

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