

No. _____

IN THE
Supreme Court of the United States

ISRAEL SANCHEZ,

Petitioner,

v.

CHRISTIAN PFEIFFER,

Respondent.

On Petition for a Writ of Certiorari to the
United States Court of Appeals
for the Ninth Circuit

**APPENDIX IN SUPPORT OF
PETITION FOR A WRIT OF CERTIORARI**

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NOT FOR PUBLICATION**FILED**

UNITED STATES COURT OF APPEALS

AUG 13 2018

FOR THE NINTH CIRCUIT

MOLLY C. DWYER, CLERK
U.S. COURT OF APPEALS

ISRAEL SANCHEZ,

No. 17-55066

Petitioner-Appellant,

D.C. No.

v.

2:15-cv-01191-JVS-KS

CHRISTIAN PFEIFFER, Warden,

MEMORANDUM*

Respondent-Appellee.

Appeal from the United States District Court
for the Central District of California
James V. Selna, District Judge, Presiding

Submitted August 8, 2018**
Pasadena, California

Before: CLIFTON and CALLAHAN, Circuit Judges, and HOYT,** District Judge.

Israel Sanchez appeals the district court's dismissal of his petition for writ of habeas corpus, brought pursuant to 28 U.S.C. §§ 2241(a) and 2254. Sanchez

* This disposition is not appropriate for publication and is not precedent except as provided by Ninth Circuit Rule 36-3.

** The panel unanimously concludes this case is suitable for decision without oral argument. *See* Fed. R. App. P. 34(a)(2).

*** The Honorable Kenneth M. Hoyt, United States District Judge for the Southern District of Texas, sitting by designation.

argues that he received ineffective assistance of counsel in connection with plea negotiations. We review de novo a district court's decision on a habeas corpus petition. *Rodriguez v. McDonald*, 872 F.3d 908, 918 (9th Cir. 2017). We have jurisdiction under 28 U.S.C. §§ 1291 and 2253, and we affirm.

Sanchez was convicted by a jury in Los Angeles County Superior Court for attempted murder without premeditation after shooting a rival gang member. He was sentenced to seven years for attempted murder and 25 years to life for “personally and intentionally discharg[ing] a firearm and proximately caus[ing] great bodily injury,” *see* Cal. Penal Code § 12022.53(d).

Our review is governed by the Antiterrorism and Effective Death Penalty Act of 1996 (“AEDPA”). Under AEDPA, we must deny habeas relief as to any claim adjudicated on the merits in a state court proceeding unless the proceeding “(1) resulted in a decision that was contrary to, or involved an unreasonable application of, clearly established Federal law, as determined by the Supreme Court of the United States; or (2) resulted in a decision that was based on an unreasonable determination of the facts.” 28 U.S.C. § 2254(d).

Sanchez argues his counsel misadvised him about the possible sentence he faced if found guilty of attempted murder without premeditation. He also argues his counsel erroneously advised him that he could obtain a conviction for attempted manslaughter or assault with a deadly weapon and that he had a “solid

defense” to the firearm enhancement. He claims that had he been properly advised, he would have accepted a 39-year determinate plea deal purportedly offered by the State.

A criminal defendant is entitled to reasonable assistance of counsel during a criminal prosecution, including a plea bargaining session. *See Lafler v. Cooper*, 566 U.S. 156, 162 (2012); *see also Strickland v. Washington*, 466 U.S. 668, 687–88 (1984). *Strickland* requires a petitioner to show (1) that trial counsel’s performance was so deficient it denied him the counsel guaranteed by the Constitution and (2) that there is a reasonable probability that, but for the deficient performance, the outcome would have been different. *Id.*; *see Bemore v. Chappell*, 788 F.3d 1151, 1161 (9th Cir. 2015). To meet the prejudice prong for the type of ineffective assistance of counsel claimed by Sanchez, a petitioner

must show that but for the ineffective advice of counsel there is a reasonable probability that the plea offer would have been presented to the court (*i.e.*, that the defendant would have accepted the plea and the prosecution would not have withdrawn it in light of intervening circumstances), that the court would have accepted its terms, and that the . . . sentence . . . under the offer’s terms would have been less severe than under the judgment and sentence that in fact were imposed.

Lafler, 566 U.S. at 164.

Sanchez has not shown that the state courts were unreasonable in rejecting his claim. First, a reasonable jurist could conclude Sanchez failed to demonstrate

that the State ever made a 39-year determinate plea offer.¹ Despite Sanchez's claim that his trial counsel (Pensanti) initially admitted in a telephone conversation with Sanchez's appellate counsel that the prosecutor made an offer of 39 years, Pensanti ultimately stated that Sanchez "was never offered any deal." Sanchez also cites opaque references to settlement discussions in the transcripts of pretrial hearings. But in each instance, the record either is silent about the nature of any offers or refers specifically to Sanchez's own plea offers. A reasonable jurist could conclude that no offer was made based on Pensanti's (and the State's) clear denial that an offer was ever made and the absence in the trial record of any reference to an offer by the State.

Second, Sanchez fails to meet the prejudice prong. Sanchez says he rejected the purported plea offer because the offered sentence was "too long to accept." He argues that if he had been adequately advised on the conviction and sentencing possibilities, he would not have rejected the plea offer. It is undisputed that Sanchez knew his potential exposure was a life sentence. His self-serving statement that his trial counsel advised him otherwise does not create a constitutional infirmity. *See Turner v. Calderon*, 281 F.3d 851, 881 (9th Cir. 2002) ("Turner's self-serving statement, made years later, that [his counsel] told him that

¹ If the State made a plea offer of 39 years *to life*, Sanchez's claim would fail because the offer's terms would have been more severe than his actual sentence of 32 years to life. *See Lafler*, 566 U.S. at 164.

‘this was not a death penalty case’ is insufficient to establish that Turner was unaware of the potential of a death verdict.”).

Third, there is a reasonable basis for concluding that the trial court would not have accepted the terms of the purported plea agreement. Under California Penal Code § 1192.7(a)(2), “Plea bargaining in any case in which the indictment or information charges any serious felony [or] any felony in which it is alleged that a firearm was personally used by the defendant . . . is prohibited.” Although the statute permits a plea bargain when the evidence is insufficient, a material witness is missing, or the plea bargain will not result in a substantial change in the sentence, Sanchez offers no evidence that satisfies any exception. Therefore, he failed to establish *Strickland* prejudice, and the state courts’ rejection of his claim was reasonable. *See Missouri v. Frye*, 566 U.S. 134, 148 (2012).

We AFFIRM.²

² We deny Sanchez’s motion for judicial notice and decline to expand the Certificate of Appealability.

JS-6

**UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA**

ISRAEL SANCHEZ,	)	NO. CV 15-01191- JVS (KS)
)	
Petitioner,)	
	)	JUDGMENT
v.)	
)	
M.D. BITER, Warden,)	
)	
Respondent.)	
_____)	

Pursuant to the Court's Order Accepting Findings and Recommendations of United States Magistrate Judge,

IT IS ADJUDGED that this action is dismissed with prejudice.



DATED: January 04, 2017

JAMES V. SELNA
UNITED STATES DISTRICT JUDGE

Name C. PAMELA GÓMEZ (Bar No. 233848)
 Address 321 East 2nd Street
 City, State, Zip Los Angeles, CA 90012
 Phone (213) 894-2854
 Fax (213) 894-1679
 E-Mail Pamela_Gomez@fd.org
☒ FPD ☐ Appointed ☐ CJA ☐ Pro Per ☐ Retained

**UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA**

ISRAEL SANCHEZ, <div style="text-align: center;">PETITIONER,</div>	CASE NUMBER: <div style="text-align: center;">CV 15-01191-JVS-KS</div>
<div style="text-align: center;">v.</div> M.D. BITER, Warden, <div style="text-align: center;">RESPONDENT.</div>	<div style="text-align: center;">NOTICE OF APPEAL</div>

NOTICE IS HEREBY GIVEN that Israel Sanchez hereby appeals to
Name of Appellant
 the United States Court of Appeals for the Ninth Circuit from:

Criminal Matter

- ☐ Conviction only [F.R.Cr.P. 32(j)(1)(A)]
☐ Conviction and Sentence
☐ Sentence Only (18 U.S.C. 3742)
☐ Pursuant to F.R.Cr.P. 32(j)(2)
☐ Interlocutory Appeals
☐ Sentence imposed:

☐ Bail status:

Civil Matter

- ☒ Order (specify):
 Order Accepting Findings and Recommendations of
 United States Magistrate Judge (dkt. no. 74, 1/04/17)
☒ Judgment (specify):
 Judgment entered on 1/04/17 (dkt. no. 75)
☒ Other (specify):
 All other rulings and orders leading up to and relating
 to the judgment including the Magistrate Judge's
 reports entered on 8/15/16 (dkt no. 51) and 10/27/16
 (dkt. no. 63)

Imposed or Filed on January 4, 2017. Entered on the docket in this action on January 4, 2017.

A copy of said judgment or order is attached hereto.

January 18, 2017
 Date

/s/ C. Pamela Gómez
 Signature
☐ Appellant/ProSe ☒ Counsel for Appellant ☐ Deputy Clerk

Note: The Notice of Appeal shall contain the names of all parties to the judgment or order and the names and addresses of the attorneys for each party. Also, if not electronically filed in a criminal case, the Clerk shall be furnished a sufficient number of copies of the Notice of Appeal to permit prompt compliance with the service requirements of FRAP 3(d).

The parties to the judgment and order are:

Petitioner: Israel Sanchez, CDC #AK-8280
Kern Valley State Prison
P.O. Box 5102
Delano, CA 93216

Petitioner's counsel: C. Pamela Gómez
Deputy Federal Public Defender
321 East 2nd Street
Los Angeles, CA 90012

Respondent: M.D. Biter
Warden
3000 West Cecil Avenue
Delano, CA 93216

Respondent's counsel: Taylor Nguyen
Deputy Attorney General
300 South Spring Street, Suite 1702
Los Angeles, CA 90013

**UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA**

ISRAEL SANCHEZ,

Petitioner,

v.

M.D. BITER, Warden,

Respondent.

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NO. 15-01191- JVS (KS)

ORDER ACCEPTING FINDINGS AND RECOMMENDATIONS OF UNITED STATES MAGISTRATE JUDGE

Pursuant to 28 U.S.C. § 636, the Court has reviewed the Petition for Writ of Habeas Corpus (“Petition”), all of the records herein, the Report and Recommendation of United States Magistrate Judge (“Report”), and Petitioner’s Objections to the Magistrate Judge’s Report and Recommendation (“Objections”). Pursuant to 28 U.S.C. § 636(b)(1)(C) and Fed. R. Civ. P. 72(b), the Court has conducted a *de novo* review of those portions of the Report to which objections have been stated.

The Court concludes that the arguments, including disputed facts, presented in the Objections do not affect or alter the analysis and conclusions set forth in the Report.

1 Having completed its review, the Court accepts the findings and recommendations
2 set forth in the Report. Accordingly, IT IS ORDERED that: (1) the Petition is DENIED;
3 and (2) Judgment shall be entered dismissing this action with prejudice.

4
5
6 DATED: January 04, 2017



JAMES V. SELNA
UNITED STATES DISTRICT JUDGE

1
2
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6
7 **UNITED STATES DISTRICT COURT**
8 **CENTRAL DISTRICT OF CALIFORNIA**

9
10 **ISRAEL SANCHEZ,**) **NO. CV 15-1191-JVS (KS)**
11 **Petitioner,**)
12 **v.**) **REPORT AND RECOMMENDATION OF**
13 **M.D. BITER, Warden,**) **UNITED STATES MAGISTRATE JUDGE**
14 **Respondent.**)
15 _____)
16

17 This Report and Recommendation is submitted to the Honorable James v. Selna,
18 United States District Judge, pursuant to 28 U.S.C. § 636 and General Order 05-07 of the
19 United States District Court for the Central District of California.

20
21 **INTRODUCTION**
22

23 On February 19, 2015, Petitioner, a California state prisoner proceeding *pro se*, filed a
24 habeas petition pursuant to 28 U.S.C. § 2254 (the “Petition”) with exhibits (“Petition Ex.”).
25 (Dkt. No. 1.) On July 3, 2015, Respondent filed an Answer. (Dkt. No. 16.) On November
26 5, 2015, Petitioner filed a Reply and supporting memorandum (“Reply Memo”). (Dkt. No.
27 25.) On January 21, 2016, the undersigned magistrate judge ordered the appointment of the
28 Federal Public Defender’s Office as counsel for Petitioner, and indicated its intention to

1 hold an evidentiary hearing on Petitioner's claim that his trial counsel rendered ineffective
2 assistance during plea negotiations. (Dkt. No. 29.) On February 4, 2016, Respondent filed
3 a Notice of Motion and Motion for Review of Magistrate Judge's Order re: Evidentiary
4 Hearing ("Motion for Review"). (Dkt. No. 34.) On February 10, 2016, United States District
5 Judge James V. Selna, continued the hearing on Respondent's Motion for Review from
6 March 7, 2016 to July 11, 2016 (Dkt. No. 38), and on February 11, 2016, Judge Selna
7 referred the matter of Respondent's Motion for Review to the undersigned magistrate judge
8 (Dkt. No. 39.)
9

10 On June 3, 2016, Petitioner, through appointed counsel, filed a Memorandum in
11 Opposition to Respondent's Motion for Review. (Dkt. No. 43.) On June 27, 2016,
12 Respondent filed a Reply in support of the Motion for Review. (Dkt. No. 44.) On July 21,
13 2016, the Court heard oral argument on the Motion for Review. (Dkt. No. 46.) Following
14 the hearing, Respondent filed an Application for leave to file Supplemental Briefing. (Dkt.
15 No. 47.) The Court granted the unopposed application on July 25, 2016. (Dkt. No. 48.)
16 Petitioner filed a Reply in Opposition to Respondent's Supplemental Brief. (Dkt. No. 49.)
17 On August 15, 2015, the undersigned magistrate judge issued a First Interim Report and
18 Recommendation recommending that the Motion for Review be granted and the prior order
19 for an evidentiary hearing be vacated. (Dkt. No. 51.) Petitioner filed objections to the
20 Interim Report and Recommendation on October 6, 2016. (Dkt. No. 58.) On October 21,
21 2016, the Honorable James V. Selna accepted the Interim Findings and Recommendations,
22 granted Respondent's Motion for Review, and vacated the order of January 21, 2016 setting
23 an evidentiary hearing. (Dkt. No. 60.)
24

25 Briefing in this action is therefore complete, and the matter is under submission to the
26 Court for decision.

27 //

28 //

PRIOR PROCEEDINGS

On July 12, 2011, a Los Angeles County Superior Court jury found Petitioner guilty of attempted murder (California Penal Code (“Penal Code”) §§ 187, 664). (Clerk’s Transcript (“CT”) 408.) The jury found *not* true the allegation that the attempted murder was committed willfully, deliberately and with premeditation (Penal Code § 664(a)). (CT 408). The jury found true multiple firearm use allegations. (CT 408.) The jury also found true the allegation that the offense was committed for the benefit of, at the direction of, or in association with a criminal street gang to promote, further and assist criminal conduct by gang members (Penal Code § 186.22(b)). (CT 408.) The trial court sentenced Petitioner to 32 years to life in state prison. (CT 445.)

