

S232900

SUPREME COURT COPY

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May 3, 2017

Supreme Court of California
350 McAllister Street
San Francisco, CA 94102

Attn: Jorge E. Navarrete,
Clerk of the Supreme Court

Re: *People v. Valenzuela* (Laura Reynoso – S232900)

Dear Mr. Navarrete:

Please forward this letter to the court for its consideration.

Appellant Laura Reynoso Valenzuela submits this letter to bring the court's attention to the following authorities, which are expected to be important and helpful at oral argument:

- *In re Kirk* (1965) 63 Cal.2d 761 (*Kirk*) [companion case to *In re Estrada* (1965) 63 Cal.2d 740 (*Estrada*) [addressing a case that was on appeal when legislation passed].
- *People v. Nasalga* (1996) 12 Cal.4th 784;¹ *People v. Vinson* (2011) 193 Cal.App.4th 1190 [*Estrada* and *Kirk* apply to amendments to sentencing enhancements including those based on prior convictions].
- *People v. Figueroa* (1993) 20 Cal.App.4th 65 [when *Estrada* and *Kirk* apply to a sentencing enhancement but more information is needed to determine whether the defendant can take advantage of new legislation, remand to permit evidentiary proceedings is authorized and appropriate].
- *People v. Barwick* (1936) 7 Cal.2d 696.
- *People v. Conley* (2016) 63 Cal.4th 646.

¹ *Nasalga* is cited but not discussed in the respondent's brief. (RB 13.)

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Jorge Navarrete Clerk

Deputy

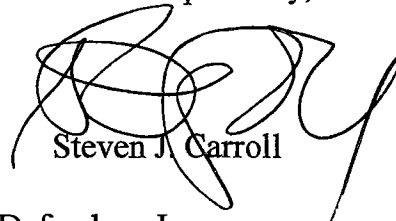
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CLERK SUPREME COURT

- *People v. Garrett* (1998) 67 Cal.App.4th 1419, 1423 [in the interest of judicial economy, appellate court may treat issue incorrectly raised on direct appeal as a petition for writ of habeas corpus].
- California Penal Code section 1487, subdivision 2 [habeas jurisdiction lies “[w]hen the imprisonment was at first lawful, yet by some act, omission, or event which has taken place afterwards, the party has become entitled to a discharge”].
- *Ex parte Tartar* (1959) 52 Cal.2d 250 [habeas corpus used after final judgment rendered to address expressly retroactive amendment to former version of prior prison term sentencing enhancement].
- *Application of Carkeek* (1957) 155 Cal.App.2d 238, 239 [habeas corpus used after final judgment rendered to address fact that prior conviction used to enhance sentence was subsequently reopened and dismissed].
- *Ex parte McVickers* (1946) 29 Cal.2d 264, 272 [“Since the finding or adjudication as to a former conviction and habitual criminal status is severable from the proceedings and judgment on the primary offense [citation] no violence is done to the finality of the judgment of conviction by permitting a collateral attack on the determination as to a prior conviction”].
- Penal Code section 667.5, subdivision (a).
- *People v. Evans* (2016) 6 Cal.App.5th 894, 899, 904, review granted Feb. 22, 2017, S239635 [describing an instance where the defendant expected his prior felony conviction to be reclassified as a misdemeanor at a Proposition 47 hearing and asked the trial court to wait to sentence him until afterward, but the trial court refused to wait and imposed a prior prison term enhancement before the Proposition 47 hearing took place].

Yours respectfully,



Steven J. Carroll

cc: Helen Irza, Staff Attorney, Appellate Defenders, Inc.

DECLARATION OF SERVICE BY U.S. MAIL AND ELECTRONIC SERVICE
Case Name: **People v. Valenzuela** Case Number: **S232900**

I declare: I am employed in the County of San Diego, State of California. I am over the age of 18 and not a party to the within action. My business address is P.O. Box 45338, San Diego, CA 92145-0338. On May 3, 2017 I served the foregoing document described as **Appellant's Counsel's Letter re Additional Authorities** on below listed parties to this action by placing a true copy thereof enclosed in a sealed envelope addressed as follows:

Laura Reynoso Valenzuela WF0770
F.W.F. B-2-241 Low
P.O. Box 1790
Folsom, CA 95763

and I further declare: I electronically served a copy of the above document from address: sjcarrollesq@gmail.com on May 3, 2017 to:

Appellate Defenders, Inc. at eservice-court@adi-sandiego.com
Attorney General at ADIEService@doj.ca.gov.
An electronic copy was submitted to the Court of Appeal at <https://www.truefiling.com>

I declare under penalty of perjury under the laws of the State of California that the above is true and correct and that I signed this declaration on May 3, 2017 in San Diego California.

Declarant: Steven J. Carroll

Signature: _____

