# IN THE SUPREME COURT OF CALIFORNIA

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| **PEOPLE OF THE STATE OF CALIFORNIA**,<br>Plaintiff and Respondent,<br><br>v.<br><br>**MAURICE WALKER,**<br>Defendant and Appellant. | No. S278309<br><br>Court of Appeal<br>No. B319961<br><br>Los Angeles<br>County Superior<br>Court No.<br>BA398731 |

## APPLICATION FOR LEAVE TO FILE AMICUS CURIAE BRIEF AND BRIEF OF AMICUS CURIAE FIRST DISTRICT APPELLATE PROJECT AND CALIFORNIA ATTORNEYS FOR CRIMINAL JUSTICE, NOT SUPPORTING EITHER PARTY

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## APPLICATION OF FIRST DISTRICT APPELLATE PROJECT AND CALIFORNIA ATTORNEYS FOR CRIMINAL JUSTICE TO APPEAR AS AMICI CURIAE PURSUANT TO RULE OF COURT 8.520

**To: The Honorable Patricia Guerrero, Chief Justice Presiding, and Honorable Associate Justices of the California Supreme Court:**

Pursuant to Rule 8.520(f) of the California Rules of Court, the First District Appellate Project (FDAP) and California Attorneys for Criminal Justice (CACJ) respectfully request permission to file the accompanying amicus curiae brief in support of the holding of the Court of Appeal, not adhered to by either of the parties in the present case, that the amendment to Penal Code section 1385, subdivision (c) gives rise to a rebuttable presumption in favor of dismissing an enhancement unless the trial court finds dismissal would endanger public safety.

FDAP and CACJ apply to appear as amici curiae pursuant to California Rules of Court, rule 8.520. This application is made in compliance with Rule 8.520. Petitioner's reply brief was filed on October 5, 2023, and this application and brief are being filed within 30 days of that date.

### A. Identification of FDAP and CACJ

1. FDAP is a non-profit law office, which administers the appointment of counsel program in the First District, pursuant to California Rules of Court, rule 8.300(e). FDAP's mission is to ensure quality representation of indigent appellants in criminal, juvenile delinquency, dependency and mental health appeals in the First District Court of Appeal. As "contract administrator" in the First District, FDAP (1) administers the appointment process

on behalf of the Court of Appeal, including recommending attorneys for appointments in each case (2) provides other administrative assistance to the Court of Appeal in processing notices of appeal; (3) assists and consults with a panel of approximately 250 attorneys who are appointed to represent indigent appellants in the First District; (4) provides training and resource materials to the panel; and (5) also undertakes the direct representation of some indigent appellants in the First District.

2. CACJ is a non-profit California corporation and statewide organization of criminal defense lawyers. CACJ is the California affiliate of the National Association of Criminal Defense Lawyers, the largest organization of defense lawyers in the country. CACJ has approximately 1,100 criminal defense lawyer members who practice before Federal and state courts throughout California. CACJ's members are employed in both the public and private sectors.

CACJ is administered by a Board of Directors, and its by-laws include the specific purpose of "defend[ing] the rights of persons as guaranteed by the United States Constitution, the Constitution of the State of California, and other applicable law," as well as the improvement of "the quality of the administration of criminal law." (Article IV, CACJ By-Laws.) For almost 50 years, CACJ has appeared before this Court, the United States Supreme Court, and the Courts of Appeal in California on matters of vital importance to the administration of justice.

## B. Statement of Interest

1. **FDAP**: The issue in this case has potential implications for cases in the First District Court of Appeal, where FDAP supervises and administers appointed counsel, as well as throughout the state, in that many appeals include the type of sentence enhancements covered by Senate Bill 81, and amended subdivision (c) of section 1385, which is the subject of the present case and the present brief. Thus, a result favorable to the position urged by amici here would provide benefits to our clients in terms of potential sentence reductions.

2. **CACJ**: The issue of whether Penal Code section 1385, subdivision (c) creates a rebuttable presumption favoring the dismissal of sentencing enhancements under particular circumstances is of significance to CACJ and its members. CACJ members represent clients whose rights and interests they defend within the meaning of the constitutional right to counsel. CACJ members actively represent clients involved in sentencing and resentencing proceedings throughout California at both the trial court and appellate levels. CACJ and its members have an interest in the fair enactment and administration of laws, particularly those that affect the lives of people convicted of crimes who are facing sentencing.