Petitioner appealed. Petitioner raised three claims in his Opening Brief to the California Court of Appeal, including a claim that his trial counsel was ineffective in failing to: (1) request a special jury instruction; (2) raise a specific argument in closing; and (3) argue that Petitioner’s gang enhancement should be stricken at sentencing. (Lodg. No. 4.) On October 15, 2013, the California Court of Appeal issued an unpublished decision finding that trial counsel was not ineffective but remanding the matter to the trial court for further proceedings to correct a sentencing error. (Lodg. No. 7.) Regarding the sentence, the California Court of Appeal found that because the jury determined that Petitioner personally used a firearm in the commission of the attempted murder (Penal Code § 12022.53(e)(2)), the trial court had to impose or strike a 10-year gang enhancement under Penal Code section 186.22(b). The trial court failed to do either. The trial court also incorrectly believed that the gang enhancement had no effect on Petitioner’s sentence in choosing a midterm sentence. The California Court of Appeal remanded for the limited purpose of imposing or striking the additional term set forth in Penal Code section 186.22(b), and reconsidering the sentence for attempted murder. *See* Lodg. No. 7 at 20-21 (explaining same). On remand,

1 the trial court declined to reconsider (or modify) the sentence for attempted murder and
2 struck the section 186.22(b) term. (Lodg. No. 3 at 24-25.)
3

4 On December 5, 2012, during the pendency of Petitioner's direct appeal, Petitioner
5 filed a state habeas petition with the California Court of Appeal raising the claims asserted
6 herein with the same evidence presented herein filed as exhibits. (Lodg. No. 8.) On
7 October 15, 2013, the California Court of Appeal denied the petition summarily without
8 citation to authority. (Lodg. No. 9.)
9

10 On November 5, 2013, Petitioner filed with the California Supreme Court a petition
11 for review to exhaust state remedies. (Lodg. No. 10.) Petitioner raised two claims, arguing
12 that: (1) Petitioner's confession was the product of impermissible coercion and should have
13 been excluded from trial; and (2) trial counsel was ineffective for (a) failing to request a
14 jury instruction on liability for foreseeable consequences to aiding and an abetting a target
15 offense, and (b) failing to argue that the prosecution witnesses were accomplices whose
16 testimony should be viewed with caution. (*Id.*) On December 18, 2013, the California
17 Supreme Court denied review summarily without citation to authority. (Lodg. No. 11.)
18

19 On November 20, 2013, during the pendency of Petitioner's direct appeal, Petitioner
20 filed the same state habeas petition and exhibits with the California Supreme Court that he
21 had filed with the California Court of Appeal. (Lodg. No. 12.) On March 26, 2014, the
22 California Supreme Court denied relief summarily without citation to authority. (Lodg. No.
23 13.)
24 //

25 //

26 //

27 //

28 //

SUMMARY OF THE EVIDENCE AT TRIAL

The Court has reviewed the record in this case, as well as the California Court of Appeal's summary of the evidence in its decision on direct appeal. The state court's summary has not been rebutted with clear and convincing evidence and must therefore be presumed correct. *See* 28 U.S.C. § 2254(e)(1). Accordingly, the Court has quoted the summary below to provide an initial factual overview.

On October 21, 2008, [Petitioner] and the victim, William Thomas (Thomas), were detained in Juvenile Hall. Thomas was a member of the "Drifters" criminal street gang; [Petitioner] belonged to rival street gang, "Barrio Gods" or "Gods of Destruction." The Barrio Gods gang's primary activities include obtaining firearms, possession and sale of narcotics, and committing vandalism, robberies, and murder.

At approximately 11:55 a.m., [Petitioner] and Thomas were being escorted back to school from their dormitory when [Petitioner] approached Thomas and attacked him, striking him three times with a closed fist. Thomas suffered a dislocated nose. After the incident, Thomas told an officer that he and [Petitioner] had a "personal beef."

On June 16, 2010, 16-year-old Jessica¹ Lucero (Lucero) was [Petitioner's] girlfriend and pregnant with his child. Lucero lived with her mother on 6th Avenue. At approximately 2:48 p.m., [Petitioner] and his friend Margarita Lopez (Lopez) went to Lucero's house. [Petitioner] and Lucero got into an argument and she left to walk to the library. As Lucero was walking,

¹ In the appellate record, her name is sometimes spelled "Yessica."

1 she saw Thomas. Lucero know that [Petitioner] and Thomas were enemies
2 because of their rival gang affiliations.

3
4 Lucero called [Petitioner] and told him about Thomas.² [Petitioner]
5 replied, "Ooh. Say no more." He was "laughing." He went into the other
6 room, got Lopez, and told her that they were going to pick up Lucero and get
7 something to eat; they left in Lucero's mother's black Volvo, with Lopez
8 driving and [Petitioner] riding as a passenger. Lopez and [Petitioner] picked up
9 Lucero, who got into the car. When they stopped and picked up Lucero,
10 [Petitioner] told Lopez that his "enemy was walking on the street."

11
12 They drove until [Petitioner] told Lopez to stop. He told Lopez that he
13 was going to Winchell's and asked her if she wanted a donut. [Petitioner] then
14 exited the vehicle and ran in the opposite direction of the Winchell's.

15
16 Lopez continued driving and Lucero pointed out where Thomas was
17 walking. [Petitioner] then said, "Ooh. Say no more." Lopez stopped the
18 vehicle and [Petitioner] got out and snuck up behind Thomas. [Petitioner] then
19 took out a handgun and fired three shots at him. One bullet hit Thomas in the
20 back; the other two bullets struck residences nearby. [Petitioner] ran back to the
21 vehicle, got in, and told Lopez to drive away. Then, he told Lopez and Lucero
22 that he had shot someone.

23
24 [Petitioner] was arrested later that night. During an interview at the
25 police station, he admitted to shooting Thomas and declaring "Barrio Gods"
26 before he pulled the trigger. [Petitioner] said that he "had to do what [he] had to

27
28 ² During the police interview with Lucero, Lucero told the interviewing officer that at some point [Petitioner] told her that he was "gonna do one last thing for the hood" and then stop "gangbang[ing]."

1 do.” [Petitioner] knew that Thomas had been hit by a bullet and he thought that
 2 Thomas was “[g]onna die.”

3
 4 (Lodg. No. 7 at 3-4.) Petitioner did not present any evidence in his defense. (Lodg.
 5 No. 7 at 4.)

6 7 **PETITIONER’S HABEAS CLAIMS**

8
 9 Although described as Grounds One through Three, the Petition raises multiple claims
 10 of ineffective assistance of trial counsel. Each claim is detailed below.

11 12 **STANDARD OF REVIEW**

13
 14 Under 28 U.S.C. § 2254(d), as amended by the Antiterrorism and Effective Death
 15 Penalty Act of 1996 (“AEDPA”), a state prisoner whose claim has been “adjudicated on the
 16 merits” cannot obtain federal habeas relief unless that adjudication:

17
 18 “(1) resulted in a decision that was contrary to, or involved an unreasonable
 19 application of, clearly established Federal law, as determined by the Supreme
 20 Court of the United States; or

21 (2) resulted in a decision that was based on an unreasonable determination
 22 of the facts in light of the evidence presented in the State court proceeding.”

23
 24 28 U.S.C. § 2254(d); *see also Harrington v. Richter*, 562 U.S. 86, 98 (2011) (“*Richter*”)
 25 (“By its terms § 2254(d) bars relitigation of any claim ‘adjudicated on the merits’ in state
 26 court, subject only to the exceptions in §§ 2254(d)(1) and (d)(2).”).

1 For the purposes of Section 2254(d), “clearly established Federal law” refers to the
 2 Supreme Court holdings in existence at the time of the state court decision in issue. *Greene*
 3 *v. Fisher*, ___ U.S. ___, 132 S. Ct. 38, 44-45 (2011); *Cullen v. Pinholster*, 563 U.S. 170,
 4 182 (2011) (“*Pinholster*”); *Richter*, 562 U.S. at 100. Federal law is clearly established only
 5 if a Supreme Court decision either “squarely addresses” the issue in the case before the
 6 state court or establishes a legal principle that “clearly extends” to a new context. *See*
 7 *Varghese v. Uribe*, 736 F.3d 817, 821 (9th Cir. 2013), *cert. denied*, 134 S. Ct. 1547 (2014);
 8 *Moses v. Payne*, 555 F.3d 742, 760 (9th Cir. 2009); *see also Richter*, 562 U.S. at 101 (it “is
 9 not an unreasonable application of clearly established Federal law for a state court to
 10 decline to apply a specific legal rule that has not been squarely established by” the
 11 Supreme Court) (citation omitted).

12
 13 A state court decision is “contrary to” clearly established federal law under Section
 14 2254(d)(1) only if there is “a direct and irreconcilable conflict with Supreme Court
 15 precedent.” *Murray v. Schriro*, 745 F.3d 984, 997 (9th Cir. 2014). Such a conflict occurs
 16 when the state court applied a rule that contradicts the relevant Supreme Court holdings or
 17 reached a different conclusion than that reached by the high court on materially
 18 indistinguishable facts. *See Price v. Vincent*, 538 U.S. 634, 640 (2003).

19
 20 A state court decision is an “unreasonable application” of clearly established federal
 21 law under Section 2254(d)(1) if the state court’s application of clearly established Supreme
 22 Court precedent was objectively unreasonable. *Xiong v. Felker*, 681 F.3d 1067, 1074 (9th
 23 Cir. 2012), *cert. denied*, 133 S. Ct. 989 (2013). This requires more than a finding that a
 24 state court erred in applying clearly established federal law. *Richter*, 562 U.S. at 101. “[S]o
 25 long as ‘fairminded jurists could disagree’ on the correctness of the state court’s decision,”
 26 habeas relief is precluded. *Richter*, 562 U.S. at 101 (citation omitted). When applying this
 27 standard, this Court looks to the last reasoned state court decision. *See Delgadillo v.*
 28 *Woodford*, 527 F.3d 919, 925 (9th Cir. 2008) (citing *Ylist v. Nunnemaker*, 501 U.S. 797,

804-06 (1991)). Where a state’s highest court summarily denies a claim, the federal habeas court “looks through” that denial to the “last reasoned state-court decision.” *Cannedy v. Adams*, 706 F. 3d 1148, 1158 (9th Cir. 2014) *as amended on denial of rehearing*, 733 F.3d 794 (9th Cir. 2013), *cert. denied*, 135 S. Ct. 1001 (2014). Where a state court decides an issue on the merits but its decision is unaccompanied by an explanation, “a habeas court must determine what arguments or theories supported, . . . or could have supported, the state court’s decision; and then it must ask whether it is possible fairminded jurists could disagree that those arguments or theories are inconsistent with the holding in a prior decision of this Court.” *Richter*, 562 U.S. at 102; *see also Pinholster*, 563 U.S. at 187 (“Section 2254(d) applies even where there has been a summary denial.”) (citation omitted).

Finally, a state court’s decision is based on an unreasonable determination of the facts within the meaning of 28 U.S.C. § 2254(d)(2) when the federal court is “convinced that an appellate panel, applying the normal standards of appellate review, could not reasonably conclude that the finding is supported by the record before the state court.” *Hurles v. Ryan*, 752 F.3d 768, 778 (9th Cir.) (internal quotation marks omitted), *cert. denied*, 135 S. Ct. 710 (2014). Section 2254(d)(2) requires the Court to accord “substantial deference” to the state court’s factual findings. *See Brumfield v. Cain*, ___ U.S. ___, 135 S. Ct. 2269, 2277 (2015). So long as “[r]easonable minds reviewing the record might disagree,” the trial court’s determination of the facts was not unreasonable. *See id.*

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DISCUSSION³

Petitioner's Ineffective Assistance of Trial Counsel Claims Do Not Warrant Federal Habeas Relief.

Petitioner generally contends that his trial counsel, Louisa Pensanti, was ineffective in that counsel was not able to assist Petitioner at several critical stages of trial due to counsel's time constraints. (Petition at 11, 42-43, 62-68.) Petitioner cites to numerous other cases involving Pensanti as attorney of record where she assertedly did not comply with court orders and otherwise missed deadlines, as well as California State Bar disciplinary proceedings. (Petition at 42-69; Petition Exs. N-T; Reply Memo at 8, 18.) As an initial matter, the Court notes that to the extent Petitioner cites counsel's other cases and disciplinary proceedings to support his ineffectiveness claims, there is no evidence that any of the disciplinary proceedings were based on counsel's representation of Petitioner. Nor is there any evidence that, during counsel's representation of Petitioner, counsel was not eligible to practice law. *See* Petition, Exs. N-T.

The fact that counsel may have rendered deficient performance in other matters does not render her representation of Petitioner *per se* ineffective. *See United States v. Ross*, 338 F.3d 1054, 1057 (9th Cir. 2003) (per curiam) (a lawyer who is suspended or disbarred during a criminal proceeding is not immediately ineffective *per se*); *United States v.*

³ The Court has read, considered and rejected all of Petitioner's arguments. The Court discusses Petitioner's principal contentions herein. Petitioner requested an evidentiary hearing in his Reply. *See* Reply at 3. Federal review under § 2254(d) (1) is limited to the record that was before the state court that adjudicated the claim on the merits." *Cullen v. Pinholster*, 563 U.S. 170, 181-82 (2011). Section 2254(e)(2) provides that the court "shall not hold an evidentiary hearing" on a claim where the applicant has not developed the factual record in the state court proceedings, except in very limited circumstances, including instances of actual innocence, that do not apply here. 28 U.S.C. § 2254(e)(2). Upon initial review, the Court believed an evidentiary hearing might be warranted on the single issue of whether trial counsel rendered ineffective assistance in connection with an alleged plea negotiation. However, after extensive briefing and oral argument on this issue in connection with Respondent's Motion for Review of the Court's order scheduling an evidentiary hearing, the Court concluded that the stringent standard for holding an evidentiary hearing was not met under 2254(d)(1) and *Pinholster*. (*See* Interim Report and Recommendation (Dkt. No. 51) and Order accepting same (Dkt. No. 60). Accordingly, Petitioner's request for an evidentiary hearing is denied.

