

IN THE SUPREME COURT FOR THE STATE OF CALIFORNIA

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

Respondent,

v.

**MIGUEL ALBERTO
ESQUIVIAS,**

Appellant.

California Supreme Court Case
No. S286371

Second District Case No.
B329800

(Los Angeles County Super. Ct.
No. PA077370)

Appeal from the Order Granting in Part and Denying in Part the
Petition for Writ of Habeas Corpus by the Los Angeles County
Superior Court, The Honorable Daniel B. Feldstern, Judge

**APPLICATION FOR LEAVE TO FILE THE AMICI CURIAE
BRIEF OF THE CALIFORNIA PUBLIC DEFENDER'S
ASSOCIATION AND THE CALIFORNIA ATTORNEYS FOR
CRIMINAL JUSTICE, AND AMICI CURIAE BRIEF
IN SUPPORT OF APPELLANT**

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**TO: THE HONORABLE CHIEF JUSTICE PATRICIA
GUERRERO AND TO THE ASSOCIATE JUSTICES OF
THE CALIFORNIA SUPREME COURT:**

APPLICATION TO FILE BRIEF OF AMICI CURIAE

This application pursuant to California Rules of Court, rule 8.520(f)(1), for permission to file the below-appearing amicus curiae brief is jointly submitted by amici curiae California Attorneys for Criminal Justice (hereafter, “CACJ”) and the California Public Defender’s Association (hereafter, “CPDA”). The application and brief are filed in support of Petitioner Miguel Alberto Esquivias (hereafter, “appellant”) in the above-captioned matter, California Supreme Court Case No. S286371.

I. STATEMENT OF PURPOSE AND INTEREST.

Below-identified amici curiae have often appeared together before this Court as the representatives of criminal defense lawyers, and of entities providing criminal defense services, throughout the

State of California. The members of CPDA and CACJ are largely lawyers representing individuals in the various courts throughout California, including individuals for whom a full and fair resolution of the issues presented in this case is of importance.

The issue granted review is whether “the issuance of an order to show cause to review one aspect of a defendant’s sentence in habeas corpus proceedings render applicable all ameliorative laws taking effect after the defendant’s judgment became final?”

Joined amici urge the Court to grant the relief sought as the issue has statewide implications for the approximately 100,000 persons held in prisons in the State of California, and the hundreds of thousands of other persons whose sentences may be subject to habeas corpus review while held on probation and parole.

Established precedents will be undone if this Court affirms the lower courts’s determination that habeas corpus relief is specific to the individual elements of a sentence. Such limitation and truncation of the writ of habeas corpus will negatively impact all criminal defendants in California who may need to petition as a last resort to correct violations of their statutory and constitutional rights. Given the CPDA and CACJ’s stated goals of supporting the rights, and safeguarding the liberties, of all criminal defendants in California, amici apply to submit the attached brief in support of appellant.

II. IDENTIFICATION OF AMICI CURIAE.

CPDA is the largest association of criminal defense attorneys, public defenders, and associated professionals in the State of California. With a membership exceeding 4,000 professionals, CPDA

is an important voice for the criminal defense bar. The collective experience of CPDA attorneys in representing indigent criminal defendants across California places CPDA in a unique position to assist the Court in this case. Courts have granted CPDA leave to appear as amicus curiae in numerous California cases resulting in published opinions.

CACJ is a non-profit statewide organization of criminal defense lawyers and associated professionals that is California's affiliate of the National Association of Criminal Defense Lawyers, the largest organization of criminal defense lawyers in the United States. CACJ's membership consists of approximately 1,000 criminal defense lawyers and allied professionals from around California and elsewhere. CACJ has often appeared before this Court as an amicus curiae in matters of importance to its membership pertaining to the administration of justice.¹

DATED: November 7, 2025

Respectfully Submitted,
/s/ B.C. McComas

BRIAN C. McCOMAS
Counsel for Amici Curiae

¹ Counsel for amici authored this Brief in full. No person or entity, including counsel or amici, made a monetary contribution intended to fund the preparation or submission of the Brief.