Both FDAP and CACJ provide significant training and guidance at conferences, as well as through written materials and legal updates, to defense lawyers across the state on issues related to the recent reform statutes affecting sentencing. In sum, both FDAP and CACJ, and their legal representatives have

the necessary experience and interest in the issues framed in this case to serve this Court as amicus curiae. FDAP and CACJ therefore respectfully requests that this Court grant them permission to appear as amicus curiae.

Dated: November 1, 2023 Respectfully submitted

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/S/ William M. Robinson

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IN THE SUPREME COURT OF CALIFORNIA

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| **PEOPLE OF THE STATE OF CALIFORNIA**,<br>Plaintiff and Respondent,<br><br>v.<br><br>**MAURICE WALKER,**<br>Defendant and Appellant. | No. S278309<br><br>Court of Appeal<br>No. B319961<br><br>Los Angeles<br>County Superior<br>Court No.<br>BA398731 |

# BRIEF OF AMICUS CURIAE FIRST DISTRICT APPELLATE PROJECT AND CALIFORNIA ATTORNEYS FOR CRIMINAL JUSTICE, NOT SUPPORTING EITHER PARTY

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## INTRODUCTION

This Court granted review to consider the following question: "Does the amendment to Penal Code section 1385, subdivision (c) that requires trial courts to 'afford great weight' to enumerated mitigating circumstances (Stats. 2021, ch. 721) create a rebuttable presumption in favor of dismissing an enhancement unless the trial court finds dismissal would endanger public safety?" The parties in the present case agree that the answer to this question is in the negative, that the statute does not create a rebuttable presumption.

Amici First District Appellate Project (FDAP) and California Attorneys for Criminal Justice (CACJ) (hereinafter generally "amici") believe that this question should be answered in the affirmative. Both the plain language of the applicable statutory provisions, and the legislative history of Senate Bill No. 81 (2021-2022 Reg. Sess., Stats. 2021, ch. 721, § 1, hereinafter "SB 81") make it clear that a key purpose of amended Penal Code section 1385, subdivision (c) ("§ 1385(c)") was to make a dramatically change in sentencing law with respect to the imposition of punishment enhancing provisions when any of the mitigators enumerated section 1385(c)(2) apply.[1]

### A. The Plain Language of Amended Section 1385 Intended to Create a Rebuttable Presumption in Favor of Dismissing an Enhancement When One or More of the Enumerated Mitigators is Present.

Section 1385 has long provided a mechanism for trial

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1. Statutory references are to the Penal Code if not otherwise stated.

courts to dismiss charges and allegations in furtherance of justice, providing, as presently worded, that "[t]he judge or magistrate *may*, either on motion of the court or upon the application of the prosecuting attorney, and in furtherance of justice, order an action to be dismissed." (§ 1385, subd. (a), emphasis added.) The use of the permissive "may" in section 1385 previously led the courts of this state to interpret section 1385 as providing a judge with wide discretion to dismiss charges or allegations, subject on review of such dismissals, or a court's refusal to grant them, for abuse of discretion. (See, e.g., *People v. Carmony* (2004) 33 Cal.4th 367, 373-375.)

The enactment of SB 81, and its addition of section 1385(c) alters this formula. Departing from the permissive "may" language of subdivision (a) of section 1385, subdivision (c) provides, "Notwithstanding any other law, the court *shall dismiss an enhancement* if it is in the furtherance of justice to do so, except if dismissal of that enhancement is prohibited by any initiative statute. (§ 1385(c), emphasis added.) Without reference to the provisions of subsection (c)(2) at issue in the present case, the Legislature's use of the term "shall" in subsection (c)(1) demonstrates that where a court concludes that it would be "in the furtherance of justice" to dismiss an enhancement, it must do so. "It is a well-settled principle of statutory construction that the word 'may' is ordinarily construed as permissive, whereas 'shall' is ordinarily construed as mandatory, particularly when both terms are used in the same statute." (*Common Cause v. Board of Supervisors* (1989) 49 Cal.3d 432, 443.) The use of

"may" in subdivision (a), the traditional provision regarding dismissals in furtherance of justice, and "shall" in subdivision (c), the new provision added by Senate Bill 81 focusing solely on enhancements, provides a strong indication that the Legislature intended alter, in favor of dismissal, the scope of a trial court's discretion as to enhancement allegations covered by subsection (c)(2) of section 1385.

Turning to the language of subsection (c)(2), we must first observe that it employs the oft-used "shall-unless" construction, together with double use of the term "great weight," setting up the puzzle now before this Court as to whether it creates a rebuttable presumption.