1 *Mouzin*, 785 F.2d 682, 696-97 (9th Cir. 1986) (“[T]he fact that an attorney is suspended or
 2 disbarred does not, without more, rise to the constitutional significance of ineffective
 3 counsel under the Sixth Amendment.”). Petitioner’s assertions that counsel’s obligations
 4 with respect to her other cases meant counsel could not assist Petitioner at trial are
 5 conclusory and cannot in themselves show ineffectiveness. Petitioner must show that
 6 counsel performance in Petitioner’s case was ineffective. *See United States v. Ross*, 338
 7 F.3d at 1056 (“To prove ineffective assistance, defendants [whose lawyers were suspended
 8 or disbarred] (like everyone else) had to identify ‘actual errors and omissions by counsel
 9 that a conscientious advocate would not have made,’ and show that they suffered prejudice
 10 from those errors.”) (quoting *Mouzin*, 785 F.2d at 696).

11
 12 Regarding her performance related to Petitioner’s trial, Petitioner contends that
 13 Pensanti was ineffective for: (1) providing “misleading” advice about a possible conviction
 14 on lesser included offenses and the potential sentence Petitioner faced, which Petitioner
 15 asserts was essential for Petitioner’s consideration of the prosecution’s alleged pretrial plea
 16 offer of 39 years (Petition at 23; Reply Memo at 6-7, 13-15); (2) failing to investigate and
 17 present facts and law in support of a motion to exclude Petitioner’s confession (Petition at
 18 15, 22; Reply Memo at 6, 11-12); (3) failing to request that a jury instruction on accomplice
 19 witness testimony be “amplified” to provide that witnesses are accomplices if they aid or
 20 abet under the natural and probable consequences doctrine (Petition at 33-34; Reply Memo
 21 at 7, 15-16); (4) delivering a brief and ineffective closing argument (Petition at 35; Reply
 22 Memo at 7, 16-17); and (5) failing to request that the trial court strike the gang enhancement
 23 allegation (Petition at 37-38; Reply Memo at 7-8).⁴ Petitioner further contends that the
 24 cumulative effect of counsel’s alleged deficiencies prejudiced him. (Reply Memo at 18.)
 25 For the reasons discussed below, Petitioner’s contentions do not merit relief.

26
 27 ⁴ Claims 3, 4 and 5 are the only claims for which there is a reasoned opinion. As summarized above, Petitioner
 28 raised these claims with the California Court of Appeal on direct appeal. *See* Lodg. No. 4 at 37-53 (opening brief
 arguing same). The California Court of Appeal found that counsel was not ineffective. (Lodg. No. 7 at 18-20.)

1 **A. Applicable Law**

2

3 The Sixth Amendment guarantees the effective assistance of counsel at trial. *See*

4 *Strickland v. Washington*, 466 U.S. 668, 686 (1984) (“*Strickland*”). To succeed on an

5 ineffective assistance of trial counsel claim, a habeas petitioner must demonstrate both that

6 counsel’s performance was deficient and that the deficient performance prejudiced the

7 defense. *Williams v. Taylor*, 529 U.S. 362, 390 (2000); *Strickland*, 466 U.S. at 687.

8 Because both prongs of the *Strickland* test must be satisfied to establish a constitutional

9 violation, a petitioner’s failure to satisfy either prong requires the denial of the

10 ineffectiveness claim. *See Strickland*, 466 U.S. at 697 (no need to address deficiency of

11 performance if prejudice is examined first and found lacking); *Rios v. Rocha*, 299 F.3d 796,

12 805 (9th Cir. 2002) (“[f]ailure to satisfy either prong of the *Strickland* test obviates the need

13 to consider the other”). Further, when *Strickland* is applied in conjunction with the AEDPA

14 standard of review, the Court’s review of the state court’s adjudication of the habeas

15 petitioner’s *Strickland* claim is “doubly deferential.” *See Pinholster*, 563 U.S. at 190. A

16 state court’s decision rejecting a *Strickland* claim is entitled to “a deference and latitude that

17 are not in operation when the case involves review under the *Strickland* standard itself.”

18 *Richter*, 562 U.S. at 101; *see also Padilla v. Kentucky*, 559 U.S. 356, 372 (2010) (noting,

19 “‘There is no reason to doubt that lower courts – now quite experienced with applying

20 *Strickland* – can effectively and efficiently use its framework to separate specious claims

21 from those with substantial merit.”). “The pivotal question is whether the state court’s

22 application of the *Strickland* standard was unreasonable. *Richter*, 562 U.S. at 101; 28 U.S.C.

23 § 2254(d). “[E]ven a strong case for relief does not mean the state court’s contrary

24 conclusion was unreasonable.” *Richter*, 562 U.S. at 102 (citation omitted). The range of

25 reasonable *Strickland* applications is “substantial.” *Id.* at 105 (citation omitted); 28 U.S.C.

26 § 2254(d)(1).

27

28

1 ““To establish deficient performance, a person challenging a conviction must show
2 that ‘counsel’s representation fell below an objective standard of reasonableness.’” *Richter*,
3 562 U.S. at 104 (citation omitted). Notably, the failure to take a futile action or make a
4 meritless argument can never constitute deficient performance. *See Rupe v. Wood*, 93 F.3d
5 1434, 1444-45 (9th Cir. 1996); *see also Lowry v. Lewis*, 21 F.3d 344, 346 (9th Cir. 1994)
6 (counsel is not obligated to raise frivolous motions, and failure to do so cannot constitute
7 ineffective assistance of counsel); *Boag v. Raines*, 769 F.2d 1341, 1344 (9th Cir. 1985)
8 (“Failure to raise a meritless argument does not constitute ineffective assistance.”). There is
9 also a “strong presumption that counsel’s conduct falls within the wide range of reasonable
10 professional assistance.” *Strickland*, 466 U.S. at 690; *see also Pinholster*, 563 U.S. at 189.
11 Even inadvertent, as opposed to tactical, attorney omissions do not automatically guarantee
12 habeas relief, because “[t]he Sixth Amendment guarantees reasonable competence, not
13 perfect advocacy judged with the benefit of hindsight.” *Yarborough v. Gentry*, 540 U.S. 1,
14 8 (2003) (per curiam). A habeas reviewing court can “‘neither second-guess counsel’s
15 decisions, nor apply the fabled twenty-twenty vision of hindsight’ . . . but rather, will defer
16 to counsel’s sound trial strategy.” *Murtishaw v. Woodford*, 255 F.3d 926, 939 (9th Cir.
17 2001) (citing *Strickland*), *cert. denied*, 535 U.S. 935 (2002).

18
19 A habeas petitioner must also demonstrate prejudice, *i.e.*, a “reasonable probability
20 that, but for counsel’s unprofessional errors, the result of the proceeding would have been
21 different.” *Strickland*, 466 U.S. at 694. A reasonable probability is a probability “sufficient
22 to undermine confidence in the outcome.” *Strickland*, 466 U.S. at 694. “The likelihood of a
23 different result must be substantial, not just conceivable.” *Richter*, 562 U.S. at 112. The
24 court must consider the totality of the evidence before the jury in determining whether a
25 petitioner satisfied this standard. *Strickland*, 466 U.S. at 695.

26 \\
27 \\
28 \\
13

B. Petitioner Has Not Shown Prejudice from Counsel's Actions Related to Petitioner's Conviction

To the extent Petitioner is claiming herein that but for counsel's alleged deficient performance the jury would not have found him guilty of the charged offenses, Petitioner has not shown prejudice. The evidence of Petitioner's guilt was strong. *See Strickland*, 466 U.S. at 694.

Jessica Lucero testified that Petitioner was her boyfriend and that she was in court to support Petitioner. (RT 125-26.) She denied hanging out with Petitioner and Lopez on the day of the shooting. (RT 129-30.) During her testimony she refuted statements she had given to investigating officers about the events on the day of the shooting. (RT 133-44, 161-62, 169-70, 193.) On the record, the prosecution granted Lucero use immunity for her testimony and separately told the jurors that Lucero could be prosecuted for perjury. (RT 137, 141.) When asked about certain of her statements to police, Lucero said she did not remember and she did not want to refresh her recollection. (RT 146-50, 154-56, 163-68, 195-96.) Lucero did admit to telling the police that she had seen a guy who she thought Petitioner wanted to "beat up," that Petitioner came and picked up Lucero, and that she identified the gun used to in the shooting. (RT 149-50, 154-55.) Lucero said that the police who recorded her interview threatened to take Lucero's mother away, her brothers and sisters away, and, once her baby was born, Lucero's baby away, and that Lucero and her mother would "do life" (in prison). (RT 172, 192.)⁵ Lucero testified that initially charges had been filed against her. (RT 169.) Lucero also testified that Lopez had told her about the shooting but did not tell Lucero who did the shooting. (RT 193-94.)

⁵ In the recorded portion of Lucero's interview, her interviewer asked Lucero if her mother was important to her or if her sister was important to her, and said that what would help would be honesty. (RT 202.) The interviewer later said, "If you care more about the street than you do about the baby, then that's okay with me. 'Cause the baby doesn't need to be with you anyway, right? . . . The baby needs to be with someone who cares about the baby more than the streets." (RT 204-05.)

1 The prosecution played an audiotape of Lucero's police interview for the jury. (RT
2 198-231 (transcribed interview).) In the interview, Lucero said, in part:

3
4 I was watching and I seen [sic] that person. And then I called somebody. And
5 then they came. And then you know what else, what happened from there.
6 But I can't say who or what was doing that. I just can't. I felt bad when that
7 happened. I felt bad. . . 'cause of my mouth that's what happened. And then
8 if I would have never made the phone call, nothing would have happened. * *
9 * I seen this guy that I know somebody that [sic] wanted to beat him up. But
10 I thought. . . that's what that person was going to do. But no, it [inaudible] to
11 a whole different level. And that's when that happened. . . . I never pictured
12 in my head he would shoot him. . . . They had a personal beef.

13
14 (RT 206-08.)⁶ Lucero went on to tell her interviewer what happened but said she could not
15 say the name of the person involved. (RT 209-13.) The interviewer told Lucero he needed
16 to know the names of the people in the car for the sake of Lucero's mother. (RT 213, 216-
17 17, 219-22.)

18
19 Margarita Lopez was a cooperative witness for the prosecution and testified about
20 events consistent with the facts above. (RT 245-300, 304-06.) She said that Lucero called
21 Petitioner and Petitioner said, "Ooh. Say no more," then asked Lopez for a ride to go pick
22 up Lucero and "get something to eat." (RT 262-63.) When Lopez and Petitioner stopped to
23 pick up Lucero, Petitioner told Lopez that his enemy was walking on the street. (RT 269.)
24 Lucero pointed the victim out to Petitioner and Petitioner said, "Ooh. Say no more" and left
25 the car. (RT 270.) Lopez saw Petitioner quickly sneaking up on a person from behind and
26

27 ⁶ A detention officer from juvenile hall testified about a fight between Petitioner and the victim in 2008 and said
28 that the victim told him that the two had "a personal beef." (RT 394.) However, Petitioner told the police that his beef
with the victim was "[b]ecause he's a rival gang member." (CT 330-31.)

1 loudly say, “Barrio Gods.” (RT 271-72, 292.) Lopez stopped paying attention until she
2 heard three gunshots. (RT 273.) Petitioner ran back to the car and asked Lopez to drive,
3 saying “I just shot someone.” (RT 273, 294, 297.) Lopez saw that Petitioner had a gun
4 before the shooting when Petitioner was in the car, and after the shooting when Petitioner
5 returned to the car. (RT 274, 290.)

6
7 In Petitioner’s videotaped police interview, which was played for the jury (RT 525-
8 33), Petitioner admitted that he had seen the victim “plenty” of times before and had gotten
9 in fights with the victim. (CT 331.) Petitioner said he did what he did because the victim
10 was a rival gang member. (CT 330-31.) Petitioner admitted that he saw the victim, hopped
11 out of the car, snuck up on him, said “Barrio Gods,” and shot him three times. (CT 331,
12 333, 339-40.) Petitioner was angry and thought that the victim would die from the shooting.
13 (CT 334.) The victim refused to come to trial to testify. (RT 352.)

14
15 There was a 10- to 15-second surveillance videotape showing a person shooting the
16 victim in the background consistent with the accounts given to police that was played for the
17 jury. (RT 24-25, 188.) The quality of the videotape was “too poor for identification
18 purposes.” *See* CT 226 (prosecutor admitting same); *see also* RT 93-94 (prosecutor
19 admitting during his opening statement that no specific identification could be made from the
20 videotape.)

21
22 After police detained Petitioner and Lopez as they were leaving Lopez’s residence,
23 police searched Lopez’s residence with the consent of Lilliana Torres who was also a
24 resident of the house. (RT 518-20.) Lilliana Torres later brought the gun that was used in
25 the shooting to the police station. (RT 525.) Tool mark analysis performed on a fired bullet
26 recovered from the scene of the shooting matched the tool marks created by the recovered
27 gun. (RT 410-14.)