BRIEF BY AMICI CURIAE

I. INTRODUCTION.

Ostensibly, this case arises from vacatur of a firearm enhancement via habeas corpus resulting of a reduction of 25 years to life from appellant’s original sentence of 37 years, eight months, plus 75 years to life. The real issue arises from whether the resentencing of appellant would require vacatur of the enhancements resulting from the finding that “the murder and robberies were for the benefit of, at the direction of, or in association with a criminal street gang ([Pen. Code,]§ 186.22).”² (*People v. Esquivias* (2024) 103 Cal.App.5th 969, 973 (*Esquivias*)). To avoid the significant reduction in sentence that would result from vacatur of those enhancements, the lower court concluded that there is no “revisit-any-on-habeas, revisit-all-on-habeas rule” (*Id.* at p. 975.) But this syllogism was not argued by appellant, nor is it supported by applicable case law. This Court should take this opportunity to correct the error made by the Court of Appeal below.

The full resentencing rule exists because “an aggregate prison term is not a series of separate independent terms, but one term made up of interdependent components.” (*People v. Hubbard* (2018) 27 Cal.App.5th 9, 13.) For this reason, at resentencing “the trial court is entitled to consider the entire sentencing scheme” and “may reconsider all sentencing choices.” (*People v. Trammel* (2023) 97 Cal.App.5th 415, 428, 429.) Creating an exception when resentencing

² Further undesignated statutory references are to the Penal Code.

is required due to issuance of the writ of habeas corpus would substantially alter the equitable force of the “Great Writ.”

Since the decision in *Esquivias*, other courts have disagreed with the findings of the Second District Court of Appeal. (See *People v. Duenas* (2025) 111 Cal.App.5th 553; *People v. Cervantes* (Oct. 30, 2025, No. B332405) __Cal.App.5th__ [2025 Cal. App. LEXIS 701]; and *People v. Perez-Tinoco* (Oct. 30, 2025, Nos. G064424, G064859) __Cal.App.5th__ [2025 Cal. App. LEXIS 705].) This Court has also issued opinions calling into question the holding of *Esquivias*. (See *People v. Lopez* (2025) 17 Cal.5th 388, and *People v. Superior Court (Guevara)* (Oct. 9, 2025, S283305) __Cal.5th__ [2025 WL 2860065].) In line with these decisions, CPDA and CACJ submit the following points and authorities for consideration by this Court.

II. THE LOWER COURT’S DECISION POSES WIDE RANGING LIMITATIONS ON THE SCOPE OF HABEAS CORPUS CONTRARY TO THE HISTORICAL AND LEGISLATIVE PURPOSES OF THE “GREAT WRIT.”

The Court of Appeal’s decision turns on treating “[h]abeas review [as] issue specific.” (*Esquivias, supra*, 103 Cal.App.5th at p. 972, citing *People v. Superior Court (Pearson)* (2010) 48 Cal.4th 564, 572.) The “Great Writ” is not so limited, but instead stands as “the safe-guard and the palladium of our liberties.” (*In re Clark* (1993) 5 Cal.4th 750, 764, citation omitted.) The statutory and common law sources for habeas corpus relief require that the writ not be diminished from its standing as “the greatest remedy known to the law whereby one unlawfully restrained of his [or her] liberty can secure . . . release.” (*Ibid.*)

Since common law, “[a] ‘defendant who is serving a longer sentence than the law allows may challenge the sentence in a petition for a writ of habeas corpus.’” (*People v. Boyd* (2024) 103 Cal.App.5th 56, 66; accord, *People v. King* (2022) 77 Cal.App.5th 629, 640; see *In re Harris* (1993) 5 Cal.4th 813, 839.) *Esquivias*, however, would substantially limit the impact of a successful challenge to an unlawful sentence. Indeed, *Esquivias* would permit an unlawful sentence to remain, even if one component is corrected, so long as not all components of that sentence were granted habeas relief. The conclusion is as unworkable as it is untenable.

