IN THE SUPREME COURT OF THE

STATE OF CALIFORNIA

PEOPLE OF THE STATE OF CALIFORNIA,	NO. S244166
	APPEAL No. E064206
Plaintiff and Respondent,	(Riverside County No. RIF1310007/ RIF1403693)
vs.	
JASON AARON ARREDONDO,	
Defendant and Appellant.	

Appeal from the Superior Court of Riverside County
Honorable DAVID A GUNN

APPELLANT'S REPLY BRIEF ON THE MERITS

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Under appointment of the Court of Appeal under the Appellate Defenders, Inc. assisted case system

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INTRODUCTORY STATEMENT

Appellant hereby submits this reply brief to respond to the arguments and authorities raised in respondent's brief. However, appellant continues to rely on the arguments advanced in his opening brief and incorporates such arguments herein.

ARGUMENT

I.

THE TRIAL COURT VIOLATED APPELLANT'S SIXTH AMENDMENT RIGHT TO CONFRONTATION WHEN IT BLOCKED APPELLANT'S ABILITY TO VIEW THREE OF THE FOUR ACCUSERS.

A.- U.S. Supreme Court Precedent: *Coy*, *Craig*, and *Crawford.*

The parties do not disagree generally on the history of the U.S. Supreme Court jurisprudence regarding the Confrontation Clause of the Sixth Amendment. (RB 20-25.) It has been extensively covered in all the briefing and in the Opinion.

The one point of disagreement, at least in the general history of the law, regards the impact of *Crawford v. Washington* (2004) 541 U.S. 36 on *Maryland v. Craig* (1990) 497 U.S. 836 (*Craig*). Not all jurisdictions are uniformly in agreement, as respondent argues, that the former has no impact on the latter. (RB 24.) Recently, the Ninth Circuit stated:

> "The vitality of *Craig* itself is questionable in light of the Supreme Court's later decision in *Crawford*, which abrogated [*Ohio v.*] *Roberts* [(1980) 448 U.S.56], a case relied upon heavily in Craig that permitted 'open-ended exceptions from the confrontation requirement" based on "judicial determination[s] of reliability.' [Citations.] But while *Craig* and *Crawford* stand in "marked contrast" in several respects, '*Crawford* did not overturn *Craig*.' (*United States v. Cox*, 871 F.3d 479, 492-95 (6th Cir. 2017) (Sutton, J., concurring), cert. denied, 138 S.Ct. 754, 199 L.Ed. 2d 616 (2018). We thus remain bound by Craig until the Supreme Court 'see[s] fit to reconsider [it], regardless of whether subsequent cases have raised doubts about [its] continuing vitality.' *Bosse v.*

Oklahoma, 137 S.Ct. 1, 2, 196 L.Ed. 2d 1 (2016) (per curiam) (citation omitted)."

(*United States v. Carter* (9th Cir. Nov. 2, 2018) 2018 U.S.App.Lexis 31119, at p. 12-13, fn. 3.)

B. *Craig* In This Context Should Not Be Applied To Adults.

Appellant's position below, as noted in the Opinion, was that *Coy v. Iowa* (1988) 487 U.S. 1012 (*Coy*) and *Craig* have no application to adults whatsoever, at least in this context. (See Opinion, p. 37.) Because F.R. was 18 when she testified, *Craig* did not apply to her, which should have been the end of the analysis.

As noted in the Opening Brief, appellant reviewed hundreds of cases across the majority of states and did not find one with similar facts: an adult, with no testimony that she had special needs or other disabilities, was allowed to testify behind a full screen. No reviewing court upheld such facts. Respondent has not cited to any either. It has cited various statutes around the country that allow CCTV to be used for person in some cases older than 18. (RB 31.) That is, until they graduate from high school or in the case of Delaware, for any victims regardless of age. (*Ibid.*) Respondent misapprehends at least the Nevada statutes. Nothing in the statute limits the defendant from being present. (See Nev. Rev. Stats. § 174.227.) It just allows for a deposition to be shown to the jury instead of live testimony. As

for the others, there was no showing that persons older than 18 actually made use of CCTV. The argument here is that allowing such testimony would run afoul of *Coy* and *Craig* because it would intrude too far on appellant's Confrontation Rights.