1 With this evidence in mind, the Court addresses Petitioner's individual ineffectiveness
2 claims.

3
4 **C. Petitioner's Claim that Counsel Was Ineffective in Advising Petitioner So**
5 **that Petitioner Could Evaluate a Pre-Trial Plea Offer Does Not Merit**
6 **Relief**

7
8 Petitioner contends that trial counsel provided "misleading" advice about possible
9 conviction on lesser included offenses which was essential for Petitioner's consideration of
10 the prosecution's alleged pretrial plea offer of 39 years. (Petition at 23.) Specifically,
11 Petitioner alleges that counsel advised Petitioner that he could obtain a conviction for
12 attempted manslaughter or assault with a deadly weapon and that Petitioner had a "solid
13 defense" to the firearm enhancement. (Petition at 23-26.) Petitioner argues that assault
14 with a deadly weapon is never a lesser offense to attempted murder with the personal use of
15 a firearm under California law, and counsel should have known as much. (Petition at 23-25,
16 41 (citing, *inter alia*, *People v. Wolcott*, 34 Cal. 3d 92, 100-01 (1983).) Regarding
17 attempted manslaughter, Petitioner argues that a conviction for this lesser offense was
18 "realistically unattainable" given the facts of his case. (Petition at 26.) Petitioner contends
19 that had he been accurately advised of "the realistic probable outcome of a trial," he would
20 have accepted the prosecution's plea offer. (Petition at 27.)

21
22 Petitioner also contends that counsel misadvised him about the possible sentence he
23 faced if found guilty of attempted murder without premeditation. Petitioner states that
24 counsel advised that the maximum punishment would be 30 years (not life). (Petition at
25 27.) This advice did not account for the firearm allegations which carried with them an
26 enhancement of 25 years to life even if the jury found there was no premeditation. (Petition
27 at 27.) Petitioner actually faced a possible sentence of 44 years to life. (Petition at 29-30.)
28

1 Petitioner contends that this advice prevented him from meaningfully considering the
2 prosecution's plea offer. (Petition at 28-32.)

3
4 **1. Evidence Regarding the Alleged Plea and Counsel's Advice**

5
6 To support his allegations, Petitioner filed the following evidence here and in the state
7 courts:

8
9 Petitioner's appellate counsel's sworn declaration dated November 14, 2012.
10 Petitioner's appellate counsel stated that she spoke with Petitioner's trial counsel who
11 "confirmed that the plea offer in this case was 39 years." (Petition Ex. A, ¶ 20.)

12
13 Petitioner's mother's sworn declaration dated October 29, 2012. Petitioner's mother
14 stated that when she retained Pensanti to represent Petitioner, Pensanti promised that she
15 would get Petitioner "a good deal." (Petition Ex. B, ¶ 4.)

16
17 Petitioner's sworn declaration dated October 29, 2012. Petitioner stated that Pensanti
18 did not advise him that he could be sentenced to life for discharging the firearm if the jury
19 found him guilty of attempted murder, and advised that if she could get an "acquittal" on
20 premeditation allegation he would be subject to a 30-year sentence. (Petition Ex. E, ¶¶ 8,
21 12). Petitioner admitted that Pensanti told him that if he was found guilty of premeditated
22 attempted murder he "would get a life term." (*Id.* at ¶ 11.) Pensanti's alleged strategy was
23 to concede that Petitioner fired the shots but try to get a conviction on lesser offenses or an
24 acquittal on the premeditation allegation so Petitioner would not be subject to a life term.
25 (*Id.* at ¶ 10.) When Pensanti conveyed the prosecution's 39-year offer, Petitioner
26 considered the offer "too long to accept." (*Id.* at ¶ 15.) Petitioner alleged that had he
27 known that a conviction on lesser offenses was not possible or probable, and that he was
28 facing a 25 year-to-life sentence for the firearm enhancement even if the jury found the

1 premeditation allegation not true, and a total term of 44 years to life, he would not have
2 rejected the 39-year plea offer. (*Id.* ¶ 16.)

3
4 Letter from Petitioner’s appellate counsel to Pensanti dated August 18, 2012.
5 Petitioner’s appellate counsel wrote a letter to Pensanti noting that she had communicated
6 with Pensanti by telephone on June 25, 2012, and Pensanti indicated there was a plea
7 disposition offer of 39 years. (Petition Ex. F at 1-2.) Counsel asked Pensanti if the offer
8 was for 39 years or 39 years to life. (*Id.* at 2; *but see* Petition Ex. K at 1 (letter from
9 Petitioner’s appellate counsel to Pensanti dated October 17, 2012, stating: “This is to
10 confirm that on June 25, 2012, when we initially discussed this case, you recalled that there
11 was a plea disposition offer of 39 years determinate, although you did not recall how that
12 was composed.”).)

13
14 Voice messages from Pensanti to Petitioner’s appellate counsel dated October 3,
15 2012. Pensanti purportedly left a voicemail message for Petitioner’s appellate counsel
16 stating that she told Petitioner’s mother she would “try” to get Petitioner a good deal.
17 (Petition Ex. H at 1.) Pensanti said that she advised Petitioner that “he could possibly be
18 found guilty of *all* the charges,” and that his maximum possible exposure if found guilty on
19 all charges and enhancements was “life in prison which is what [Petitioner] was being faced
20 with.” (*Id.* (emphasis original).) Pensanti thought she had discussed premeditation with
21 Petitioner, but did not think she talked about it before Petitioner was sentenced. (*Id.*)

22
23 Letter from Pensanti to Petitioner’s appellate counsel dated October 8, 2012. Pensanti
24 stated that, with respect to what she promised Petitioner’s mother, Pensanti “probably said
25 that I would do my best to get [Petitioner] a good deal. *The problem with this matter is that*
26 *he was never offered any deal.*” (Petition Ex. I at 1 (emphasis added).) She stated that she
27 advised Petitioner of “all of the possible things he could be found guilty for including any
28 lesser included crimes.” (*Id.*) She also advised Petitioner that he would be “facing LIFE

1 on both the crimes and the allegations.” (*Id.* (capitalization original).) Pensanti said she did
 2 not advise Petitioner that he could not be sentenced to a life term if there were a not true
 3 finding on the premeditation allegation. (*Id.*)

4
 5 Letter from Pensanti to Petitioner’s appellate counsel dated October 26, 2012.

6 Pensanti stated: “In that June 25, 2012 conversation you indicated that [Petitioner] told you
 7 there was a plea disposition offer of 39 years determinate. I responded that I could not
 8 recall, but that it was possible.” (Petition Ex. L at 1.)

9 10 **2. Analysis**

11
 12 Plea negotiations are a “critical phase of litigation for purposes of the Sixth
 13 Amendment right to effective assistance of counsel.” *Padilla v. Kentucky*, 559 U.S. at 373.
 14 An attorney’s incompetent advice resulting in a defendant’s rejection of a plea offer can
 15 constitute ineffective assistance of counsel. *Lafler v. Cooper*, 132 S. Ct. 1376, 1384-88
 16 (2012); *Nunes v. Mueller*, 350 F.3d 1045, 1052-56 (9th Cir. 2003), *cert. denied*, 543 U.S.
 17 1038 (2004). To prevail on his claim of ineffective assistance of counsel, Petitioner must
 18 show that the advice given by counsel during plea negotiations fell below an objective
 19 standard of reasonableness. *Lafler v. Cooper*, 132 S. Ct. at 1384. Counsel is not required to
 20 “accurately predict what the jury or court might find, but he [or she] can be required to give
 21 the defendant the tools [a defendant] needs to make an intelligent decision.” *Turner v.*
 22 *Calderon*, 281 F.3d 851, 881 (9th Cir. 2002) (where trial counsel conveyed plea offer but
 23 did not encourage client to accept it because of the possibility the jury might accept the
 24 defense theory and return a non-capital conviction, finding that defendant adequately was
 25 informed of potential death sentence given that the defendant sat through the reading of his
 26 criminal information and death-qualifying voir dire, and that he was informed about the plea
 27 offer and given time to consider the offer before turning it down).

1 The question is not whether counsel's advice was right or wrong, but "whether that
2 advice was within the range of competence demanded of attorneys in criminal cases." (*Id.*
3 (quoting *McMann v. Richardson*, 397 U.S. 759, 771 (1970).) To meet this "very forgiving
4 standard," (*see Delgado v. Lewis*, 223 F.3d 976, 981 (9th Cir. 2000)), Petitioner "must
5 demonstrate gross error on the part of counsel." *See Turner v. Calderon*, 281 F.3d at 880
6 (quoting *McMann*, 397 U.S. at 772). Petitioner then must show that, but for the ineffective
7 advice of counsel, there is a reasonable probability he would have accepted the plea offer
8 and the sentence received would have been less severe than the sentence actually imposed.
9 *Lafler*, 132 S. Ct. at 1385; *Nunes v. Miller*, 350 F.3d at 1054.

10
11 Pensanti began representing Petitioner some time after his preliminary hearing and
12 before his arraignment on November 4, 2010. *See* CT 102-50 (preliminary hearing
13 transcript from October 21, 2010, showing representation by a public defender); CT 170
14 (minutes from arraignment showing representation by Pensanti). Any plea offer made to
15 Petitioner is not a part of the record before the Court. *See* CT 170-87, 191-95, 220-23
16 (pretrial minute orders from the time Louisa Pensanti began representing Petitioner, which
17 do not mention any offer). There was no discussion of an offer in the Reporter's
18 Transcripts. As summarized above, the outside evidence of the existence of any plea is
19 disputed; Petitioner claims there was a 39-year offer, and Pensanti claims no offer was
20 made. *Compare* Petition Exs. E and I. Respondent asserts that the prosecutor made no plea
21 offer, but cites to no independent evidence to support this assertion beyond Pensanti's letter.
22 *See* Answer at 18-19.

23
24 Even assuming, *arguendo*, that an offer of 39 years was made, the evidence suggests
25 that Petitioner rejected the offer as "too long." First, as noted above, Petitioner concedes
26 that Pensanti told him that he faced a "life term" if found guilty of premeditated attempted
27 murder. (Petition Ex. E, ¶ 11.) In Petitioner's interview with the police on the night he was
28 arrested, the police told Petitioner that he would get a "guaranteed" "25 to life" sentence

1 with the gang allegation. (CT 330.) Petitioner later acknowledged his understanding when
2 he said to the police, “You know I’m going to get 25 to life sir.” (CT 336.) Additionally,
3 the information filed against Petitioner alleged that Petitioner could be sentenced to 25 years
4 to life, plus a term sentence. (CT 167-69.) Petitioner knew of the possible maximum
5 sentence he faced by going to trial. Petitioner considered the 39-year offer as “too long to
6 accept.” (Petition Ex. E at ¶ 12.)

7
8 Petitioner’s claim, however, is that counsel misadvised him regarding the possibility
9 of conviction on lesser included offenses, and failed to advise him that he was facing a 25-
10 to-life term for the firearm enhancement and a total term of 44 years to life even if the jury
11 found that the shooting was not premeditated. (Petition Ex. E at ¶ 16.) Instead, Petitioner
12 alleges that Pensanti advised him that if the jury found that the shooting was not
13 premeditated he would face a maximum determinate term of 30 years. (*Id.* at 12.) In
14 essence, Petitioner is claiming that counsel did not accurately advise Petitioner of the likely
15 outcome of trial (versus the worst possible outcome) so that he could meaningfully evaluate
16 the offer.

17
18 “[A]n erroneous strategic prediction about the outcome of a trial is not necessarily
19 deficient performance.” *Lafler v. Cooper*, 132 S. Ct. at 191. If, as Petitioner claims,
20 counsel provided erroneous advice about the possibility of conviction on lesser included
21 offenses, such erroneous advice in the face of settled California law would amount to
22 deficient performance. *See Padilla v. Kentucky*, 559 U.S. at 385-86 (noting that *Strickland’s*
23 application to affirmative misadvice is settled); *see also Cooper v. Lafler*, 376 Fed. App’x
24 563, 570-71 (9th Cir. 2010) (citing cases re same; parties conceding deficient performance
25 where counsel allegedly convinced his client that the prosecution would be unable to
26 establish murder because the victim was shot below the waist – an “incorrect legal rule”).
27 The evidence suggests that counsel may have inaccurately predicted Petitioner’s chances at
28 trial *and* defended Petitioner based (at least in part) on counsel’s incorrect assumption that

1 Petitioner could be found guilty of a lesser included offense. During her opening argument
2 to the jury, Pensanti told the jurors that Petitioner had been overcharged – that he should
3 have been charged with assault with a deadly weapon. (RT 99-100.) As discussed more
4 fully in section E below, counsel asked for an instruction on assault with a deadly weapon at
5 the close of trial but was informed that assault with a deadly weapon was not a lesser
6 included offense for which the jury could be instructed. (RT 593-94, 604-07.) If counsel
7 advised Petitioner that he could be found guilty of lesser included offenses leading to
8 Petitioner’s rejection of the prosecution’s alleged 39-year plea offer, Petitioner would meet
9 the first prong of *Strickland*.

10
11 The question then becomes whether there is a reasonable probability that but for
12 counsel’s deficient advice, the alleged plea offer would have been presented to court (*i.e.*,
13 Petitioner would have accepted the plea and the prosecution would not have withdrawn it in
14 light of intervening circumstances), that the trial court would have accepted its terms, and
15 that the conviction, sentence, or both would have been less severe than the judgment and
16 sentence imposed. *Lafler v. Cooper*, 132 S. Ct. at 1385. With respect to the sentence
17 imposed, a 39-year term determinate sentence would have been less severe than the 32-to-
18 life sentence imposed. Although Petitioner would become eligible for parole after serving
19 32 years, his sentence is a life sentence subject to early release at the discretion of the state
20 parole authority.