As codified today, “[a] person unlawfully imprisoned or restrained of his liberty, under any pretense whatever, may prosecute a writ of habeas corpus, to inquire into the cause of such imprisonment or restraint.” (§ 1473, subd. (a).) Historically, “the function of the writ is . . . to determine the legality of the detention by an inquiry into the question of jurisdiction and the validity of the process upon its face, and whether anything has transpired since the process was issued to render it invalid.” (*People v. Villa* (2009) 45 Cal.4th 1063, 1069, citation and internal quotations omitted.) These functions are diminished by a judicially created rule that limits the implementation of ameliorative sentencing laws when the writ of habeas corpus is granted.

In the context of an unauthorized sentence, a trial court does not have “discretion in deciding how to exercise its habeas jurisdiction [so as to] limit a grant of habeas review to a ‘specific claim or claims’ presented in a petition.” (*Esquivias, supra*, 103

Cal.App.5th at pp. 976-977, citation omitted.) The contrary holding reached in *Esquivias* substantially undermines the ability of the courts to correct an unauthorized sentence, even though another Division of the Second Appellate District has found that habeas is the only lawful means for a defendant to correct an illegal sentence. (See *People v. Singleton* (2025) 113 Cal.App.5th 783, 797.) No such limitations on habeas corpus need be created when an unauthorized sentence “could not lawfully be imposed under any circumstance in the particular case” (*People v. Scott* (1994) 9 Cal.4th 331, 354) at the time of resentencing.

Nor does reenforcing the powers of the writ of habeas corpus at common law somehow abrogate the broad discretion of the courts to fashion a remedy tailored to the particular circumstances of a case, as claimed by the Attorney General. (Answering Brief on the Merits (“ABM”), at p. 30, citing *In re Reno* (2012) 55 Cal.4th 428, 450.) The writ of habeas corpus has traditionally been permitted to review the entirety of an unlawful sentence. For instance, in *In re Sandel* (1966) 64 Cal.2d 412, 416-417, this Court held that an order from the Adult Authority in an administrative proceeding was void where the order corrected an unauthorized sentence imposed by the trial court. The Court reasoned that “the Adult Authority has no jurisdiction to determine that petitioner’s sentences shall be served consecutively rather than concurrently,” which is a judicial, not an administrative, function. (*Ibid.*) The Court proceeded to correct the trial court’s sentencing error, reasoning that “[s]ince the entire question of the legality of petitioner’s confinement is before us on this application for

habeas corpus, we take the opportunity to make a judicial correction of the sentencing error which the Adult Authority has purported to deal with by administrative action alone.” (*Id.* at p. 418.) The Court did not endeavor to correct just one component of the sentence, but instead reviewed the entirety of the terms imposed.

The holding in *Pearson*, as cited by the Court of Appeal, does not alter this analysis. The narrow question presented there focused on the scope of discovery that could be ordered in line with a petition for writ of habeas corpus. (*Pearson, supra*, 48 Cal.4th at p. 572 [“discovery on habeas corpus is necessarily directed at issues raised or potentially raised on habeas corpus”].) The Court said nothing as to whether a defendant was entitled to application of all ameliorative laws following grant of habeas corpus leading to resentencing.

More recently, in *Guevara*, the Majority of this Court held that the petitioner was entitled to resentencing under section 1172.75, even if he was previously denied relief under the Three Strikes Reform Act in section 1170.126. The Majority agreed with the Dissent that the Reform Act contemplated “and was not intended to exclude other recognized rights and remedies like habeas corpus.” (*Guevara, supra*, Slip Opinion, at p. *25, citing dis. opn. of Corrigan, J., post, at p. 12.) The Majority further noted: “Had Guevara had his sentence vacated or recalled under such vehicles, he might also have obtained resentencing under Proposition 36. (See *People v. Padilla* (2022) 13 Cal.5th 152 [current law, namely Prop. 57, applied at resentencing where defendant’s sentence had been vacated in habeas corpus proceedings].) (*Guevara, supra*, Slip Opinion, at p. *26.)