Appellant is certainly aware of *People v. Williams* (2002) 102 Cal.App.4th 995 (*Williams*). (RB 32.) The dissent, quoted at length in the Opening Brief, set forth the differences between that unique case and this one. Further, the extensive use of expert testimony in that case did not exist in this one. It is notable that respondent mentions it only in passing. (*Ibid.*)

People v. Murphy (2003) 107 Cal.App.4th 1150 (*Murphy*) is on par with this case. As that case noted the state has no compelling interest in protecting a testifying adult from doing so face-to-face with the defendant. Said the *Murphy* court:

> "However, the present case, unlike *Maryland v. Craig* and *People v. Sharp, supra*, [1994] 29 Cal.App.4th 1772, does not involve the 'State's traditional and' 'transcendent interest in protecting the welfare of children.' (*Maryland v. Craig, supra*, 497 U.S. at p. 855.) Neither the court in *People v. Williams, supra*, [2002] 102 Cal.App.4th 995 nor the People in this case have identified any authority recognizing or establishing that the state has 'transcendent' or 'compelling' interest in protecting adult victims of sex crimes from further psychological trauma that might result from testifying face-to-face with a defendant. Moreover, the trial court in this case was not relying upon the state's interest in protecting adult victims but, instead, predicated its ruling on the state's interest in ascertaining the truth. (See § 1044; see also Evid. Code, § 765, subd. (a).) As articulated in *Coy*, the governmental interest in discovering the truth historically and traditionally cuts the other way."

(*Murphy, supra*, 107 Cal.App.4th at p. 1157 [footnote omitted].) Respondent incorrectly write it off as *dicta*. (RB 32-33.) Rather, it simply disagreed that *Craig* stretched to adult witnesses when balanced against a defendant's Sixth Amendment rights.

Respondent argues that the state has a compelling state interest in such things as obtaining testimony and prosecuting criminal cases. (RB 25-26, and cases listed.) The problem with such broad statements of state interest is that in swallows the entire rationale of the Sixth Amendment. Any witness therefore could be screened from the defendant because the state would always have an interest in prosecuting crimes. Why not all victims in gang cases or any violent crime? Respondent has not shown why such a broad reading should be made in this case and its potential impact on every use of a screen.

Murphy correctly struck the balance. It found no "transcendent" state interest in protecting adult witnesses as exists for child witnesses. (*Murphy, supra*, 107 Cal.App.4th at p. 1157.) *Murphy* did not agree with *Williams*, the case relied upon in the Opinion, finding that the latter case had failed to establish the state's compelling interest in applying *Craig* to adult witnesses.

Respondent has to go to extreme lengths to have the protections apply to F.R. (RB 27.) Respondent argues that without the use of the screen, "F.R. would not have been able to testify." (*Ibid.*) There is simply no evidence of

that. As pointed out later in the brief, she was certainly able to stand and take the oath while able to see appellant. The court found that she was unable to proceed prior to taking the break. After that, she came back in and took that oath. She seemed perfectly able to proceed at that point.

This court should either find *Craig* does not apply to adults, that section 1347 defines the extent of accommodations in California, and/or that *Williams* is limited to its unique facts.

C. Appellant's Sixth Amendment Rights Were Violated When He Could Not See The Witness Testifying, And She Could Not See Him.

Respondent minimizes the defendant's right to see his accuser in the truth seeking process (RB 44), finding that so long as the other Confrontation rights are insured (such as cross-examination, oath, competent witness), that is enough. (RB 40.) Appellant disagrees.

"The central concern of the Confrontation Clause is to ensure the reliability of the evidence against a criminal defendant by subjecting it to rigorous testing in the context of an adversary proceeding. . . ." (*Craig, supra*, 497 U.S. at p. 845.) The Confrontation Clause affords two types of protections to criminal defendants: the physical right to face those who testify against them, and the right to cross-examine adverse witnesses. (*Coy, supra*, 487 U.S. at p. 1012.)