21
22 While the record suggests that Petitioner understood the maximum penalty he faced
23 yet chose to go to trial because the alleged 39-year offer was too long, he alleges that he
24 would not have gone to trial if he had known that convictions on lesser included offenses
25 was not possible or likely, and that he faced a term of at least 25 years to life versus a
26 possible 30-year determinate term as counsel allegedly advised.⁷ There is no indication in

27
28 ⁷⁷ A self-serving statement that a defendant would have accepted a plea offer had he known of the risks of going
to trial is insufficient to establish that the defendant was not fully advised of his options. *See Turner* 281 F.3d at 881 (“If

1 the record that the prosecution would have withdrawn the alleged offer or that the trial court
2 would have rejected any offer. The trial court made no comment about the nature of
3 Petitioner's crime at sentencing. The only comment that the trial court made was in
4 denying instruction on the lesser included offense of attempted voluntary manslaughter
5 discussed in Section E below. (RT 593-94.)
6

7 Nonetheless, despite the disputed evidence of the alleged plea offer, it is worth noting
8 that Petitioner was just 19 years old at the time of his conviction. See CT 445 (Abstract of
9 Judgment reflecting same). Other district courts have noted that while it is not, in itself,
10 deficient performance for counsel to fail to recommend that a client accept or reject a plea
11 offer, a 19 year old defendant with next to no criminal experience does not have the tools he
12 needs to make an informed decision without some guidance from counsel. See *Martinez v.*
13 *Felker*, 2009 WL 393166, at *16 (C.D. Cal. Feb. 13, 2009) (finding ineffective assistance
14 where counsel misadvised petitioner about the difference between the plea offer and the
15 maximum exposure at trial, and did not provide the petitioner with information necessary to
16 weigh the benefits of the plea offer against the risk of conviction); *Bedolla Garcia v.*
17 *Runnels*, 2004 WL 1465686, at *4 (N.D. Cal. June 24, 2004) (finding that state court made
18 an unreasonable determination of facts under 28 U.S.C. § 2254(d)(2) when it determined
19 that Garcia rejected a plea offer not because of any miscalculation of the maximum
20 exposure but because the offer was unacceptable, without first holding an evidentiary
21 hearing affording Garcia an opportunity to present evidence; federal evidentiary hearing
22 revealed that counsel told Garcia his maximum sentence was 18 years not 25 years and six
23 months – a “gross mischaracterization of the outcome of the case” amounting to deficient
24 performance under *Strickland*), *aff'd*, 143 Fed. App'x 38 (9th Cir. 2005).
25
26

27 the rule were otherwise, every rejection of a plea offer, viewed perhaps with more clarity in the light of an unfavorable
28 verdict, could be relitigated upon the defendant's later claim that had his counsel better advised him, he would have
accepted the plea offer.”).

1 Here, in contrast, Petitioner’s prior experience with the criminal justice system may
2 have given him the tools to evaluate his alleged offer compared to his potential sentence
3 without further guidance from counsel. The California Court of Appeal described Petitioner
4 as “no neophyte with regard to the criminal justice system” —he had numerous juvenile
5 petitions for drug offenses, possession of a firearm, and vandalism. (Lodg. No. 7 at 13
6 (referencing CT 349); *see also* Lodg. No. 4 at 15 (Petitioner’s Opening Brief noting that
7 Petitioner had been booked for seven felonies and four misdemeanors, and had two
8 sustained juvenile petitions).)

9
10 Pensanti was not required to accurately predict what the jury might find, but she had
11 an obligation to give Petitioner the information needed to make an intelligent decision.
12 “[U]ncertainty is inherent in predicting court decisions.” *Turner v. Calderon*, 281 F.3d at
13 881 (quoting *McMann v. Richardson*, 397 U.S. 759, 771 (1970)). By telling Petitioner that
14 he faced a possible life sentence, Pensanti did not grossly mischaracterize the potential
15 outcome of his case. *See Turner v. Calderon*, 281 F.3d at 881; *see also Iaea v. Sunn*, 800
16 F.2d 861, 865 (9th Cir. 1986) (mere inaccurate prediction of outcome in criminal case,
17 standing alone, does not constitute ineffective assistance; finding gross mischaracterization
18 justifying relief where counsel told defendant who ultimately received three life sentences
19 plus term sentences that he was subject to minimum sentencing law that was inapplicable,
20 and that there was no chance of receiving a life sentence, and that he had a chance of
21 receiving probation if he pleaded guilty) (citations omitted); *Donganieri v. United States*,
22 914 F.2d 165, 168 (9th Cir. 1990) (attorney’s inaccurate prediction of potential sentence is
23 not ineffective assistance if it “does not rise to the level of a gross mischaracterization of the
24 likely outcome of his case”); *Chacon v. Wood*, 36 F.3d 1459, 1464 (9th Cir. 1994) (finding
25 a “gross” mischaracterization of the likely sentence outcome sufficient to alleged ineffective
26 assistance of counsel claim where defendant was told he would serve three months if he
27 pleaded guilty but was sentenced to ten years).

1 The state courts were not unreasonable in rejecting this claim for relief. Counsel's
 2 performance in Petitioner's case fell far below where the Court would expect a
 3 conscientious advocate would perform in a criminal matter involving such serious potential
 4 penalties. However, given the fact that Petitioner knew his potential exposure was a life
 5 sentence before he rejected the alleged plea offer, Petitioner cannot demonstrate prejudice
 6 resulting from Pendant's deficient performance sufficient to satisfy the second prong of
 7 *Strickland*. Therefore, the Court cannot find that counsel's performance was deficient.

8
 9 **D. Petitioner's Claim that Counsel Was Ineffective for Failing Adequately to**
 10 **Challenge Admission of Petitioner's Confession Does Not Merit Relief**
 11

12 Petitioner contends that counsel was deficient for failing to investigate and present
 13 evidence regarding the circumstances of Petitioner's confession to argue it was involuntary
 14 and should be excluded. (Petition at 15.) Petitioner raised a claim that his confession was
 15 involuntary on direct appeal to the California Court of Appeal, which denied relief finding
 16 that Petitioner's confession properly was admitted, and any error from admission was
 17 harmless given the other evidence incriminating Petitioner. *See* Lodg. No. 4 at 7-33; Lodg.
 18 No. 7 at 4-16. Petitioner does not challenge that ruling herein.

19
 20 The Constitution demands that confessions be made voluntarily. *See Lego v.*
 21 *Twomey*, 404 U.S. 477, 483-85 (1972). A confession is voluntary only if it is "the product
 22 of rational intellect and a free will." *Madeiros v. Shimoda*, 889 F.2d 819, 823 (9th Cir.
 23 1989) (quoting *Townsend v. Sain*, 372 U.S. 293, 307 (1963)). "The test is whether,
 24 considering the totality of the circumstances, the government obtained the statement by
 25 physical or psychological coercion or by improper inducement so that the suspect's will was
 26 overborne." *United States v. Leon Guerrero*, 846 F.2d 1363, 1366 (9th Cir. 1988) (citing
 27 *Haynes v. Washington*, 373 U.S. 503, 513 (1963)). The assessment of the totality of the
 28 circumstances may include consideration of the length and location of the interrogation;

1 evaluation of the maturity, education, physical, and mental condition of the defendant; and
2 determination of whether the defendant was properly advised of his *Miranda* rights. *See*
3 *Withrow v. Williams*, 507 U.S. 680, 693-94 (1993); *see generally Miranda v. Arizona*, 384
4 U.S. 436 (1966).

5
6 Officials cannot extract a confession “by any sort of threats or violence, nor . . . by
7 any direct or implied promises, however slight, nor by the exertion of any improper
8 influence.” *Hutto v. Ross*, 429 U.S. 28, 30 (1976) (quoting *Bram v. United States*, 168 U.S.
9 532, 543-43 (1897)). A promise of leniency accompanied by threats or other coercive
10 practices constitutes improper influence and may make a subsequent inculpatory statement
11 involuntary. *See, e.g., United States v. Tingle*, 658 F.2d 1332, 1336-37 (1981). However,
12 “coercive police activity is a necessary predicate to the finding that a confession is not
13 ‘voluntary’ within the meaning of the Due Process Clause.” *Colorado v. Connelly*, 479
14 U.S. 157, 167 (1986). “[I]n most circumstances, speculation that cooperation will benefit
15 the defendant or even promises to recommend leniency are not sufficiently compelling to
16 overbear a defendant’s will.” *See United States v. Harrison*, 34 F.3d 886, 891 (9th Cir.
17 1994)); *Leon Guerrero*, 847 F.2d at 1366 (an interrogating agent’s promise to inform the
18 government prosecutor about the suspect’s cooperation, even if accompanied by a promise
19 to recommend leniency or by speculation that cooperation would have a positive effect,
20 would not render a subsequent statement involuntary in the absence of threats or other
21 coercive practices.”) (citations omitted). Additionally, “[m]isrepresentations made by law
22 enforcement in obtaining a statement, while reprehensible, do not necessarily constitute
23 coercive conduct.” *Pollard v. Galaza*, 290 F.3d 1030, 1034 (9th Cir. 2002).

24
25 Here, Petitioner alleges that counsel should have presented evidence that: (1)
26 Petitioner has a limited education and an impaired mental capacity (Petition at 15); (2)
27 Petitioner was tired and thirsty and had been smoking marijuana before his arrest (Petition
28 at 21); and (3) Petitioner only confessed after his interrogators threatened prosecuting

1 Petitioner's pregnant girlfriend and made implied promises of leniency if Petitioner were to
2 confess (Petition at 18-19, 21). Petitioner argues that counsel was not aware of the
3 circumstances surrounding the interrogation and had no conceivable tactical reason for
4 failing to investigate and present the above evidence which he contends would have altered
5 the trial court's ruling that his confession was admissible. Petitioner suggests that counsel's
6 actions amount to negligence. (Petition at 16, 18, 21-22.)
7

8 As an initial matter, the Court notes that Petitioner's counsel did not have to present
9 evidence and argue that Petitioner was tired, thirsty, or had smoked marijuana because these
10 facts were stated in the interview. At the outset of the interview, which occurred after 1:00
11 a.m., Petitioner told the detectives that he was tired. (CT 323.) Petitioner had been wearing
12 handcuffs for a few hours at that point. (CT 323.) Detectives asked Petitioner if he wanted
13 water, Petitioner said yes, and the Detectives brought him water before questioning him.
14 (CT 324.) Petitioner again told the Detectives he was tired. (CT 324.) Detective Stack
15 read Petitioner his *Miranda* rights and Petitioner acknowledged he understood each right,
16 then Stack began to question Petitioner. (CT 325.) When Petitioner told the Detectives
17 about what he had done earlier in the day, he admitted that he had been smoking marijuana
18 that afternoon. (RT 326-27.) There is no indication the trial court did not consider this
19 evidence in ruling on the admissibility of Petitioner's confession; the trial court expressly
20 stated that it had viewed the videotape of Petitioner's confession and read the transcript of
21 the confession. (RT 50.)⁸
22

23 Nor did Petitioner's counsel have to present evidence that Petitioner's confession
24 allegedly came after the detectives threatened prosecuting Lucero and made implied
25 promises of leniency if Petitioner were to confess. The detectives' statements with which
26

27 ⁸ The trial court reviewed the videotaped confession, took testimony from the examining detective who
28 was cross-examined by Petitioner's counsel, and heard argument from counsel yet found that Petitioner's
confession was voluntary and intelligent. (RT 46-50, 52, 466-507.)

Petitioner and his appellate counsel took issue are all included in interview the trial court reviewed. *Compare* RT 475-91 (trial counsel's examination of Detective Stock regarding the portions of the interview the defense argued were coercive) and Lodg. No. 4 at 11-26 (appellate counsel's opening brief arguing same) *with* CT 329-63 (transcript of interview containing challenged interrogation tactics). Petitioner's counsel argued specifically that that the detectives made implied promises of leniency if Petitioner were to cooperate. (RT 504.) Petitioner's counsel also got Detective Stack to admit that he questioned Petitioner about what happened to know how involved "the girls" (Lucero and Lopez) were in the case so Stack could indicate in his reports whether the girls were "very involved" or not. (RT 484-85.) This admission came after Stack had told Petitioner that he knew what Petitioner did, and that if he did not have that information about what Petitioner did, Stack "wouldn't have two girls [Lucero and Lopez] going to jail tonight." (CT 329.) Before giving any information about the shooting, Petitioner asked the detectives what was going to happen to his "baby's mama" (Lucero). (RT 330.) All of this information was before the trial court, and there is no suggestion that the trial court did not consider these circumstances in determining that Petitioner's confession was voluntary. The mere fact that counsel was unsuccessful in arguing otherwise does not render counsel's performance deficient. *See Strickland*, 466 U.S. at 689-90.⁹

In looking at the evidence, the trial court stated:

. . . it is not enough to read the cold transcript in this case. ¶ And I'll be frank with you. Initially, I just read the transcript and then raised eyebrows at the particular areas that Ms. Pensanti pointed out. Because it's not difficult to see in the transcript where there are issues. ¶ . . . And then I actually watched the video of the interview. And the cold transcript does not reflect correctly the

⁹ All of this evidence was also before the California Court of Appeal on direct appeal, yet the Court of Appeal also rejected Petitioner's assertion that his confession was involuntary. (Lodg. No. 7 at 13-16.)

1 tone or color of this interview. And to Detective Stack's credit, I find
2 absolutely nothing in this interview that would even remotely approach
3 improper police conduct that would be coercive; that would have caused, as a
4 motivating factor, Mr. Sanchez to give a statement.

5
6 (RT 505-06.) The Court found nothing wrong with pointing out the benefits that flow
7 naturally from cooperation or with telling a defendant that his cooperation may be
8 considered by a court and a jury. (RT 506-07 (citing *People v. Musselwhite*, 17 Cal. 4th
9 1216 (1998) and *People v. Williams*, 49 Cal. 4th at 405).) Accordingly, the trial court
10 found Petitioner's statement admissible. (RT 507.) The prosecution played the videotape
11 of Petitioner's interview for the jury. (RT 525-33.)

12
13 Petitioner has not suggested how evidence of his specific alleged mental impairment
14 or limited education, while relevant to the totality of the circumstances of Petitioner's
15 interrogation (*see United States v. Preston*, 751 F.3d 1008, 1020 (9th Cir. 2014)
16 ("consideration of [a defendant's] reduced mental capacity. . . is critical because it may
17 render him more susceptible to subtle forms of coercion") (citations, internal quotations and
18 brackets omitted)), would have changed the trial court's ruling. Petitioner filed a
19 declaration stating that he had learning difficulties in school and had been prescribed
20 "psychological medication" which he stopped taking when he was a "young child."
21 (Petition Ex. E, ¶¶ 4-5; *see also* Petition Ex. B, ¶ 6 (Petitioner's mother declaring that
22 Petitioner was diagnosed with "a mental or emotional problem like hyperactivity but with
23 another name" when he was five years old).) Petitioner provided an "unofficial copy" of a
24 school transcript for the period from November 3, 2009, through January 19, 2010, wherein
25 it is reported that Petitioner had "D" and "F" grades in core classes, and "C" grades in
26 dance, theater, and physical education. (Petition Ex. D at 1.) However, a transcript for the
27 semester from September 29, 2008, through February 3, 2009, reports that Petitioner had all
28 "C" grades, and for the following partial semester from February 4, 2009, through April 6,

1 2009, Petitioner had all “B” grades. (Petition Ex. D at 2.) There is no reasonable
 2 probability that Petitioner’s confession would have been suppressed if counsel had
 3 presented this evidence.