Additionally, the Majority noted: “[A] defendant serving an indeterminate Three Strikes term who obtained resentencing through a successful habeas corpus petition or via recall under former section 1170 subdivision (d) might also have invoked Proposition 36’s ameliorative reforms at resentencing.” (*Guevara, supra*, Slip Opinion, at p. *26.) The Majority described the “dissent’s distinction between resentencing as a result of a section 1172.75 proceeding and a resentencing through a successful habeas corpus petition or other resentencing mechanism [a]s unavailing.” (*Ibid.*) Thus, the Majority concluded that

the dissent accepts that habeas corpus petitions might lead to resentencing of defendants serving indeterminate terms under the Three Strikes law. (Dis. opn. of Corrigan, J., post, at p. 12.) Yet when the Reform Act was enacted in 2012, no one foresaw the significant expansion of the scope of habeas corpus later created as a result of the Racial Justice Act and its subsequent amendments, for example. (See §1473, subd. (e); Assem. Bill No. 2542 (2019–2020 Reg. Sess.); Assem. Bill No. 256 (2021–2022 Reg. Sess.)) Similarly, here, the Legislative Analyst who analyzed the fiscal impacts of the Reform Act did not account for additional costs, outside the two-year window, that might arise because of Senate Bill No. 483 and its interaction with the Reform Act, events that would not occur for over a decade.

(*Id.* at p. *41.) Here as well, there is no reason to believe that granting habeas relief as to one component of a sentence precludes relief as to another unauthorized component. Indeed, “an unauthorized sentence is a void judgment that may be vacated or corrected whenever it is brought to the trial court’s attention, even after execution of the invalid sentence has begun or the judgment has

become final.” (*People v. Codinha* (2023) 92 Cal.App.5th 976, 993.)

The Attorney General’s reliance on *In re Duval* (2020) 44 Cal.App.5th 401 is misplaced. (ABM, at p. 27.) There, the defendant initially pleaded guilty to certain crimes and received a two-year sentence contingent on his appearance at sentencing. (*Id.* at p. 404.) The Court modified the five-year term by replacing it with a four-year term. (*Ibid.*) However, there was no indication that any other unlawful component of the sentence warranted further relief.

Similarly, the Attorney General erroneously relies on *People v. Dyer* (1969) 269 Cal.App.2d 209. (ABM, at p. 27.) There, the defendant filed a habeas petition six years after his conviction was affirmed, and the Court issued an order to show cause returnable in the superior court due to an error pertaining to the effective waiver of counsel. (*Id.* at p. 210.) Dyer appealed, raising one claim relating to the terms of probation, and claims relating to “error which occurred during the trial.” (*Id.* at p. 211.) The Court of Appeal held that these arguments were not cognizable because the narrow grant of habeas relief did not extend to such issues. The judgment as a whole “was not disturbed by the Supreme Court when it issued the order to show cause in the habeas corpus proceeding.” (*Id.* at pp. 211-212.) Here though, Mr. Esquivias is seeking imposition of all ameliorative sentencing laws after the judgment was altered via grant of habeas corpus.