> In exercising its discretion under this subdivision, the court shall consider and afford great weight to evidence offered by the defendant to prove that any of the mitigating circumstances in subparagraphs (A) to (I) are present. Proof of the presence of one or more of these circumstances weighs greatly in favor of dismissing the enhancement, unless the court finds that dismissal of the enhancement would endanger public safety. "Endanger public safety" means there is a likelihood that the dismissal of the enhancement would result in physical injury or other serious danger to others.

(§ 1385(c)(2).)

Amici believe that the Court of Appeal in the present case correctly held that the Legislature's employment of a "shall-unless" formula, particularly when combined with the use of the term "great weight," supports a conclusion that section 1385(c) gives rise to a rebuttable presumption.

> Although a statute's use of the "shall/unless" dichotomy by itself does not necessarily erect a presumption in favor of whatever "shall" be done [citations], section 1385's use of the additional phrase "great weight" goes a step further than just the "shall /unless" dichotomy and thereby erects a presumption in favor of the dismissal of the enhancement unless and until the court finds that the dismissal would "endanger public safety" as that term is defined in section 1385.

(*People v. Walker* (2022) 86 Cal.App.5th 386, 398-399.)

Other courts considering the same question have reached different conclusions. In *People v. Anderson* (2023) 88 Cal.App.5th 233, Division 7 of the Second District held there is no "presumption" in favor of dismissing enhancements under 1385(c), emphasizing that explicit "presumption" language in an earlier draft of SB 81 had been removed and replaced with the "great weight" language, and citing a letter by the bill's author, Senator Nancy Skinner – discussed in some length below – as demonstrating that no presumption applied. (*Id.*, at pp. 239-241; rev. gtd., 4-19-23, S278786.)

In *People v. Ortiz* (2023) 87 Cal.App.5th 1087, the Sixth District struck something of a balance between *Walker* and *Anderson*, agreeing with *Anderson* that there is no presumption in favor of dismissing an enhancement when one or more of the enumerated factors applies, but acknowledging the Legislature sought to alter a trial court's calculus for exercising its discretion by "invest[ing] the enumerated mitigating circumstances with great weight, both in the trial court's evaluation of the defendant's evidence in the first instance and in the trial court's

consideration of the mitigating circumstance once established. . . ." (*Id*., at 1098.) The *Ortiz* court concluded that countervailing considerations include not only the public safety factors enumerated in the statute, but any other matters which courts have traditionally considered in exercising their discretion under section 1385. (*Id*., at pp. 1096-1099; rev. gtd. 4-12-23, S278894, briefing deferred pending consideration of *Walker*, S278309.)

Amici FDAP and CACJ urge this Court to affirm the holding of the Court of Appeal in the present case, that section 1385(c) creates a presumption in favor of dismissal of enhancements where one or more of the enumerated factors apply, which can only be rebutted by a showing that striking an enhancement would endanger public safety. Of course, as the court in *Ortiz* suggests, other more "traditional" section 1385 factors – e.g., the nature of the criminal conduct, the background, character, and prospects of the defendant, etc., (see, e.g., *People v. Williams* (1998) 17 Cal.4th 148, 160 ) can also be considered, but only as they bear on the salient question identified in the statute, namely, whether dismissal of the enhancement would endanger the public.

### B. The Legislative History of SB 81 Supports a Conclusion that the Legislature Intended to Create a Rebuttable Presumption.

In concluding that there is no presumption, the Courts of Appeal in *Anderson* and *Ortiz* focus on the legislative amendment to SB 81 while the bill was pending. The original draft of the statute stated,

> There shall be a presumption that it is in the furtherance of justice to dismiss an enhancement upon a finding that any of the circumstances in paragraphs (A) to (I), inclusive, are true. This presumption shall only be overcome by clear and convincing evidence that dismissal would endanger public safety.

(SB 81, as Amended in Senate, 4-27-21.) The final amendment of the bill, into its current form, eliminated the express "rebuttable presumption" language, substituting in the "great weight" language now found in section 1385(c)(2). Based on this amendment, the *Ortiz* court concluded that "[h]ad the Legislature intended to establish a rebuttable presumption . . ., it could have approved the earlier version of the bill." (*Ortiz*, *supra*, 87 Cal. App.5th at p. 1097; see *Anderson*, *supra*, 88 Cal.App.5th at p. 537.)