4
 5 In reviewing the admissibility of a defendant’s confession, “[t]he presence of a mental
 6 illness or impairment is not alone sufficient to find that a waiver was not voluntary,
 7 knowing, and intelligent.” *Martin v. Quinn*, 472 Fed. App’x 564, 567 (9th Cir. 2012)
 8 (rejecting ineffective assistance of counsel claim for failure to present evidence of Martin’s
 9 mental illness regarding the admissibility of Martin’s confession; “all objective signs
 10 observed by the detectives indicated that Martin was lucid, coherent and cooperative during
 11 the course of the interrogation”). Assuming Petitioner had some level of mental disability,¹⁰
 12 he was coherent, articulate, and cooperative throughout the interrogation and capable of
 13 answering and asking lucid questions. (CT 323-63.) Moreover, as previously noted the
 14 Court of Appeal found in considering the voluntariness of Petitioner’s confession, Petitioner
 15 “was no neophyte with regard to the criminal justice system,” he had numerous juvenile
 16 petitions for drug offenses, possession of a firearm, and vandalism, and he expressed
 17 familiarity with several officers in the gang unit that patrolled Petitioner’s gang’s territory.
 18 (Lodg. No. 7 at 13 (referencing CT 349); *see also* Lodg. No. 4 at 15 (Petitioner’s Opening
 19 Brief noting that Petitioner had been booked for seven felonies and four misdemeanors, and
 20 had two sustained juvenile petitions at the time of his interrogation).) Petitioner has not
 21 established that even with the evidence he submitted herein, his statement to the police
 22 necessarily would have been suppressed, nor has he demonstrated that it was objectively
 23 unreasonable for the state court to reach this conclusion from the same evidence.

24
 25
 26 ¹⁰ In a voicemail message from Pensanti to Petitioner’s appellate counsel dated October 3, 2012, Pensanti said that
 27 she inquired regarding Petitioner’s limited educational background and knew of Petitioner’s “limited mental capacity,”
 28 which she “took [] into account during the motion to exclude the confession.” (Petition Ex. H at 2.) Notwithstanding
 Pensanti’s alleged consideration of Petitioner’s mental capacity, she did not mention it in arguing to exclude Petitioner’s
 confession.

Petitioner also faults counsel for failing to bring to the trial court's attention *In re Shawn D.*, 20 Cal. App. 4th 200 (1993) (in considering whether a confession is voluntary, any threat to jail or prosecute a defendant's relatives may also cause a defendant's will to be overborne). (Petition at 22.) Petitioner argues that although the prosecution cited *People v. Barker*, 182 Cal. App. 3d 921 (1986)) – a case that *In re Shawn D.* cited for the above proposition -- on June 30, 2011, and the hearing on the voluntariness of the confession was held on July 7, 2011, counsel did not research applicable law to argue that Petitioner's confession was coerced based on implied threats to prosecute Lucero.¹¹ Petitioner also faults counsel for failing to file a written motion to exclude the confession noting that she had been retained for eight months by the time of the hearing. (Petition at 17, 19-20, 63.)¹²

¹¹ During the hearing concerning the admissibility of Petitioner's confession, Petitioner's counsel asked Detective Stack whether he had used Lucero to pressure Petitioner in to confessing. (RT 480.) The trial court sustained its own objection to the form of the question, noting that it was Petitioner and not Detective Stack who brought up Lucero. (RT 480 (citing *People v. Barker*)).

¹² On June 30, 2011, prior to the start of trial the prosecution filed a "Response in Opposition to Motion to Exclude Defendant's Confession. (CT 226-31; RT 38, 41-42.) The trial court asked Petitioner's counsel if she had filed a written motion:

THE COURT: Is there are written motion from the defense on this issue?

MS. PENSANTI: I thought there was, but –

THE COURT: Okay.

MS. PENSANTI: Well –

THE COURT: Like I said, I haven't dug into the file. So if there is, I will look for it now, because you have told me that there is.

MS. PENSANTI: Yes.

THE COURT: By virtue of the language used [in the prosecution's "response"], it's –

[PROSECUTOR]: I haven't gotten one, but –

THE COURT: Okay.

MS. PENSANTI: There may not be.

[PROSECUTOR]: I drafted it as a response.

THE COURT: To an oral motion?

[PROSECUTOR]: Just – no. But just in anticipation of.

THE COURT: So this is a trial brief, then?

[PROSECUTOR]: An addendum to my [trial brief].

(RT 41-42.) It is apparent from the record that Petitioner's counsel was not well informed about the status of the pleadings. *See also* Petition Ex. H at 2 (voicemail message from Pensanti to Petitioner's appellate counsel dated October 3, 2012, stating that she "believe[d] there was a written motion"); *but see* Petition Ex. I at 2 (letter from Pensanti to Petitioner's appellate counsel stating that "[t]ime constraints prevented [her] from writing out the written motion").

1 An attorney's ignorance of a point of law that is fundamental to her case combined
2 with her failure to perform basic research on that point is a quintessential example of
3 unreasonable performance under *Strickland*. *Hinton v. Alabama*, 134 S. Ct. 1081, 1089
4 (2014) (citations omitted). However, in this case, counsel's failure to cite *In re Shawn D.*
5 was neither deficient nor prejudicial because counsel generally argued that the police had
6 coerced Petitioner's confession by suggesting that Lucero could or would be prosecuted
7 unless Petitioner told the truth. *Compare Jiminez v. Sisto*, 2009 WL 22086646, at *5 (N.D.
8 Cal. July 13, 2009) (finding counsel not constitutionally ineffective for failing to cite
9 particular case when counsel made general arguments supported by that case). On appeal,
10 Petitioner's appellate counsel argued the *In re Shawn D.* case extensively to suggest that
11 Petitioner's confession was coerced, but the California Court of Appeal rejected that
12 argument. *See* Lodg. No. 4 22-26 (Opening Brief); Lodg. No. 7 at 16 (finding no merit to
13 the argument that police exploited Petitioner's concern for Lucero and their unborn child).
14 There is no suggestion that, had counsel argued the case to the trial court, the trial court
15 would have excluded Petitioner's confession.

16
17 For the same reason, counsel's failure to file a written motion was not prejudicial.
18 Petitioner cannot demonstrate that, but for counsel's failure to file a written motion (in
19 addition to arguing in court against admission); there is a reasonable probability that the
20 trial court would have excluded Petitioner's confession. The California Court of Appeal
21 considered Petitioner's extensive argument on the admissibility of his confession on appeal
22 and found that it was voluntary. (Lodg. No. 4 at 7-33; Lodg. No. 7 at 14-16.)

23
24 The Court notes that it has considered the totality of the circumstances of Petitioner's
25 interrogation, and concluded that the California Court of Appeal did not misconstrue or
26 unreasonably apply clearly established federal law in finding that Petitioner's confession
27 was voluntary. About four or five hours passed from the time Petitioner was arrested until
28 he was interviewed. (RT 474.) Petitioner was described as "cooperative" during the

1 interview. (RT 471.) Petitioner was advised of his *Miranda* rights and told the detectives
2 that he understood those rights. *See DeWeaver v. Runnels*, 556 F.3d 995, 1003 (9th Cir.)
3 (“[I]f interrogators obtained a confession after *Miranda* warnings and a valid waiver, the
4 confession was likely voluntary.”), *cert. denied*, 558 U.S. 868 (2009). While Detective
5 Stack told Petitioner that Stack knew what happened and what Petitioner did, he confirmed
6 his information by noting that police would not have chased Petitioner down a street and
7 taken him into custody, would not have impounded a car, and would not have two girls
8 (presumably Lucero and Lopez) in jail that night if Detective Stack did not know what had
9 happened. (CT 329.) Stack told Petitioner that the place to do a shooting -- on Venice
10 Boulevard near a bunch of businesses with cameras -- was not the right place to do it. (CT
11 330.) Petitioner acknowledged that he understood from where Detective Stack was coming.
12 (CT 330.) Detective Stack told Petitioner that a homicide detective had said that Petitioner
13 was going to get a guaranteed sentence of 25 years to life with the gang allegation. (CT
14 330.) Stack added that if Petitioner cooperated, “the D.A.s look at that and they go ‘Okay,
15 if he’s going to come out and say what he did’ they’re not going to give you 25 to life or it’s
16 definitely not going to be, you know, ‘hey, we’re not – there’s no deals on the table. We’re
17 done.’ Okay? (CT 330.) Petitioner then asked what would happen to Lucero. (CT 330.)
18 Stack said that it depends on what Petitioner tells him; if Petitioner says nothing happened,
19 then Lucero “is going to go down for exactly the same thing that you go down for.” (CT
20 330.) Petitioner replied, “Yeah. I know.” (CT 330.) Petitioner then told the detectives
21 what happened. (CT 331-47.)

22
23 Accurately reciting for a suspect the potential penalties or sentences is not improperly
24 coercive. *United States v. Haswood*, 350 F.3d 1024, 1029 (9th Cir. 2003). Nor is it
25 misconduct for officers to indicate that a cooperative attitude would be to the benefit of the
26 accused unless the remarks rise to the level of being threatening. *Juan H. v. Allen*, 408 F.3d
27 1262, 1273 (9th Cir. 2005). Considering the totality of the circumstances, it does not appear
28 from the record that the detectives’ statements leading to Petitioner’s confession amounted

1 to coercion that overbore Petitioner's will and caused him to confess involuntarily.
 2 *Compare United States v. Leon Guerrero*, 847 F.2d at 1366. Informing Petitioner of the
 3 possible adverse consequences to Lucero was not improperly coercive but rather a fair
 4 prediction of the likely consequences to Lucero. At one point, Lucero was charged in
 5 connection with Petitioner's case and, as of the time the police interviewed Petitioner (and
 6 as suggested by the evidence adduced at trial), it appeared as if Lucero could be liable as an
 7 aider and abettor given that she goaded Petitioner into committing violence against the
 8 victim. (RT 169, 607.)

9
 10 **E. Petitioner's Claim that Counsel Was Ineffective for Failing to Request a**
 11 **Jury Instruction Does Not Merit Relief**

12
 13 Petitioner contends that counsel was ineffective for failing to request that the
 14 jury instruction on accomplice witness testimony (CALCRIM 334) be "amplified" to
 15 provide that witnesses are accomplices if they aid or abet under the natural and probable
 16 consequences doctrine (*i.e.*, that a witness may be an accomplice when the record contains
 17 substantial evidence that the witness intended to encourage or assist a confederate in
 18 committing a target offense (here, assault), and that the crime actually committed by the
 19 confederate was a "natural and probable consequence" of the specifically contemplated
 20 target offense). (Petition at 33-34.)

21
 22 **1. Background**

23
 24 While the Court ultimately finds no prejudice from counsel's failure to request the
 25 modified jury instruction for the reasons outlined below, the Court summarizes for the
 26 record counsel's performance with respect to the jury instructions as a whole. Before the
 27 close of evidence, the trial court asked Petitioner's counsel whether she would be asking for
 28 jury instructions on any lesser offenses. (RT 494, 592). Petitioner's counsel asked for

1 instructions on “all the lessers [she] can,” including assault with a deadly weapon and
2 attempted manslaughter. (RT 593.) The trial court responded that assault with a deadly
3 weapon is not a lesser included offense of attempted murder, and that attempted voluntary
4 manslaughter would be a lesser included offense if there is substantial evidence that the
5 killing was done in the heat of passion or as an imperfect self-defense. (RT 593-94 (citing
6 *People v. Breverman*, 19 Cal. 4th 142, 152 (1998).) When asked for evidence of either,
7 counsel replied, “You have the testimony – or not testimony, but the statements of my client
8 that something sparked in him, which is evidence of heat of passion. And that he was
9 angry, immediately angry, which is also evidence of heat of passion. And I’m sorry. I
10 didn’t have it prepared.” (RT 593). The trial court said the parties could address the issue
11 on the following Monday and instructed counsel to focus on that particular issue. (RT 593.)
12 The trial court also told counsel there are no other lesser offenses for attempted murder.
13 (RT 594.)
14

15 When court reconvened on Monday, Petitioner’s counsel argued for an attempted
16 voluntary manslaughter instruction as follows:
17

18 The reason for this is many, but specifically from the words spoken by Mr.
19 Sanchez himself during his interview where he talks about upon seeing Mr. – I
20 forgot his name. Sorry. [The Court: Thomas.] -- Mr. Thomas, that a spark
21 happened. And I’m sorry. I – I don’t have that for you. A spark. Just
22 sparked everything up. That’s page 17 of the transcript, Line 8. ¶ . . .
23 “Sparked up” actually brings up a heat of passion. I mean, I think that word is
24 very specific. “Sparked.” Heat. ¶ Additionally, he talked about the anger
25 that he had. And that is -- ¶ Additionally, the – the matter that occurred
26 during the juvenile hall incarceration for Mr. Sanchez. It was a personal beef
27 between those two, and nothing to do with gangs. So when he saw this
28 person, he immediately – it welled up in him. The heat of passion. He talks

1 about this. ¶ I think there's sufficient evidence for this court to give that
 2 instruction. ¶ Is there anything that I am missing?
 3

4 (RT 604-05.) The trial court refused to give the lesser instruction, finding that there was no
 5 evidence "whatsoever" of heat of passion in Petitioner's case – the court considered the
 6 crime to be a "cold, calculated. . . ambush" that was put into place by Lucero goading
 7 Petitioner to act by calling Petitioner a "bitch." (RT 607.)¹³
 8

9 Regarding the jury instructions, the trial court advised that it would give the jury
 10 instruction on accomplice testimony (CALCRIM 334), since the jury would have to decide
 11 if Lucero and Lopez were accomplices, and if so, whether their testimony would need to be
 12 corroborated. (RT 601.) The trial court told counsel to be prepared to address the issue the
 13 following court day. (RT 601.) When court reconvened, after declining to instruct the jury
 14 with an attempted voluntary manslaughter instruction, the trial court asked Petitioner's
 15 counsel if she wanted any instructions not contained in the package provided to counsel.
 16 (RT 608.) Petitioner's counsel replied, "yes . . . But I don't know what else is available."
 17 (RT 608.) When asked whether she had any instructions specifically in mind, counsel
 18 replied by asking once again if assault with a deadly weapon is a lesser included offense to
 19 attempted murder. (RT 608.) The trial court replied, "it is not." (RT 608.) Counsel asked,
 20 "It is not in any case?" (RT 608.) The trial court explained: "You do not need to use a
 21 firearm to commit the crime of attempted murder. So it is not a lesser included of attempted
 22 murder. You are not to consider enhancements in deciding whether there's a lesser
 23 included. So the firearm allegations do not trigger assault with a firearm as a lesser
 24

25
 26 ¹³ Lopez had testified that Lucero called Petitioner a "bitch" on more than one occasion. (RT 257-59.) Lucero
 27 criticized Petitioner, telling him that he was not man enough, he was not worth anything, and he was not worth anything
 28 in his neighborhood (gang). (RT 256.) Petitioner told Lopez that he was tired of Lucero calling him that. (RT 259.) In
 Lucero's recorded interview which was played for the jury, Lucero told police that Petitioner said, "I'm just gonna [sic]
 do one last thing for the hood [sic] and that's it so they won't have nothing to come to me and say nothing. . . ." (CT 272-
 73.)

