

IN THE SUPREME COURT OF THE STATE OF CALIFORNIA

In re WILLIAM MILTON,

Petitioner,

on Habeas Corpus.

Supreme Court
Case No.
S259954

Court of Appeal
Case No.
B297354

Los Angeles
Superior Court
Case No.
TA039953

On Review from the Decision of the Court of Appeal
Second Appellate District, Division Seven

From a Judgment of the Superior Court
of the State of California for the County of Los Angeles,
the Honorable Ronald Slick, Judge Presiding

MOTION FOR JUDICIAL NOTICE

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**TO THE HONORABLE PRESIDING JUSTICE AND
ASSOCIATE JUSTICES OF THE SUPREME COURT OF THE
STATE OF CALIFORNIA:**

Pursuant to rules 8.54(a) and 8.252(a) of the California Rules of Court and Evidence Code sections 452, subdivision (d) and 459, subdivision (a), petitioner William Milton moves this Court to take judicial notice of the record and unpublished opinion from petitioner’s appeal in Second Appellate District case number B131757. The record consists of one volume of the Clerk’s Transcript (166 pages) and two volumes of the Reporter’s Transcript (385 pages).

ARGUMENT

I. The Records and Opinion from the Appeal Are Proper Subjects for Judicial Notice

Evidence Code section 459 provides that a “reviewing court may take judicial notice of any matter specified in Section 452.” (Evid. Code, § 459, subd. (a).) Evidence Code section 452 authorizes a court to take judicial notice of “[r]ecords of (1) any court of this state.” (Evid. Code, § 452, subd. (d).) Thus, it is proper for this Court to take judicial notice of the records of the appeal – *People v. William Milton*, Second Appellate District case number B131757 – and the opinion in the appeal. (See, e.g., *Duggal v. G.E. Capital Communications Services, Inc.* (2000) 81 Cal.App.4th 81, 86 [“records of a California court”].)

II. The Records and Opinion from the Appeal Are Relevant to the Instant Proceeding

The subject of judicial notice must also be relevant to the current proceeding. (*People v. Rowland* (1992) 4 Cal.4th 238, 268, fn. 6; Cal. Rules of Court, rule 8.252(a)(2)(A).) Here, the records from the appeal contain briefs, exhibits, and discussions pertaining to the use of petitioner’s prior Illinois convictions as strikes, which is pertinent to the issue for which this Court has granted review.¹ The opinion also addresses the use of

¹ This Court has granted review on the following question: Do the limitations of *People v. Gallardo* (2017) 4 Cal.5th 120 (*Gallardo*) on judicial-fact finding about the basis for a prior conviction apply retroactively to final judgments? (Compare *In re Milton*

petitioner's prior Illinois convictions as strikes. Moreover, both the records and opinion are relevant because they provide additional factual and procedural background regarding the instant matter.

CONCLUSION

As the records and unpublished opinion from the appeal are proper subjects of judicial notice and are relevant to the current proceeding, it is respectfully requested that this Court take judicial notice of the records and unpublished opinion from *People v. William Milton*, B131757.

Respectfully submitted,

Date: May 13, 2020

/S/ BRAD KAISERMAN

BRAD KAISERMAN
Attorney for Petitioner
WILLIAM MILTON

(2019) 42 Cal.App.5th 977 (*Milton*) with *In re Brown* (2020) 45 Cal.App.5th 699 (*Brown*).

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DECLARATION OF BRAD KAISERMAN

I, BRAD KAISERMAN, declare under penalty of perjury:

1. I am an attorney licensed to practice in California (Bar No. 266220) and am in good standing with the California Bar. I have been appointed by the Supreme Court to represent petitioner William Milton in the above-entitled matter.

2. All of the factual statements made in the motion for judicial notice are true and correct to the best of my knowledge. The subjects sought for judicial notice are necessary for a proper determination of the issues in the instant proceeding.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true to the best of my knowledge and belief.

Executed on May 13, 2020, in Los Angeles, California.

/S/ BRAD KAISERMAN
BRAD KAISERMAN

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

Petitioner’s motion for judicial notice is granted. This Court hereby takes notice of the records (one volume of the Clerk’s Transcript; two volumes of the Reporter’s Transcript) and the unpublished opinion in *People v. William Milton*, Second Appellate District case number B131757.

Date: _____

Presiding Justice

STATE OF CALIFORNIA
Supreme Court of California**PROOF OF SERVICE**STATE OF CALIFORNIA
Supreme Court of CaliforniaCase Name: **MILTON (WILLIAM) ON H.C.**Case Number: **S259954**Lower Court Case Number: **B297354**

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

Title(s) of papers e-served:

Filing Type	Document Title
REQUEST FOR JUDICIAL NOTICE	Milton Motion for Judicial Notice

Service Recipients:

Person Served	Email Address	Type	Date / Time
Eric Kohm Office of the Attorney General 232314	eric.kohm@doj.ca.gov	e-Serve	5/13/2020 3:06:20 PM
Brad Kaiserman Brad K. Kaiserman, Esq. 266220	bradkaiserman@gmail.com	e-Serve	5/13/2020 3:06:20 PM
Office of the Attorney General	docketinglaawt@doj.ca.gov	e-Serve	5/13/2020 3:06:20 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.

5/13/2020

Date

/s/Brad Kaiserman

Signature

Kaiserman, Brad (266220)

Last Name, First Name (PNum)

Brad K. Kaiserman, Esq.

Law Firm