When granting relief, “a court, faced with a meritorious petition for a writ of habeas corpus, should consider factors of justice and equity when crafting an appropriate remedy.” (*Harris, supra*, 5

Cal.4th at p. 851; cf., *Carafas v. LaVallee* (1968) 391 U.S. 234, 239 [emphasizing the flexible nature of federal habeas corpus remedies “as law and justice require”].) The flexibility of the breadth of relief is not a basis to limit the scope of habeas corpus as to only one component of an unlawful sentence. (See *In re Crow* (1971) 4 Cal.3d 613, 619, fn. 7 [“Inherent in the power to issue the writ of habeas corpus is the power to fashion a remedy for the deprivation of any fundamental right which is cognizable in habeas corpus”].) Indeed, the refusal to exercise discretion would only sanction further habeas corpus petitions. (See *In re Large* (2007) 41 Cal.4th 538 [adjudicating habeas corpus claim that the trial court did not exercise discretion to decide whether to dismiss a strike].)

III. THE LEGISLATURE’S INTENT IN MAKING RECENT AMELIORATIVE CHANGES TO THE LAW SO AS TO REMEDY SENTENCING DISPARITIES AND PROMOTE UNIFORMITY JUSTIFIES REOPENING ALL COMPONENTS OF AN UNLAWFUL SENTENCE.

The Attorney General takes the position that “where a court has chosen to craft a limited, equitable habeas remedy that alters only a discrete part of the sentence, the judgment remains final for purposes of *Estrada*’s general rule concerning the retroactive application of ameliorative legislation.” (ABM, at p. 11.) This Court recently rejected a similar argument in *Lopez, supra*, 17 Cal.5th 388. The Court acknowledged that requiring retroactive application of ameliorative legislation to all nonfinal judgments may lead to “practical concerns,” but found such concerns alone could not bar application of the *Estrada* presumption of retroactivity, so long as

there were no “constitutional obstacles” barring application of that presumption. (*Lopez, supra*, 17 Cal.5th at p. 399.)

The Court of Appeal in *Esquivias* did not identify any constitutional obstacles to applying the full resentencing rule. The *Estrada* presumption of retroactivity must therefore apply where the court determines that the defendant was entitled to resentencing on habeas corpus review. (See *Lopez, supra*, 17 Cal.5th at p. 399.) Indeed, as this Court found in *People v. McKenzie* (2020) 9 Cal.5th 40, 48, because “the People offer no basis for concluding that the [ameliorative legislation] may not ‘be applied constitutionally[,]’” applying that legislation “in this case is fully consistent with *Estrada*.”

Moreover, in passing recent ameliorative laws, the Legislature was aware that correcting one part of a sentence would result in correction of others pursuant to this Court’s precedent. We must therefore presume that the Legislature was aware that retroactive application of ameliorative legislation could result in retrials of substantive offenses and sentencing enhancements. Indeed, if the Legislature wished to avoid such an outcome, it could have “provide[d] for a different or more limited form of retroactivity, or for no retroactivity at all.” (*Lopez, supra*, 17 Cal.5th at p. 399.)

This Court’s recent precedence undermines the Court of Appeal’s reliance in *Esquivias* on *People v. Walker* (2021) 67 Cal.App.5th 198, 205 for the proposition that the “trial court’s decision whether to resentence does not re-open a conviction if court ultimately elects not to resentence.” (*Esquivias, supra*, 103

Cal.App.5th at p. 976.) *Walker* recognized that when part of a criminal sentence is ordered stricken by an appellate court, the trial court on remand “has jurisdiction to modify every aspect of the sentence” when resentencing. (*Walker, supra*, 67 Cal.App.5th at p. 201, quoting *People v. Buycks* (2018) 5 Cal.5th 857, 893.) The Court of Appeal found that a trial court at resentencing is required to exercise that jurisdiction in order to correct a different part of the sentence that has become unlawful. (*Walker, supra*, at p. 201.) Nothing in the opinion appropriates the decision not to vacate a portion of sentence that has since become unlawful when another portion of the same sentence must be corrected via habeas corpus.