1 included, unfortunately.” (RT 608.)¹⁴ Counsel then admitted, “I guess I don’t know of any
 2 other [instructions.]” (RT 609.) The trial court replied, “You are not, because I wouldn’t
 3 allow you to miss it anyway.” (RT 609.)
 4

5 The court indicated that it included the accomplice testimony instruction in the
 6 instructions, noting that the court did not believe that Lucero or Lopez were accomplices as
 7 a matter of law, but the jury could find they are accomplices and accordingly must be told
 8 how to evaluate their testimony depending on what the jury finds. (RT 609-10.)
 9 Petitioner’s counsel did not ask for any modification of the instruction. (*Id.*)
 10

11 2. Analysis

13 Petitioner raised with the California Court of Appeal a claim that the trial court’s
 14 instructions were deficient and that counsel’s failure to request amplification constituted
 15 ineffective assistance of counsel. (Lodg. No. 34-47.) The California Court of Appeal
 16 denied the claim, finding no *sua sponte* duty under California law to instruct on the natural
 17 and probable consequences doctrine given that the prosecution did not rely on that doctrine
 18 to prove Petitioner’s guilt, and that the standard accomplice testimony instruction given
 19 sufficed to advise the jury that if the jury found Lucero and Lopez were accomplices, their
 20 testimony would require corroboration. *See* Lodg. No. 7 at 17-19; *see also* CT 381
 21 (CALCRIM 301, as given, providing: “Except for possibly the testimony of [] Lucero and
 22 [] Lopez, depending upon if you find them to be an accomplice, which would then require
 23 supporting evidence, the testimony of only one witness can prove any fact.”).¹⁵
 24

25 ¹⁴ Under *People v. Wolcott*, 34 Cal. 3d 92 (1983), which is cited by Petitioner, “the test for a lesser included
 26 offense is simply that, where the charged offense cannot be committed without necessarily committing another offense,
 27 the latter is a necessarily included offense.” (*Id.* at 99 (citations omitted).) The inquiry is whether the greater offense
 28 can be committed without necessarily committing the other offense. (*Id.*) The allegation that a firearm was used is not
 to be considered for purposes of determining whether the accusation encompasses a lesser included offense. (*Id.* at 100-
 01 (citations omitted).)

¹⁵ As given, CALCRIM 334 provides:

1 This Court is bound by the California Court of Appeal's interpretation of state law.
 2 State courts "are the ultimate expositors of state law." *Mullaney v. Wilbur*, 421 U.S. 684,
 3 691 (1975); *see also Mendez v. Small*, 298 F.3d 1154, 1158 (9th Cir. 2002) (it is undisputed
 4 that a "state court has the last word on the interpretation of state law"); *Himes v. Thompson*,
 5 336 F.3d 848, 852 (9th Cir. 2003) (federal court is bound by state's interpretation of its own
 6 laws); *see generally Wilson v. Corcoran*, 562 U.S. 1, 5 (2010) ("it is only noncompliance
 7
 8

9 Before you may consider the testimony of [Jessica] Lucero and Margarita Lopez as evidence
 10 against the defendant, you must decide whether [] Lucero and [] Lopez were accomplices. A person is
 11 an accomplice if he or she is subject to prosecution for the identical crime charged against the
 12 defendant. Someone is subject to prosecution if he or she personally committed the crime or if: 1. He
 or she knew of the criminal purpose of the person who committed the crime; AND 2. He or she
 intended to, and did in fact, aid, facilitate, promote, encourage, or instigate the commission of the
 crime.

13 The burden is on the defendant to prove that it is more likely than not that [] Lucero and []
 14 Lopez were accomplices. ¶ An accomplice does not need to be present when the crime is committed.
 15 On the other hand, a person is not an accomplice just because he or she is present at the scene of a
 crime, even if he or she knows that a crime will be committed or is being committed and does nothing
 to stop it.

16 If you decide that a [] Lucero or [] Lopez was not an accomplice [sic], then supporting
 17 evidence is not required and you should evaluate her statement or testimony as you would that of any
 18 other witness. ¶ If you decide that [] Lucero or [] Lopez was an accomplice, then you may not convict
 19 the defendant of _____ based on her statement or testimony alone. You may use the statement or
 20 testimony of an accomplice to convict a defendant only if: 1. The accomplice's statement or testimony
 is supported by other evidence that you believe; 2. That supporting evidence is independent of the
 accomplice's statement or testimony; AND 3. That supporting evidence tends to connect the defendant
 to the commission of the crime.

21 Supporting evidence, however, may be slight. It does not need to be enough, by itself, to
 22 prove that the defendant is guilty of the charged crime, and it does not need to support every fact
 23 mentioned by the accomplice in the statement or about which the accomplice testified. On the other
 hand, it is not enough if the supporting evidence merely shows that a crime was committed or the
 circumstances of its commission. The supporting evidence must tend to connect the defendant to the
 commission of the crime.

24 The evidence needed to support the statement or testimony of one accomplice cannot be
 25 provided by the statement or testimony of another accomplice.

26 *Any statement or testimony of an accomplice that tends to incriminate the defendant should be*
 27 *viewed with caution. You may not, however, arbitrarily disregard it. You should give that statement*
or testimony the weight you think it deserves after examining it with care and caution in light of all the
other evidence.

28 (CT 387-88 (emphasis added).)

1 with *federal* law that renders a State’s criminal judgment susceptible to collateral attack in
2 the federal courts”) (emphasis original); *Waddington v. Sarausad*, 555 U.S. 179, 192 n.5
3 (2009) (“we have repeatedly held that it is not the province of a federal habeas court to
4 reexamine state-court determinations on state-law questions”) (citation and internal
5 quotations omitted). This Court will not review a state court’s interpretation of its own law
6 unless that interpretation “is clearly untenable and amounts to a subterfuge to avoid federal
7 review of a deprivation by the state of the rights guaranteed by the Constitution.” *Knapp v.*
8 *Cardwell*, 667 F.2d 1253, 1260 (9th Cir.), *cert. denied*, 459 U.S. 1055 (1982). No such
9 showing has been made here. Rather, the Court of Appeal’s determination is well supported
10 by the facts and the law.

11
12 In any event, Petitioner can show no prejudice from counsel’s failure to ask for an
13 amplified accomplice witness instruction. As the California Court of Appeal observed
14 (Lodg. No. 7 at 17), had counsel asked for such an instruction the trial court would have
15 denied the request. Counsel cannot be faulted for failing to raise a meritless argument. *See*
16 *Rupe v. Wood*, 93 F.3d at 1445; *Lowry v. Lewis*, 21 F.3d at 346; *Boag v. Raines*, 769 F.2d at
17 1344. Additionally, the Court notes that given Petitioner’s own statement implicating
18 himself as the shooter, the surveillance videotape of the shooting, and the link between
19 Petitioner and the gun recovered from the shooting, there was independent evidence to
20 corroborate the statements from Lucero and Lopez – even if they were deemed accomplices.
21 There is no reasonable probability that, but for counsel’s alleged failure to request the
22 modified jury instruction, the result of the proceeding would have been different.
23 *Strickland*, 466 U.S. at 694.

24 \\\

25 \\\

26 \\\

27 \\\

28 \\\

F. Petitioner’s Claim that Counsel Was Ineffective During Closing Argument Does Not Merit Relief

Petitioner contends that counsel’s closing argument was deficient because “very brief and hardly vigorous, aggressive or competent, as one would expect of an experienced and well-prepared defense attorney.” (Petition at 35.) Petitioner alleges that counsel should have told the jury that the arguable accomplice testimony from Lucero and Lopez implicating Petitioner should be viewed with distrust. (Petition at 35.) Petitioner notes that the accomplice testimony was particularly damning since it corroborated what Petitioner told police during his interrogation. (Petition at 35.)

Counsel’s closing argument was brief. (RT 672-78.) Counsel began her closing argument by telling the jury as she did at the outset of trial that Petitioner’s was an “overcharged” case – arguing that it should have been charged as attempted voluntary manslaughter. (RT 672.) Counsel argued that the jury only heard a little bit about the ongoing problem between Petitioner and the victim, which was personal and had nothing to do with their respective gangs or to promote their gangs. (RT 673, 676-77.)¹⁶ Counsel also argued that there was no intent to kill because seeing the victim “just sparked everything up” and Petitioner did not know where he hit the victim, he just shot. (RT 674.) She argued there was no premeditation because Petitioner told police that he was just angry, the victim sparked something off in Petitioner’s mind, and Petitioner acted on impulse without consideration. (RT 675.) As noted above, the jury found *not* true the allegation that the attempted murder was willful, deliberate, and with premeditation. (CT 408.)

The California Court of Appeal found that counsel’s performance was not deficient. (Lodg. No. 7 at 19.) Having found that there was no further “amplification or clarification”

¹⁶ In rebuttal, the prosecution argued that while the beef was personal, the primary beef Petitioner and the victim had was that they were rival gang members. (RT 684.)

1 required for the accomplice testimony instruction (as discussed above), the California Court
2 of Appeal concluded that counsel was not deficient for failing to argue accomplice liability
3 to the jury. (*Id.*). As for the remainder of her argument, the California Court of Appeal
4 noted that counsel may have had tactical reasons for arguing the case as she did. (*Id.*). That
5 court concluded that, in light of the strong evidence against Petitioner, it was not reasonably
6 possible that Petitioner would have received a more favorable result had counsel argued as
7 Petitioner desired to the jury, so any error was harmless. This Court agrees.

8
9 If the jury found that Lucero and Lopez were accomplices, it was instructed that their
10 testimony must be independently corroborated. (CT 387-88.) The jury is presumed to have
11 followed its instructions. *See Weeks v. Angelone*, 528 U.S. 225, 234 (2000). The California
12 Court of Appeal reasonably concluded that counsel need not have argued accomplice
13 liability specifically to the jury for the jury to understand how it should view testimony from
14 Lucero and Lopez.

15
16 As for the remainder of counsel's closing argument, Petitioner's general
17 disagreement with counsel's closing argument does not establish that counsel was deficient
18 in any way to prejudice Petitioner within the meaning of *Strickland*.

19
20 [C]ounsel has wide latitude in deciding how best to represent a client,
21 and deference to counsel's tactical decisions in his [or her] closing presentation
22 is particularly important because of the broad range of legitimate defense
23 strategy at that stage. Closing arguments should "sharpen and clarify the
24 issues for resolution by the trier of fact," but which issues to sharpen and how
25 best to clarify them are questions with many reasonable answers. Indeed, it
26 might sometimes make sense to forgo closing argument altogether. Judicial
27 review of a defense attorney's summation is therefore highly deferential -- and
28 doubly deferential when it is conducted through the lens of federal habeas.

1
2 *Yarborough v. Gentry*, 540 U.S. at 5 (citation omitted). Here, Petitioner’s counsel focused,
3 albeit briefly, on the best defense she could present for Petitioner given the evidence, *i.e.*,
4 that his disagreement with the victim was personal and not gang related (to argue against the
5 gang enhancement allegation), and that the shooting was the result of an impulse and not a
6 premeditated intentional attempt to kill the victim. (RT 673-77.) However, given the strong
7 evidence against Petitioner, including Petitioner’s own admissions that he snuck up on the
8 victim, shot three times hitting the victim in the back while announcing Petitioner’s gang
9 affiliation, and thought the victim would die (CT 333-34, 339-40), there is nothing to
10 suggest that any further argument from counsel would have benefitted Petitioner. The
11 California Court of Appeal’s application of *Strickland* to conclude that counsel was not
12 deficient in arguing to the jury was not unreasonable.

13
14 **G. Petitioner’s Claim that Counsel Was Ineffective at Sentencing Does Not**
15 **Merit Relief**
16

17 Finally, Petitioner argues that counsel was deficient for failing to request that the trial
18 court strike the gang enhancement allegation. Counsel had requested that the trial court
19 “stay” the related sentence, not strike the allegation. (CT 429 (portion of sentencing brief
20 requesting same); *see also* Petition at 37-38.) Petitioner asks for remand to have the trial
21 court strike the gang enhancement. (Petition at 37.)
22

23 To the extent Petitioner is claiming that counsel was ineffective at sentencing, he
24 does not present a basis for federal habeas relief. The Supreme Court has not established a
25 standard for effective assistance of counsel at sentencing. *See Davis v. Grigas*, 443 F.3d
26 1155, 1158 (9th Cir. 2006) (“[S]ince *Strickland*, the Supreme Court has not delineated a
27 standard which should apply to ineffective assistance of counsel claims in noncapital
28 sentencing cases. Therefore . . . there is no clearly established federal law as determined by

1 the Supreme Court in this context.”) (citing *Cooper-Smith v. Palmateer*, 397 F.3d 1236,
 2 1244 (9th Cir.), *cert. denied*, 546 U.S. 944 (2005)); *see also Osborn v. Belleque*, 385 Fed.
 3 App’x 701, 703 (9th Cir. 2010) (denying habeas claim that counsel was deficient at
 4 sentencing hearing “because there is no clearly established Supreme Court precedent in the
 5 noncapital sentencing context”).¹⁷

6
 7 In any event, assuming the *Strickland* standard applies, Petitioner is not entitled to
 8 relief. Petitioner has not shown prejudice from counsel’s failure to argue that Petitioner’s
 9 gang enhancement be stricken. As noted above, on direct appeal the California Court of
 10 Appeal remanded Petitioner’s case for the trial court to consider striking Petitioner’s gang
 11 enhancement. On remand, the trial court chose to strike the enhancement. (Lodg. No. 3 at
 12 24-25.) While counsel might have secured this result if counsel had argued the same to the
 13 trial court at the time of sentencing, as a practical matter Petitioner has shown no adverse
 14 consequences from counsel’s failure to argue the same. Because Petitioner has obtained the
 15 relief he seeks from the state court, there is no further relief for this Court to grant. *See*
 16 *Burnett v. Lampert*, 432 F.3d 996, 1000-01 (9th Cir. 2005) (habeas petition is moot when a
 17 favorable decision of the court would not offer petitioner any relief).