But the matter is not quite as simple as the *Ortiz* court would have it. Two salient considerations must color this Court's construction of section 1385(c): that Senate Bill 81 was expressly intended to codify the Report of the Committee on Revision of the Penal Code, which recommended dismissal of enhancement provisions as a remedy for unjustly lengthy sentences, and the letter to the Secretary of the Senate by the bill's author, Senator Skinner, explaining that the bill's use of the term "great weight" was intended to be "consistent" with this Court's case law in *People v. Martin* (1986) 42 Cal.3d 437. As shown below, the combined impact of these two factors strongly indicates that section 1385(c) creates a rebuttable presumption.

### 1. Recommendations About Enhancements from the 2020 Report of the Committee on Revision of the Penal Code.

The impetus for the enactment of section 1385(c) can be found in the 2020 Report of the Committee on Revision of the Penal Code (hereafter "Report")[2]. The purpose of the Committee was to "study the California Penal Code and recommend statutory reforms" throughout the criminal justice system.[3]

On February 9, 2021, the Committee released its first annual report, which included a recommendation that the Legislature enact provisions to "[p]rovide guidance for judges considering sentencing enhancements."

Section 5 of the Report is entitled "Provide Guidance for Judges Considering Sentencing Enhancements." (Report, pp. 37-42.) That section summarizes current data about the role that sentencing enhancements play in criminal sentencing and describes the deleterious impact that sentencing enhancements have had on the criminal justice system, specifying unjustifiable extension of sentences and fostering discrimination in the imposition of the extended sentences. (Report, p. 37.)

The Report recommended that the Legislature "[e]stablish guidelines and presumptions (but not requirements) that judges should consider when dismissing sentencing enhancement in further of justice" when one or more enumerated mitigating

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2. See http://www.clrc.ca.gov/CRPC/Pub/Reports/CRPC_AR2020.pdf

3. The Committee consisted of a blue-ribbon panel of experts, one appointed by the Assembly, one appointed by the Senate, and five appointed by the Governor and included, among its prestigious members, Senator Skinner, the author of SB 81.

circumstances were present. (*Ibid*.) The report also identified Penal Code section 1385 as the relevant statute for implementation of these recommendations. (*Ibid*.)

The Report which, as demonstrated below, was the driving force behind the enactment of SB 81's amendments to section 1385(c), explained that "[s]entence enhancements can be dismissed by sentencing judges," but that the current legal standard "in furtherance of justice" was an ill-defined "amorphous concept" that was "inconsistently exercised and underused because judges do not have guidance on how courts should exercise their power." (Report, p. 40.) The clear message from the Committee to the Legislature was that clarifying standards were needed to guide the courts to fairer results with respect to punishment enhancing provisions of California law.

That SB 81 was a direct response to the Committee's Report cannot be questioned. State Senator and Committee member Nancy Skinner assumed the role of point person in implementing the recommendations made by the Committee. On February 8, 2021, she introduced the initial version of SB 81, whose stated purpose was "to provide guidance to courts by specifying circumstances for a court to consider when determining whether to apply an enhancement." (Senate Committee on Public Safety, Report on SB 81 (2021-2022 Reg. Sess.), March 16, 2021.)[4] The factors enumerated in the bill as

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4. All legislative history references cited below, unless otherwise noted, can be found at: https://leginfo.legislature.ca.gov/faces/billNavClient.xhtml?bill_id=202120220SB81.

relevant to sentencing discretion are identical to those articulated in the Committee Report at p. 37.

Moreover, various committee reports make it clear that the Bill was intended to implement the recommendations of the Committee's Report. (See, e.g., Sen. Comm. Pub. Safety, 3-16-21 (2021-2022 Reg. Sess.), p. 6: "This bill would codify the Committee's recommendation on the application of sentence enhancements"; see also Ass. Pub. Saf. Comm. Report, 6-29-21 (2021-2021 Reg. Sess.), describing the Committee's report as the "Impetus for this Bill".)

**2. Senator Skinner's Letter and the *Martin* Case.**

The Courts of Appeal in *Anderson* and the parties in the present case discuss a September 10, 2021 letter from Senator Skinner, the author of SB 81, to the Secretary of the Senate, which followed the bill's enactment. For the court in *Anderson*, this letter provides authority for its conclusion that amended section 1385(c) does not give rise to a presumption in favor of striking enhancements. (*Anderson*, *supra*, 88 Cal.App.5th at p. 240.) Respondent dismisses Senator Skinner's letter as irrelevant to this Court's determination of the presumption question, citing the opinion of the Court of Appeal in the present case, which concluded that this type of post-enactment author statement is not a proper source for divining legislative intent. (See Answer Brief on the Merits ("ABM") 27-31.)