In *Coy, supra*, 487 U.S. at p. 1014, the defendant's conviction for sexually assaulting two thirteen-year-old girls was reversed on Confrontation Clause grounds because the trial court allowed the girls to testify from behind a screen. The Supreme Court determined that the Confrontation Clause guaranteed "the defendant a face-to-face meeting with witnesses appearing before the trier of fact." (*Coy, supra*, 487 U.S. at p. 1016.) The Court reasoned: "A witness may feel quite differently when he has to repeat his story looking at the man whom he will harm greatly by distorting or mistaking the facts. He can now understand what sort of human being that man is. It is always more difficult to tell a lie about a person to his face than behind his back." (*Id.* at p. 1019, (citations omitted).) Even in *Craig*, in upholding the use of closed-circuit television to present the testimony of a child witness, the Court found it significant that "the judge, jury, and *defendant* are able to view (albeit by video monitor) the demeanor (and body) of the witness as he or she testifies." (*Craig, supra*, 497 U.S. at p. 851 [emphasis added].)

Appellant cited in the Opening Brief numerous court that have found a complete screen a violation of his Sixth Amendment rights. (Opinion, pp. 43-44, fn. 8, citing *People v. Lofton* (Illinois Sup.Ct. 2000) 740 N.E.2d 782 [blocking view with podiums], among others.) The only reason it would be such a violation, as opposed to other means is because it blocked any face-to-face confrontation. As *Lofton* noted, "[T]he right to confront witnesses

includes . . . the ability to be of aid in counsel's cross-examination. Here the defendant's inability to observe the manner of the witness while testifying could have prejudiced him by limiting his ability to suggest lines of examination to his attorney that might have been indispensable to effective cross-examination." (*People v. Lofton, supra,* 740 N.E.2d at p. 794 (citations omitted).)

The dissent said it best: "At any rate, even with its clear view of F.R., the jury's ability to assess her demeanor was limited because she did not have to look at Arredondo while testifying. (*Craig, supra*, 497 U.S. at p. 851.) As the Supreme Court observed in *Coy*: 'It is always more difficult to tell a lie about a person "to his face" than "behind his back." In the former context, even if the lie is told, it will often be told less convincingly. The Confrontation Clause does not, of course, compel the witness to fix his eyes upon the defendant; he may studiously look elsewhere, but the trier of fact will draw its own conclusions.' (*Coy, supra*, 487 U.S. at p. 1019.) The accommodation used here removed that factor from the jury's consideration because it allowed F.R. to look straight ahead while testifying without having to face Arredondo." (Dissent, p. 23.)

D. The Prosecution Presented Insufficient Evidence Warranting The Accommodation.

As a starting point, respondent fails to set forth a standard how the evidence presented by the prosecution should be measured. (RB 34-39.) As the Opening Brief argues, it should be clear and convincing evidence. Further, while respondent wants the evidence to be a "de minimus" showing of harm, appellant argues it should at least be that set forth in Penal Code section 1347 and *Craig* that an accommodation is only necessary when the witness would be so "traumatized" as to be unable to reasonably communicate if made to confront the defendant face to face. (*Craig, supra*, 497 U.S. at pp. 841-842, 855-856.) Section 1347 codifies that rule, defining necessity as "suffering serious emotional distress so [as to be] . . . unavailable as a witness." (Pen. Code, § 1347, subd. (b)(2)(A).) Again, that is the Legislature's determination what is required when invading a defendant's Sixth Amendment rights.

Further, it cannot be ignored that F.R. was an 18 year old adult when she testified, not a 13 year old minor. Appellant presented the facts of *Murphy* where the court found an accommodation was not required for the adult even though she was making keening noises, hyperventilating, and demonstrating other extreme reactions. (*Murphy*, *supra*, 107 Cal.App.4th at p. 1152.) If it was not required for that adult, it certainly should not have been required for this one.