Nor did the Court of Appeal correctly find that this Court has denied that “the existence of an unauthorized sentence does not by itself create jurisdiction to correct that error. (*Esquivias, supra*, 103 Cal.App.5th at p. 977, citing *In re G.C.* (2020) 8 Cal.5th 1119, 1129-30.) It has long been recognized that “because an aggregate prison term is not a series of separate independent terms, but one term made up of interdependent components. The invalidity of one component infects the entire scheme.” (*People v. Hill* (1986) 185 Cal.App.3d 831, 834.)

The holding of *G.C.* does not alter this analysis where the Court recognized that the application of Assembly Bill 333 was mandatory at resentencing. Rather, in *G.C.*, the alleged error that the petitioner sought to have corrected via habeas corpus was the juvenile court’s failure to designate a wobbler pursuant to Welfare and Institutions Code section 702. (*G.C., supra*, 8 Cal.5th at p. 1131.) Given the scope of discretion afforded to the juvenile court on such matters, “upon

timely appeal the proper course would have been to remand the case for the Alameda court to exercise its discretion.” (*Ibid.*) Here though, the proper remedy was for the superior court to strike the gang enhancements so as to permit the prosecution to retry those matters, or not. (*Lopez, supra*, 17 Cal.5th at p. 399.)

Far more consistent reasoning was supplied in *Duenas* where the Court of Appeal found that once the trial court granted the “habeas corpus petition and determined that [Mr. Duenas] was entitled to resentencing, the result was vacatur of his sentence, which rendered his entire judgment nonfinal.” (*Duenas, supra*, at p. 563, citing *Padilla, supra*, 13 Cal.5th at p. 163.) Mr. Duenas was thereby entitled to retroactive application of Assembly Bill No. 333’s substantive changes to the gang enhancement statute, Senate Bill No. 567 (Stats. 2021, ch. 731, § 1.3) and Assembly Bill No. 124 (Stats. 2021, ch. 695, §§ 5-6). (*Duenas, supra*, at p. 563.)

The Second and Fourth Appellate Districts have also reached similar results in *Cervantes* and *Perez-Tinoco*. In the latter case, gang charges were vacated as part of relief pursuant to *People v. Chiu* (2014) 59 Cal.4th 155. The Court noted “a defendant is entitled to the retroactive application of the ameliorative benefits of Assembly Bill 333 when a trial court conditionally reverses a defendant’s judgment.” (*Perez-Tinoco, supra*, Slip Opinion, at p. *24, citing *In re A.M.* (2024) 102 Cal.App.5th 557, 569; see also *People v. Trent* (2025) 112 Cal.App.5th 251, 260-161 [Assembly Bill 333 applies during section 1172.6 proceedings].) The Court affirmed the lower court’s holding that “[b]ased on the Court’s granting of the petition for writ of

habeas corpus, vacatur of the judgment renders the case nonfinal with respect to all substantive offenses and enhancements.” (*Perez-Tinoco, supra*, Slip Opinion, at p. *25.) In Mr. Esquivias’ case, the trial court erred when it made the exact opposite findings in refusing to apply Assembly Bill 333 once habeas corpus relief was granted.

The Fourth District Court of Appeal expressly declined to follow the decision in *Esquivias*. (*Perez-Tinoco, supra*, Slip Opinion, at pp. *26-28.) “We respectfully think that the Court of Appeal’s analysis in *Esquivias* is likely to be rejected by the Supreme Court.” (*Id.* at p. *28.) In support, the Court of Appeal cited numerous authorities broadly applying the effects of ameliorative legislation like Assembly Bill 333. (*Ibid.*, citing *People v. Aguirre* (2025) 18 Cal.5th 628, 711; *People v. Fletcher* (2025) 18 Cal.5th 576; *People v. Faial* (2025) 18 Cal.5th 1999; *Lopez, supra*, 17 Cal.5th at p. 393; and *Tran supra*, 13 Cal.5th at pp. 1206-07.) The same conclusions should be reached in Mr. Esquivias’ case.