Amici believe that the court in *Anderson* properly explains why Senator Skinner's letter is highly pertinent to a determination of the Legislature's intent in enacting SB 81.

> We recognize that statements by individual legislators may not be entitled to great weight in determining legislative intent. (See *People v. Ramos* (1996) 50 Cal.App.4th 810, 821.) "A legislator's statement is entitled to consideration, however, when it is a reiteration of legislative discussion and events leading to adoption of proposed amendments rather than merely an expression of personal opinion. [Citations.] The statement of an individual legislator has also been accepted when it gave some indication of arguments made to the Legislature and was printed upon motion of the Legislature as a 'letter of legislative intent.' " (*California Teachers Assn. v. San Diego Community College Dist.* (1981) 28 Cal.3d 692, 700.)"

(*Anderson*, *supra*, 88 Cal.App.5th at p. 241, fn. 9.)

The full text of Senator Skinner's letter, which does not appear in any of the reported decisions or in the briefs of the parties in this Court, is as follows:

> As the author of Senate Bill (SB) 81, I wish to provide some clarity on my intent regarding two provisions of the bill.
>
> First, amendments taken on August 30, 2021 remove the presumption that a judge must rule to dismiss a sentence enhancement if certain circumstances are present, and instead replaces that presumption with a "great weight" standard where these circumstances are present. The retention of the word "shall" in Penal Code §1385(c)(3)(B) and (C) should not be read as a retention of the previous presumption language—the judge's discretion is preserved in Penal Code §1385(c)(2).
>
> Second, I wish to clarify that in establishing the "great weight" standard in SB 81 for imposition or dismissal of enhancements [Penal Code §1385(c)(2)] it was my intent that this great weight standard be consistent

> with the case law in California Supreme Court in *People v. Martin*, 42 Cal.3d 437 (1986).
>
> Thank you for this opportunity to clarify the intent of SB 81.

(Sen. Nancy Skinner, letter to Sect. of the Sen. (Sept. 10, 2021) 121 Sen. J. (2021-2022 Reg. Sess.) p. 2638-2639.)

Amici acknowledge that this letter makes it plain that the "great weight" language employed in SB 81 was not to be given the same meaning as the express presumption provision removed by amendment, and that the letter indicates the Legislature's intention that trial court's retain discretion under section 1385(c). However, amici contend that the letter's reference to the standard for interpreting "great weight" language from this Court's opinion in *Martin* supports our contention that section 1385(c)(2) creates a presumption-like burden in favor of dismissal of enhancements.

In *Martin*, this Court elucidated what "great weight" meant in a different but analogous context: case law holding that a trial court is required to accord "great weight" to the Board of Prison Terms determination, under former section 1170, subdivision (f), that a particular sentence imposed is "disparate in comparison with the sentences imposed in similar cases." (*Martin, supra*, 42 Cal.4th at pp. 441, 446.) To explain the meaning of giving "great weight" to the Board's recommendation, this Court hearkened back to its prior decision in *People v. Carl B.* (1979) 24 Cal.3d 212, which involved trial court review of a recommendation by the former Youth Authority that a juvenile convicted in adult court be committed to the Youth Authority, not prison, with the

Court concluding that giving "great weight" to such a consideration meant that it "must be followed in the absence of 'substantial evidence of countervailing considerations of sufficient weight to overcome the recommendation.' " (*Martin, supra*, at p. 447, citing *People v. Carl B., supra*, 24 Cal.3d at pp. 214-215.) To give "great weight" to a finding of sentencing disparity by the Board of Prison Terms, *Martin* explains, a trial court "must accept the board's finding of disparity unless based on substantial evidence it finds that the board erred in selecting the appropriate comparison group. . . ." Moreover, this Court concluded, "giving great weight to the [Boards'] finding does require the court to recall its sentence unless there is substantial evidence of countervailing considerations which justify a disparate sentence." (*Martin, supra*, at pp. 447-448.)

If Senator Skinner's letter is to be followed as evincing the intent of the Legislature in enacting SB 81, as both the court in *Anderson*, appellant, and amici herein contend, it follows that the "great weight" language employed in 1385(c) must be construed to give rise to a similar presumption to the one applied in *Martin*. Here, this can only mean a presumption in favor of dismissing enhancements when the enumerated mitigating factors are present.

