

No. S276303

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

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THE PEOPLE OF THE STATE OF CALIFORNIA,  
*Plaintiff and Respondent,*  
v.  
SCOTLANE MCCUNE,  
*Defendant and Appellant.*

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First Appellate District,, Division Five, Case No. A163579  
Napa County Superior Court, Case No. CR183930  
The Honorable Mark S. Boessenecker, Judge

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**RESPONDENT'S MOTION FOR JUDICIAL NOTICE,  
PROPOSED ORDER**

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April 3, 2023

The People respectfully move this Court, pursuant to Evidence Code sections 452 and 459 and rule 8.252 of the California Rules of Court, to take judicial notice of the following legislative analyses, reports, and an enrolled bill:

1. Department of General Services Analysis of S.B. 1126, as amended June 16, 1999 (pages 5-7)
2. Senate Floor Analysis of S.B. 1126, as amended Sept. 2, 1999 (pages 9-15)
3. Department of Corrections, Enrolled Bill Report on S.B. 1126 (pages 17-21)
4. Assembly Committee on Public Safety Analysis of A.B. 1950, as amended May 6, 2020 (pages 23-31)
5. Assembly Committee on Appropriations Analysis of A.B. 1950, as amended May 21, 2020 (pages 33-34)
6. Assembly Floor Analysis of A.B. 1950, as amended May 21, 2020 (pages 36-38)
7. Assembly Floor Analysis of A.B. 1950, as amended June 10, 2020 (pages 40-42)
8. Senate Committee on Public Safety Analysis of A.B. 1950, version June 10, 2020 (pages 44-51)
9. Senate Rules Committee Analysis of A.B. 1950, as amended June 10, 2020 (pages 53-61)

These documents were not presented to the trial court for judicial notice, and are appended to this motion as Attachment Nos. 1 through 9.

These documents are relevant parts of the legislative history explaining the addition of Penal Code section 1202.46 and the

statutory changes made by Assembly Bill No. 1950. It is appropriate to take judicial notice of committee analyses and reports. (*People v. Snyder* (2000) 22 Cal.4th 304, 309 [judicial notice of senate analysis]; *People v. Ledesma* (1997) 16 Cal.4th 90, 98 [judicial notice of assembly analysis]; *People v. Eubanks* (1997) 14 Cal.4th 580, 591, fn. 3 [judicial notice of committee reports].) This Court has also “routinely found enrolled bill reports, prepared by a responsible agency contemporaneous with passage and before signing, instructive on matters of legislative intent.” (*Elsner v. Uveges* (2004) 34 Cal.4th 915, 934, fn. 19.)

These records are relevant to the instant case because they demonstrate the reasons that motivated the Legislature to enact Penal Code section 1202.46, which, in conjunction with section 1202.4, extends a trial court’s jurisdiction to fix the amount of victim restitution owed by a defendant when that amount is not ascertainable at the time of sentencing. Specifically, as argued in the People’s Answer Brief on the Merits, the records show that the Legislature enacted section 1202.46 in an effort to ensure that victims receive full restitution from defendants sentenced to prison as required by the California Constitution. Additionally, the records show that when the Legislature passed Assembly Bill No. 1950, which shortened most probation terms to one or two years, the Legislature had no intent to alter *when* a trial court may fix the amount of restitution, unascertainable at sentencing, under sections 1202.4 and 1202.46.

For all of these reasons, the People respectfully request that the Court take judicial notice of the above-named legislative history documents.

Respectfully submitted,

ROB BONTA

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LANCE E. WINTERS

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CHARLES C. RAGLAND

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ALAN AMANN

*Deputy Attorney General*

*/s/ AMANDA LLOYD*

AMANDA LLOYD

*Deputy Attorney General*

*Attorneys for Plaintiff and Respondent*

April 3, 2023

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**[PROPOSED] ORDER GRANTING MOTION FOR  
JUDICIAL NOTICE**

Good cause appearing, it is hereby ordered that the People's Motion for Judicial Notice of nine relevant legislative history records is GRANTED.

Dated: \_\_\_\_\_

\_\_\_\_\_  
Chief Justice

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

Case Name:           **People v. McCune**                           No.:           **S276303**

I declare:

I am employed in the Office of the Attorney General, which is the office of a member of the California State Bar, at which member's direction this service is made. I am 18 years of age or older and not a party to this matter. I am familiar with the business practice at the Office of the Attorney General for collecting and processing electronic and physical correspondence. In accordance with that practice, correspondence placed in the internal mail collection system at the Office of the Attorney General is deposited with the United States Postal Service with postage thereon fully prepaid that same day in the ordinary course of business. Correspondence that is submitted electronically is transmitted using the TrueFiling electronic filing system. Participants who are registered with TrueFiling will be served electronically. Participants in this case who are not registered with TrueFiling will receive hard copies of said correspondence through the mail via the United States Postal Service or a commercial carrier.

On April 3, 2023, I electronically served the attached **RESPONDENT'S MOTION FOR JUDICIAL NOTICE, PROPOSED ORDER** by transmitting a true copy via this Court's TrueFiling system. Because one or more of the participants in this case have not registered with the Court's TrueFiling system or are unable to receive electronic correspondence, on April 3, 2023, I placed a true copy thereof enclosed in a sealed envelope in the internal mail collection system at the Office of the Attorney General at 600 West Broadway, Suite 1800, P.O. Box 85266, San Diego, CA 92186-5266, addressed as follows:

Clerk of the Court  
Napa County Superior Court  
1111 Third Street  
Napa, CA 94559

First Appellate District -  
Division Five  
Court of Appeal of the State of  
California  
350 McAllister Street  
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 April 3, 2023, at San Diego, California.

Almeatra W. Morrison

Declarant

*Almeatra W. Morrison*

Signature

STATE OF CALIFORNIA  
Supreme Court of California

**PROOF OF SERVICE**

STATE OF CALIFORNIA  
Supreme Court of California

Case Name: **PEOPLE v.  
McCUNE**

Case Number: **S276303**

Lower Court Case Number: **A163579**

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: **amanda.loyd@doj.ca.gov**
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	Answer Brief on the Merits
REQUEST FOR JUDICIAL NOTICE	Respondent's Motion for Judicial Notice, Proposed Order
EXHIBITS	Attachment to Motion for Judicial Notice

Service Recipients:

Person Served	Email Address	Type	Date / Time
Kaiya Pirolo Attorney at Law 280393	kaiya@pirololaw.com	e-Serve	4/3/2023 3:18:49 PM
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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.



4/3/2023

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Date

/s/Almeatra Morrison

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Signature

Lloyd, Amanda (239682)

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Last Name, First Name (PNum)

Department of Justice, Office of the Attorney General-San Diego

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Law Firm