As the briefing and the Dissent note, F.R. came in, was distraught, and was able to regain her composure after a 15 minute break. As the dissent

notes, *Murphy* reversed because the trial court did not determine the extent to which the witness's distress was due to the defendant as opposed to "'general emotional fragility'" and the appellate court refused to infer necessity from the record. (Dissent, p. 20, citing *Murphy, supra*, 107 Cal.App.4th at pp. 1157-1158.) So too in this case. Although respondent makes much of the fact the prosecutor stated that appellant turned around and looked at F.R., defense counsel stated he did not do so. Thus, the distress may have simply been because of the stress of testifying in court as opposed to anything dealing with appellant. The trial court did not bother to hold the necessary hearing to make that determination. Further, as even the court noted, F.R. was able to regain her composure after the 15 minute break. So why was any accommodation needed at that point?

Respondent's entire argument is centered on the speculation that without the accommodation, F.R. could not have continued. (RB 36-37.) That conclusion simply does not follow from what occurred in the courtroom. As respondent notes, F.R. was able to stand and take the oath and could see appellant while she did so. (RB 43.) She apparently did not hyperventilate or become unable to communicate. If the entire exercise was to allow F.R. to testify, she proved at that moment when she took the oath that she could answer questions while seeing appellant. She did not have the screen and yet she was able to be asked a question, answer it, have appellant

in her view, was able to be viewed by appellant, and could otherwise proceed with the case.

Respondent focuses only on what happened when F.R. first entered the court and nothing on what happened after she regained her composure. In respondent's view, only the screen apparently prevented a non-communicative witness. Its own argument about the oath proves otherwise.

The trial court failed to make a particularized determination regarding F.R. As pointed out throughout the briefing, the court utilized the accommodation as a "small effort . . . to make the witness more comfortable." (Dissent, p. 20.) She apparently was already more comfortable when she came back in the room and got "her emotions back in order." (*Ibid.*) Nothing more was required at that point.

E. A Complete Screen Between Appellant And The Witness Should Not Have Been Allowed.

If this court finds the trial court properly found that an accommodation was warranted, the issue still remains whether this method, the subtle one wholly blocking appellant's view of F.R. and vice-versa, was proper.

As a starting point, respondent tries to water down the extent of the intrusion. (RB 51.) While the court did state that it was blocking some view of appellant (2RT 230), trial counsel stated that it blocked all of F.R. from

appellant and vice-versa. (See Opinion, p. 29.) In fact, that was the finding in the Opinion—that appellant's entire view was blocked. (Opinion, p. 44.) If respondent felt this was a misstatement of the facts of the case, it should have filed a petition for rehearing. (Cal Rules of Court, rule 8.500(c)(2) [Supreme Court will not consider alleged factual misstatement unless first presented to the reviewing court].)

As noted in the Opinion and the Opening Brief, cases have found an opaque screen a per se violation of the 6th Amendment right. (Opinion, pp. 43-44, fn. 8, citing *People v. Lofton, supra,* 740 N.E.2d 782 [blocking view with podiums], among others.) Respondent has not cited a contrary case.

As appellant initially argued, the less restrictive, and thus acceptable method, would simply have been to have the witness face away from the defendant, as has been repeatedly upheld. In *People v. Gonzales* (2012) 54 Cal.4th 1234, 1265-1266, for instance, the two boys were seated facing away from the defendant. This court noted that "the witnesses were free to look around the courtroom and make eye contact with defendants, if they desired." (*Id.* at p. 1265.) The trial court found that "it was guarding against the intimidation of children 'of tender age,' and noted that the defendants would be able to see and hear the witnesses, and would be 'within eye contact' if the witnesses wished to look at them." (*Id.* at p. 1266.) Ivan, one of the minor witnesses, was 8 when he testified. (*Id.* at p. 1247.)