IV. THE SUPERIOR COURT’S ATTEMPTS TO AVOID COMPLIANCE WITH THE LAW WHEN AMENDING A SENTENCE AND ISSUING JUDGMENT DEMONSTRATES THE PROBLEMS THAT WILL ARISE IF THE LOWER COURT’S DECISION IS ALLOWED TO STAND.

As appellant points out, “[a]lthough the trial court did not orally pronounce judgment (RT 620-626), a minute order for the habeas hearing described Esquivias’s new sentence as a determinate term of 24 years, four months, plus an indeterminate term of 50 years to life (CT 122-123).” (Opening Brief on the Merits (“OBM”), at p. 20.) The trial court also “seemed to recognize it was supposed to engage

in a full resentencing, since it recalculated its award of custody credits. (RT 621.)” (OBM, at p. 46.) Most curiously, “[t]he clerk then purported to change the trial court’s original sentence by creating a *nunc pro tunc* minute order for Esquivias’s 2015 sentencing, which showed the court as having exercised an authority in 2015 that the court would not be granted until three years later.” (OBM, at p. 47, citations omitted.) The superior court further directed that the “judgment clerk” prepare an amended abstract of judgment to be forwarded to the CDCR. (CT 123.)

The superior court made these decisions after finding that a prima facie showing in support of the habeas petition had been made. (CT 117.) Yet, the Court treated the petition as a “motion for modification of resentencing (Senate Bill 620).” (CT 117.) In entertaining such a motion, however, the Court provided no reason why other motions could not be considered – like the previously filed “motion to strike the gang enhancements.” (CT 116.) Indeed, there was no jurisdiction for any one motion without recall and full resentencing.

By sanctioning such procedural infirmities, the Court of Appeal’s decision in *Esquivias* is internally inconsistent, as appellant points out: “[T]he trial court noted that newly enacted section 1385, subdivision (c) would inform its decision whether and how to exercise its discretion. (RT 613.)” (OBM, at p. 22.) Indeed, the prosecution sought to have the trial court apply all of the new sentencing factors created by amendment of section 1385 (CT 91-93), and the lower court stated that “I have reviewed all of them in making this

decision.” (RT 624.) Yet, at the same time, the trial court declined to provide newly amended section 186.22, apparently in recognition that it would result in vacatur of the special circumstance finding. Such ends over means analysis is not only inconsistent, but also diminishes the power of the “Great Writ” as the last means to prevent unlawful sentences.

Nor is *Duval* comparable to normal habeas matters. In that case, the defendant sought habeas corpus relief due to ineffective assistance. (*Duval, supra*, 44 Cal.App.5th at p. 405.) After the matter was remanded, however, the prosecution failed to file a return. (*Id.* at p. 406.) “If the People do not file a return, they forgo the opportunity to participate in the court’s determination of the merits of the petitioner’s claim.” (*In re Serrano* (1995) 10 Cal.4th 447, 455.) The lower court was thereby permitted to proceed to grant the prayer for relief summarily. (*People v. Romero* (1994) 8 Cal.4th 728, 738-739.) Generally, however, the lower courts are not permitted to bypass the requirements for granting habeas relief, as occurred in this case.

Further record-keeping problems could become endemic if the lower court’s ruling in *Esquivias* is upheld. Worse, court could give short shrift of their obligations when pronouncing judgment, which is the exact error that was corrected in *Cervantes*. There, the defendant sought resentencing relief, which resulted in identification of an unlawful component of his sentence. (*Cervantes, supra*, Slip Opinion, at p. *1.) The trial court, however, refused to correct the error. (*Ibid.*) The Court of Appeal reversed finding no “excuse [for]

the court’s failure to promptly correct a sentence it finds to be excessive and unauthorized.” (*Id.* at p. *9, citation omitted.)