As previously set forth, section 1385(c) provides that the sentencing court "shall consider and afford great weight to . . ." mitigating factors enumerated in section 1385(c)(2)(A) - (I); and that proof of these circumstances "weighs greatly in favor of dismissing the enhancement, unless the court finds that

dismissal of the enhancement would endanger public safety . . .", with the latter term defined as "a likelihood that the dismissal of the enhancement would result in physical injury or other serious danger to others." Plugging the standard from *Martin* referenced by Senator Skinner's letter into this statutory language, it follows that when one or more of the enumerated factors are clearly present, the trial court must dismiss the enhancements in question unless it concludes that there is a likelihood that such dismissal would "result in physical injury or other serious danger to others." In short, amended section 1385(c) means what it plainly says, requiring dismissal of the enhancement, *unless* the court can make a finding that dismissal would endanger the public.

Of course, in determining whether dismissal of an enhancement would endanger the public, on the one hand, or would be in furtherance of justice, on the other hand, it is axiomatic that a trial court's discretionary determination could include, as the court in *Ortiz* put it, factors which have traditionally informed a court's exercise of discretion under section 1385, i.e., "'matters such as the defendant's background, character, and prospects . . ." (*Ortiz*, *supra*, 87 Cal.App.5th at p. 1097, quoting *People v. Williams, supra*, 17 Cal.4th at p. 160.) But the bottom line of the Legislature's requirement that "[p]roof of the presence of one or more of [the enumerated mitigators] weighs greatly in favor of dismissing the enhancement . . ." (§ 1385(c)(2)), is that dismissal should be granted unless the trial judge determines, considering factors relevant to the interests of

justice, that "dismissal of the enhancement would endanger public safety . . .", which it expressly defines as "a likelihood that the dismissal of the enhancement would result in physical injury or other serious danger to others." (*Ibid.*)

## CONCLUSION

For the foregoing reasons, amici FDAP and CACJ urge this court to conclude that, based on its plain language and legislative history, the intended effect of section 1385(c) as enacted by SB 81 is sufficiently akin to a rebuttable presumption that it should be construed as such.

Dated: November 1, 2023

Respectfully submitted

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## CERTIFICATE OF WORD COUNT

Amicus Curiae, by and through counsel, hereby certifies that the software used in preparing this brief is Corel Word Perfect X-5 and that according to the software report for this document the brief contains 3492 words.

I declare under penalty of perjury under the laws of the state of California that this declaration is true and correct. Executed at San Jose, California, on November 1, 2023.

Respectfully submitted,

/S/ William M. Robinson

William M. Robinson, Staff Attorney
First District Appellate Project
Attorney for Amicus Curiae

**DECLARATION OF SERVICE BY MAIL AND ELECTRONIC SERVICE BY TRUEFILING**

**Re: People v. Maurice Walker Case No. S278309**

We, the undersigned, declare that we are over 18 years of age and not a party to the within cause. We are employed in the County of Alameda, State of California. Our business address is 1212 Broadway, Suite 1200, Oakland, CA, 94612. Our electronic service address is eservice@fdap.org. On November 1, 2023, we served a true copy of the **APPLICATION FOR LEAVE TO FILE AMICUS CURIAE BRIEF AND BRIEF OF AMICUS CURIAE** attached on each of the following, by placing same in an envelope(s) addressed as follows:

Clerk of Court
Superior Court of California,
County of Los Angeles
210 West Temple Street
Los Angeles, CA 90012

Each said envelope was sealed and the postage thereon fully prepaid. We are familiar with this office's practice of collection and processing correspondence for mailing with the United States Postal Service. Under that practice each envelope would be deposited with the United States Postal Service in Oakland, California, on that same day in the ordinary course of business.

On November 1, 2023, we transmitted a PDF version of this document by TrueFiling to the following:

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Additionally, I personally emailed a copy of the above document to CAP-LA at capdocs@lacap.com pursuant to CAP-LA guidelines.

We declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct. Executed on November 1, 2023, at Oakland and Mariposa, California.

*/s/Treana Burgess*
Treana Burgess
Declarant for Postal Delivery

*/s/ Sabine Jordan*
Sabine Jordan
Declarant for Email and TrueFiling

**STATE OF CALIFORNIA**
Supreme Court of California

# *PROOF OF SERVICE*

**STATE OF CALIFORNIA**
Supreme Court of California

Case Name: **PEOPLE v. WALKER**
Case Number: **S278309**
Lower Court Case Number: **B319961**

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: **bill_robinson@fdap.org**

3. I served by email a copy of the following document(s) indicated below:

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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.

11/1/2023

Date

/s/Sabine Jordan

Signature

Robinson, William (95951)

Last Name, First Name (PNum)

First District Appellate Project

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