In *People v. Sharp* (1994) 29 Cal.App.4th 1772, the prosecutor stood or sat next to the witness stand so the child witness did not have to look at defendant. Defendant could see the side and back of the witness's head while she testified; even if he could not see all her facial expressions, he could see her general demeanor and reactions to questioning. The witness could, but chose not to, see defendant and the jury could see both the witness and defendant. (*People v. Sharp, supra*, 29 Cal.App.4th at pp. 1781-1782.) The Court of Appeal found the situation "not materially different from one in which a witness might stare at the floor, or turn her head away from the defendant while testifying." (*Id.* at p 1782.) Appellant cited in the Opening Brief numerous other cases around the country holding similarly.

Respondent argues on the one hand that "appellant does not show there were any viable less restrictive means available." (RB 53.) That is certainly not true—the method set forth above was an obvious one. Next, respondent argues that the error falls in appellant's lap because he did not request these other methods. (*Ibid.*) However, it should be respondent's burden to demonstrate the necessity of this method since it is their actions that are interfering with appellant's Sixth Amendment rights. As appellant has argued in other portions of this brief, it should be respondent's burden to prove by clear and convincing evidence that the very method chosen is necessary.

Respondent also argues that the method chosen, with its "subtlety" was somehow superior to a bigger screen because the jury would not know that it was being utilized. (RB 55-57.) As appellant noted in the Opening Brief, that is simply speculative. The jury may not have noticed it and thus believed that when the witnesses looked in appellant's direction they were looking directly at him. If, as *Coy, supra,* 487 U.S. at p. 1019, stated it is harder to lie to a person's face, the jury would be unaware the witness could not see appellant's face. At least with a large unconstitutional screen, the jury would know what was occurring on the stand.

Demeanor evidence is of considerable legal consequence. It can have a dispositive effect in the outcome of a case "in which the existence or nonexistence of a determinative fact depends upon the credibility to be given to testimonial evidence." (*Harding v. Purtle* (1969) 275 Cal.App.2d 396, 400.) Although demeanor evidence does not appear on the record, and for that reason has led to the rule that the fact-finder is the exclusive judge of credibility (*Meiner v. Ford Motor Co.* (1971) 17 Cal.App.3d 127, 140), many is the case which is affirmed on appeal because the reviewing court necessarily deferred to the finding of the trier of fact on issues of credibility. (See *People v. Thornton* (1974) 11 Cal.3d 738, 754.)

The U.S. Supreme Court noted that the elements of an oath, cross-examination, and observation of the witness's demeanor "adequately ensure[] that the testimony is both reliable and subject to rigorous adversarial

testing in a manner functionally equivalent to that accorded live, in-person testimony." (*Craig, supra*, 497 U.S. at p. 851.) In discussing the last of those elements, the Court at one point indicated that a witness's demeanor need only be observed by the jury or trier of fact. (*Craig, supra*, 497 U.S. at p. 846.) However, in upholding the use of closed-circuit television to present the testimony of a child witness, the Court found it significant that "the judge, jury, *and defendant* are able to view (albeit by video monitor) the demeanor (and body) of the witness as he or she testifies." (*Craig, supra*, 497 U.S. at p. 851 (emphasis added).)

Thus, the ultimate problem with the method chosen by the trial court. The witnesses seemed calm and collected while testifying, possibly even looking in appellant's direction, and the jury was none the wiser.

As for CCTV, section 1347 was the Legislature's weighing of the competing interests between appellant's rights and that of a minor victim. It chose to split the difference at age 13 if a specific need was shown. (See, *State v. Nutter* (New Jersey App.Ct. 1992) 609 A.2d 65, 74.) Respondent cites to various cases lauding the preference for face-to-face confrontation over CCTV. (RB 54.) Appellant obviously does not disagree—the preference is for live, face-to-face testimony. If that does not work, other methods that do not eviscerate the defendant's Sixth Amendment right, such as simply a different seating arrangement, is the answer.