Upholding *Esquivias* would permit courts to refuse to correct unauthorized sentences, contrary to *Cervantes*. The application of ameliorative statutes should not be withheld where doing so would permit sentences that are “unauthorized by statute or common law.” (*Kabran v. Sharp Memorial Hospital* (2017) 2 Cal.5th 330, 339–340.) Petitioners subject to such errors must be able to invoke habeas corpus as to the entirety of their sentence because the courts still have “‘jurisdiction over the subject matter and the parties in the fundamental sense’, [and] any such act is ‘valid until set aside. . . .’” (*Id.* at p. 340, citation omitted.)

As demonstrated by the proceedings before the lower court in this matter, the holding of *Esquivias* has the potential to sow confusion and poor record keeping in cases across the State. Permitting the lower courts to bypass the procedures for granting habeas relief, and entering judgments, to avoid implementing ameliorative laws, is not a workable means for enforcement of the law. Remand with instructions to the lower courts to order full resentencing is warranted.

V. CONCLUSION.

For the reasons set forth here, the CPDA and CACJ respectfully submit that the Court should grant the relief sought by Mr. Esquivias.

DATED: November 7, 2025 Respectfully submitted,

John T. Philipsborn
Chair, CACJ Amicus Committee
Lisa Maguire
Co-Chair CPDA Amicus Committee
Brian C. McComas
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By: */s/ Brian McComas*
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CERTIFICATE OF COMPLIANCE

Pursuant to the California Rules of Court, rules 8.520 and 8.204, the undersigned hereby certify that, according to their word processing software, the foregoing application and proposed amici curiae brief are written in Century725 BT in 13-point font, and contain 4,506 words, not including the table of contents and authorities, the cover information, the signature blocks, and the certificates.

DATED: November 7, 2025

Respectfully Submitted,

/s/ B.C. McComas

BRIAN C. McCOMAS

PROOF OF SERVICE

I, Brian C. McComas, declare as follows:

I am a citizen of the United States, over the age of 18 years and not a party to the above referenced action. My place of employment and business address is PMB 1605, 77 Van Ness Ave., Ste. 101, San Francisco, CA 94102.

On November 7, 2025, I served the attached **APPLICATION FOR LEAVE TO FILE THE AMICI CURIAE BRIEF OF THE CALIFORNIA PUBLIC DEFENDER’S ASSOCIATION AND THE CALIFORNIA ATTORNEYS FOR CRIMINAL JUSTICE, AND AMICI CURIAE BRIEF IN SUPPORT OF APPELLANT** by placing a true copy thereof in an envelope addressed to the person named below at the address shown, and by sealing and depositing said envelope in the United States Mail in San Francisco, California, with postage thereon fully prepaid.

<p>The Honorable Daniel B. Feldstern, Judge LA County Superior Court North Valley District San Fernando Courthouse 900 Third Street, Dept. E San Fernando, CA 91340</p> <p>Court of Appeal Second Appellate District Division Two 300 S. Spring Street Los Angeles, CA 90013</p>	<p>Stephen M. Vasil Lenore De Vita Counsels for Appellant (Service Via TrueFiling)</p> <p>Thomas R. Trainor Deputy District Attorney (Courtesy Copy Via Email)</p> <p>CAP – LA capdocs@lacap.com (Service Via Email)</p> <p>Amanda V. Lopez Deputy Attorney General 300 South Spring St., Ste. 1702 Los Angeles, CA 90013-1230 Amanda.Lopez@doj.ca.gov</p>
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I declare under penalty of perjury that the foregoing is true and correct. Signed on November 7, 2025, at San Francisco, California.

/s/ B.C. McComas

BRIAN C. McCOMAS

STATE OF CALIFORNIA
Supreme Court of California

PROOF OF SERVICE

STATE OF CALIFORNIA
Supreme Court of California

Case Name: **PEOPLE v. ESQUIVIAS**

Case Number: **S286371**

Lower Court Case Number: **B329800**

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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.

11/7/2025

Date

/s/Brian McComas

Signature

McComas, Brian (273161)

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