F. If An Objection To The Screen For The Other Minor Girls Was Necessary, Trial Counsel Was Ineffective.

Respondent argues the claims as to the other two girls were forfeited. (RB 66-71.) Respondent disagrees that a further objection as to them was not futile and that, in any event, trial counsel may have had tactical reasons for not objecting. In the alternative, if this court finds a further hearing is necessary as to the two girls, this court should remand for that limited purpose. (*Ibid.*)

By and large, appellant addressed each of these arguments in its Opening Brief. The issue was futile under the court's standard of determining 6th Amendment rights: it was enough that defendant was present and could hear the witnesses. Because that standard would be met for the other two girls, it would in fact have been futile to further object. (*People v. Boyette* (2002) 29 Cal.4th 381, 432.)

As for possible tactical reasons, respondent cites to those set forth in the Opinion. (RB 70; Opinion, pp. 45-47; Dissent, pp. 28-30.) Appellant addressed those as well in the Opening Brief. From the cold record, the appellate court, along with respondent, can somehow glean that the younger two girls were upset even though nothing demonstrates that in the testimony. The only one who was actually upset was F.R. and for her, trial counsel objected. Again, that makes no sense. Respondent argues that with the screen (with no support outside raw speculation), defense counsel was able

to conduct "vigorous cross-examination of all three witnesses, without interruption, and without any additional emotional outbursts that may have garnered sympathy for the victims." (RB 70.) But again, if that were defense counsel's intent he would not have objected to the screen as to F.R. He did—thus meaning it was not his intent at all.

If this court finds ineffective assistance, it should reverse all the counts as to these girls as well. If a further hearing now years later could somehow shed light on whether the two girls would have been too upset to testify, If that is not the case, and further objection was necessary, appellant received ineffective assistance. The court should reverse as to them as well.

G. The Error Was Not Harmless Beyond a Reasonable Doubt.

The parties agree as to the standard for determining prejudice. (AB 66.) Essentially, a Sixth Amendment violation such as this is subject to the harmless error analysis of *Chapman v. California* (1967) 386 U.S. 18, albeit as modified by *Coy*. (*Coy, supra*, 487 U.S. at p. 1021.) Harmlessness is judged only after removing the impacted witness. (*Id.* at pp. 1021-1022.)

Respondent agrees that if F.R. is removed, the counts associated with her should be reversed. (AB 66.) Appellant further argued that if the other girls were removed from the equation, presuming this court agrees with the IAC claims, their counts should be reversed as well. Respondent does not address this point, at least as to prejudice. (*Ibid.*) Appellant shall therefore

rely on all the prior briefing regarding prejudice if this court agrees with the IAC claim.

H. Penal Code Section 1347 Has Application To This Case.

First, respondent argues that the issues regarding this statute are forfeited. (RB 58.) On the one hand the statute is not applicable to F.R. as respondent notes because she was not 13 at the time of the hearing. It therefore had no direct application to her. On the other hand, appellant is using the statute as a point of reference just as the dissent did. It makes little sense, as pointed out by the dissent, that the test is less rigorous for an adult than for a child. As a starting point then, any analysis should make section 1347 the floor, not the ceiling as respondent suggests. (RB 62-64.)

Respondent argues that the court had the ability to do what it did under Penal Code section 1044. (RB 58-61.) That only works if this court finds no constitutional violation. As respondent's citation, *People v. Lujan* (2012) 211 Cal.App.4th 1499, 1508, makes clear, a court has authority to exercise its authority under this section only so long as it complies with constitutional requirements and legislative intent. (RB 60.) The entire argument here is that this was a violation of appellant's Sixth Amendment rights and that this court should look at an analogous law, section 1347 for guidance. That

section was written in light of *Craig* and incorporates its very language. That section sets forth the minimum requirements prior to using CCTV in which, as was pointed out in the Opening Brief, appellant could see all of the witness. Here, with the screen, he could see none of her. Under both systems (screen and CCTV) he could hear her and under both systems she could not see him. It is not even close. The CCTV is less intrusive on the Sixth Amendment rights than a complete screen. Section 1347 should have been the minimum requirements given that this case involved an adult (something not even allowed under 1347), and wholly restricted appellant from seeing her testify.

Respondent argues that the various procedural protections appellant noted in the Opening Brief should not be found as constitutionally mandated. (RB 61-67.) Appellant's argument in the Opening Brief were that section 1347 was the Legislature's determination as to a proper balance between the defendant's rights and protecting the victim. While understanding the context, those younger than 13 using CCTV, again, as the dissent noted, those should be more rigorous than what was used in this case for an adult.

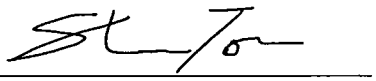
In a way, respondent's argument is grounded on its belief that CCTV is more onerous and so needs greater safeguards. (RB 62-63.) Obviously, for the reasons set forth above, appellant disagrees. Appellant could not see the witnesses; he could have if CCTV were used.

Respondent argues that the various components of section 1347 should not be required in this context, such as expert testimony or clear and convincing evidence. Again, this gets back to the fundamental argument between the parties: which process is a more onerous abuse of a defendant's Sixth Amendment rights. Section 1347 has the very standards appellant argued should be required before using a screen. Whether or not other states require these safeguards, although appellant cited ones that did, our Legislature decided they should be required.

CONCLUSION

For the reasons set forth in Section I, this court should reverse all convictions or at least all those that do not involve M.C., based upon the violation of appellant's Sixth Amendment right to confrontation.

Dated: November 6, 2018 **TORRES & TORRES**



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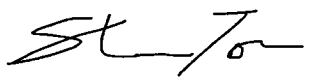
Attorneys for Defendant and
Appellant Jason Arredondo

WORD COUNT CERTIFICATE

I, Steven A. Torres, appointed counsel for appellant, Jason Arredondo, hereby certify, pursuant to rule 8.204, subdivision (c)(1) of the California Rules of Court, that I prepared the foregoing Reply Brief on the Merits on behalf of my client, and that the word count is 4,783, which does not include the cover or the tables. I certify that I prepared this document in Microsoft Word 2013, and that this is the word count the program generated for this document.

Dated: November 6, 2018 **TORRES & TORRES**



STEVEN A. TORRES
Attorneys for Defendant and
Appellant Jason Arredondo

PROOF OF SERVICE BY MAIL
(Cal. Rules of Court, rules 1.21, 8.50)

I, Steven A. Torres, declare that: I am over the age of 18 years and not a party to the case; I am employed in, or am a resident of, the County of Los Angeles, California, where the mailing occurs; and my business address is PMB 332, 3579 Foothill Boulevard, Pasadena, California 91107.

I further declare that I am readily familiar with the business practice for collection and processing for mailing with the United States Postal Service; and that the mailing shall be deposited with the United States Postal Service this same day in the ordinary course of business.

I caused to be served this day the following document: REPLY BRIEF ON THE MERITS by placing a true copy of each document in a separate envelope addressed as follows:

Jason Arredondo
[Address per inmate locator]

I then sealed each envelope and, with the postage thereon fully prepaid, I placed each for deposit in the United States Postal Service, this same day, at my business address shown above, following ordinary business practices.

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(Cal. Rules of Court, rules 2.251(i)(1)(A)-(D) & 8.71(f)(1)(A)-(D).)

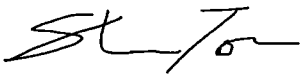
Furthermore, I, Steven A. Torres, declare I electronically served from my electronic service address of Torres144381@gmail.com the same document on or before 5:00 p.m. on November 6, 2018 to the following entities:

APPELLATE DEFENDERS INC, via truefiling or eservice-court@adi-sandiego.com
ATTORNEY GENERAL'S OFFICE, via truefiling or SDAG.Docketing@doj.ca.gov
CALIFORNIA COURT OF APPEAL, FOURTH DISTRICT, DIVISION TWO, via truefiling
HON. DAVID A. GUNN via truefiling or appealsteam@riverside.courts.ca.gov

MELANIE DEUTSCH, RIVERSIDE DISTRICT ATTORNEY, via truefiling or Appellate-unit@rivcoda.org
A.C. JONES, DEPUTY PUBLIC DEFENDER, via truefiling or LOPDAppellateUnit@rivco.org

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

Executed on November 6, 2018



STEVEN A. TORRES