18 19 **H. Conclusion**

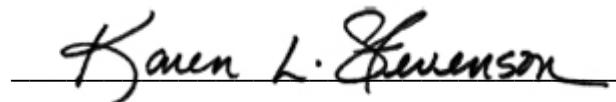
20
 21 For the foregoing reasons, the state courts’ rejection of Petitioner’s ineffectiveness
 22 claims was not contrary to, or an unreasonable application of, the Supreme Court’s decision
 23 in *Strickland*. *Richter*, 562 U.S. at 101; 28 U.S.C. § 2254(d). Accordingly, Petitioner is
 24 not entitled to habeas relief.

25
 26
 27 ¹⁷ The Court notes that in *Daire v. Lattimore*, 780 F.3d 1215, 1221-22 (9th Cir. 2015), a three-judge panel noted
 28 that if it were “writing on a clean slate” it might conclude that it is clearly established that *Strickland* applies to
 sentencing in noncapital cases. The Ninth Circuit granted rehearing *en banc*, ordering that the three-judge panel opinion
 could not be cited as precedent. *See Daire v. Lattimore*, 803 F.3d 381 (9th Cir. 2015).

1 **RECOMMENDATION**

2
3 For all of the foregoing reasons, IT IS RECOMMENDED that the District Judge issue
4 an Order: (1) accepting the Report and Recommendation; (2) denying the Petition; and (3)
5 directing that Judgment be entered dismissing this action with prejudice.
6

7 DATED: October 27, 2016
8

9
10 
11 KAREN L. STEVENSON
12 UNITED STATES MAGISTRATE JUDGE
13
14
15

16 **NOTICE**

17
18 Reports and Recommendations are not appealable to the Court of Appeals, but may be
19 subject to the right of any party to file objections as provided in the Local Rules Governing
20 the Duties of Magistrate Judges and review by the District Judge whose initials appear in the
21 docket number. No notice of appeal pursuant to the Federal Rules of Appellate Procedure
22 should be filed until entry of the judgment of the District Court.
23
24
25
26
27
28

SUPREME COURT
FILED

MAR 26 2014

S214741

Frank A. McGuire Clerk

Deputy

IN THE SUPREME COURT OF CALIFORNIA

En Banc

In re ISRAEL JAMMIR SANCHEZ on Habeas Corpus.

The petition for writ of habeas corpus is denied.

Tasha Timbadia
Docketed
Los Angeles

APR 04 2014

By: P. Cheung
No. LA2012603162

CANTIL-SAKAUYE

Chief Justice

Court of Appeal, Second Appellate District, Division Two - No. B239022

S214655

IN THE SUPREME COURT OF CALIFORNIA

En Banc

Docketed
Los Angeles

DEC 23 2013

By: J. Santos

No. LA 2012 03162

THE PEOPLE, Plaintiff and Respondent,

v.

ISRAEL JAMMIR SANCHEZ, Defendant and Appellant.

The petition for review is denied.

SUPREME COURT
FILED

DEC 18 2013

Frank A. McGuire Clerk

Deputy

CANTIL-SAKAUYE

Chief Justice

**IN THE SUPREME COURT
OF THE STATE OF CALIFORNIA**

In re ISRAEL JAMMIR SANCHEZ, On habeas corpus,)	No. _____
)	
)	
)	
ISRAEL JAMMIR SANCHEZ, Petitioner,	)	Los Angeles County
	)	Superior Court No. BA372623
)	
vs.	)	Related Case Nos.
	)	B239022, B245387
MARTIN BITER, Warden Kern Valley State Prison, Respondent.)	
)	
)	
PEOPLE OF THE STATE OF CALIFORNIA, Real Party at Interest.)	
)	
)	

PETITION FOR WRIT OF HABEAS CORPUS

Previously filed in Court of Appeal
In Re Israel Jammir Sanchez, On Habeas Corpus
Case No. B245387 (rule 8.384(b)(1))

Sylvia Whatley Beckham
Lawyer (SBN 160568)

226 West Ojai Avenue
Suite 101, PMB 529
Ojai, CA 93023-3214
telephone: (805) 646-6208
e-mail: s.beckham@att.net

Representing petitioner by
appointment of the Court of
Appeal

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ATTACHMENTS are in a separately bound volume

**IN THE SUPREME COURT
OF THE STATE OF CALIFORNIA**

In re ISRAEL JAMMIR SANCHEZ, On habeas corpus,	)	No. _____
)	
	)	Related Case No. B239022
)	
ISRAEL JAMMIR SANCHEZ, Petitioner,	)	Superior Court No. BA372623
)	
vs.)	
)	
MARTIN BITER, Warden Kern Valley State Prison, Respondent.)	
)	
PEOPLE OF THE STATE OF CALIFORNIA, Real Party at Interest.)	
)	

PETITION FOR WRIT OF HABEAS CORPUS

TO THE HONORABLE TANI CANTIL-SAKAUYE, PRESIDING
JUSTICE, AND TO THE HONORABLE ASSOCIATE JUSTICES OF
THE SUPREME COURT OF THE STATE OF CALIFORNIA:

Petitioner, ISRAEL JAMMIR SANCHEZ, by an through
counsel, petitions for a Writ of Habeas Corpus and by this verified
petition alleges the following:

I.

The liberty ISRAEL JAMMIR SANCHEZ (hereafter "petitioner")
is restrained as he is in the custody of the Department of Corrections
and Rehabilitation, Kern Valley State Prison, P.O. Box 5102, Delano,
California, 93216 (Inmate No. AK8280) serving an aggregate term of

seven years plus 25 years to life for his convictions in Case No. BA372623.

II.

This petition concerns petitioner's criminal conviction in Case No. BA372623, on July 12, 2011, for attempted murder (Pen. Code, § 664/187), with findings of personal use and intentional discharge of a firearm resulting in great bodily injury to a non-accomplice (Pen. Code, § 12022.53, subd. (d)), and that the offense was committed at the direction of, in association with, or for the benefit of a criminal gang (Pen. Code, § 186.22, subd. (b)). The judgment was imposed on January 31, 2012, by the Superior Court of the State of California, for the County of Los Angeles, 210 West Temple Street, Los Angeles, California, 90012.

III.

As of the date of arraignment on the Information, on November 4, 2010, when petitioner entered his last plea of not guilty, petitioner was represented in the Superior Court by retained counsel, Louisa B. Pensanti (hereafter "Pensanti") of Pensanti and Associates, 14431 Ventura Boulevard, No. 227, Sherman Oaks, California 91423, for all pretrial matters, through trial by jury and sentencing. (See 1CT 170, 2CT 445.)^{1/}

IV.

An Opinion in petitioner's direct appeal from the judgment in Case No. B239022, was filed on October 15, 2013, and a Petition for Review is submitted contemporaneously with this petition by counsel appointed by the Court of Appeal, Sylvia Whatley Beckham, 226 West Ojai Avenue, Suite 101 PMB 529, Ojai, California 93023.

1. As used throughout, "CT" refers to the Clerk's Transcript, and "RT" to the Reporter's Transcript in Case No. B239022.

V.

AS TO EACH GROUND STATED HEREIN, petitioner's confinement and sentence are illegal and unconstitutional under the Fifth, Sixth, Eighth, and Fourteenth Amendments to the United States Constitution, under Article I, section 15 of the California Constitution, *Strickland v. Washington* (1984) 466 U.S. 668 [80 L.Ed.2d 674, 104 S.Ct. 2052], and the statutory and decisional law of the State of California, because he was deprived of the assistance of counsel. Petitioner was deprived of his fundamental constitutional right to counsel due to Pensanti's deficient performance during several critical stages of the proceedings. Pensanti was prevented from assisting petitioner due to time constraints. Reasonably competent counsel would, but Pensanti did not, investigate the facts and research the law. Pensanti was inadequately prepared, and relied on the court for matters that were Pensanti's responsibility as an advocate. The errors cumulatively resulted in a breakdown of the adversarial process such that prejudice is presumed.

VI.

This petition is necessary because petitioner's claims of ineffective assistance of counsel involve matters both on the record for the direct appeal and matters which are outside of the record for the direct appeal. On December 17, 2012, the Court of Appeal ordered that petitioner's direct appeal in Case No. B239022, was considered concurrently with a Petition for Writ of Habeas Corpus filed in Case No. B245387.

VII.

This petition is being filed in this Court pursuant to its original habeas corpus jurisdiction (Cal. Const., art. VI, § 10), because two of the claims are simultaneously presented to this Court in the Petition

for Review in the direct appeal from the judgment (Arguments II and III), and other claims overlap with a third claim raised on appeal (Argument I). Additionally, facts necessary for decision on this petition are contained in the record filed in related Case No. B239022.

VIII.

Facts and Procedural Background

William Thomas was shot once in the back as he was walking on a city sidewalk in Los Angeles on June 16, 2010. (6RT 540, 2CT 421.) Petitioner's girlfriend (Lucero) provided statements that led investigators to believe petitioner was the shooter. (See 2CT 245-279.)

The Interrogation and Confession

Petitioner was arrested at 8:30 PM, and transported to Wilshire Division where he was interviewed by Detectives Stack and Talbot. (5RT 470.) Petitioner was 18 years old. He had been smoking marijuana shortly before his arrest. (2CT 327) The Interview took place about four or five hours after the arrest, so sometime around 12:30 to 1:30 AM, in the middle of the night. (5RT 474.) Petitioner indicated at the outset that he was both tired and thirsty. (2CT 323-324.) Petitioner was given his *Miranda* rights. Petitioner indicated he understood his rights. (2CT 325.) Petitioner denied any involvement in the shooting. Detective Stack told petitioner he already knew something happened that the situation was "pretty overwhelming." (2CT 329.)

Stack then told petitioner, "At 18 years old there's a difference between going to jail for life . . . or getting paroled after X amount of years." (2CT 329.) He told petitioner that people who did not spend the rest of their lives in jail had either made a deal or told the truth.

PROOF OF SERVICE BY MAIL

STATE OF CALIFORNIA, COUNTY OF VENTURA

I am employed in the County of Ventura, in the State of California and my business address is 226 West Ojai Avenue, Suite 101, PMB 529, Ojai, California, 93023-3214.

On November 13, 2013, I served the attached *Petition for Writ of Habeas Corpus*, related to Case Nos. B239022 and B245387, on the parties legally entitled to service, by placing true copies thereof enclosed in sealed envelopes addressed as follows:

↓ (Representing respondent, The People)

Tasha G. Timbadia
Deputy Attorney General
300 South Spring Street
Los Angeles, CA 90013

California Appellate Project
520 South Grand Avenue, 4th Floor
Los Angeles, CA 90071

Office of the District Attorney
County of Los Angeles
210 West Temple Street, 17th Floor
Los Angeles, CA 90012

Israel J. Sanchez, No. AK8280
K.V.S.P., B-6 203 low
P.O. Box 5102
Delano, CA 93216

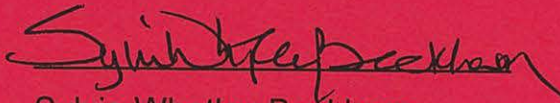
Hon. Craig Richman
Judge of the Superior Court
CSF-CJC, 210 West Temple Street
Los Angeles, CA 90012

Louisa Pensanti, Attorney at Law
Pensanti and Associates
14431 Ventura Boulevard, No. 227
Sherman Oaks, CA 91423

I caused such envelope with postage thereon fully prepaid to be placed in the United States Mail at Ojai, California.

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

Executed this Thirteenth day of November, 2013, at Ojai, California.


Sylvia Whatley Beckham

**IN THE SUPREME COURT
OF THE STATE OF CALIFORNIA**

PEOPLE OF THE	)	No. _____
STATE OF CALIFORNIA,)	
)	
Plaintiff and Respondent,	)	2d Dist. No. B239022
)	
vs.	)	Los Angeles Superior Court
	)	No. BA372623
ISRAEL JAMMIR SANCHEZ,)	
)	
Defendant and Appellant.)	

**PETITION FOR REVIEW
TO EXHAUST STATE REMEDIES**

After a Decision by the Court of Appeal
Second Appellate District, Division Two, Case No. B239022

On Appeal from the Superior Court of the County of Los Angeles
The Honorable Craig Richman, Case No. BA372623

Sylvia Whatley Beckham
Lawyer (SBN 160568)

226 West Ojai Avenue
Suite 101, PMB 529
Ojai, CA 93023-3214
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Docketed
Los Angeles

NOV 15 2013

By: N. Stringfellow
No. LA 2012602162

Representing appellant by
appointment of the Court of
Appeal

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**IN THE SUPREME COURT
OF THE STATE OF CALIFORNIA**

PEOPLE OF THE
STATE OF CALIFORNIA,

Plaintiff and Respondent,

vs.

ISRAEL JAMMIR SANCHEZ,

Defendant and Appellant.

**PETITION FOR REVIEW
TO EXHAUST STATE REMEDIES**

TO THE HONORABLE TANI CANTIL-SAKAUYE, THE CHIEF
JUSTICE, AND TO THE HONORABLE ASSOCIATE JUSTICES OF
THE SUPREME COURT OF THE STATE OF CALIFORNIA:

Appellant, ISRAEL JAMMIR SANCHEZ, hereby petitions this Honorable Court for review of the unpublished opinion filed October 15, 2013, in the above-entitled matter by the Court of Appeal of the State of California, Second Appellate District, Division Two. A copy of the Opinion is attached hereto as an appendix. This case presents no grounds for review under California Rules of Court, rule 8.500(b). This Petition is filed solely to exhaust state remedies for federal habeas corpus purposes pursuant to rule 8.508.

* * *

PROOF OF SERVICE BY MAIL

STATE OF CALIFORNIA, COUNTY OF VENTURA

I am employed in the County of Ventura, in the State of California and my business address is 226 West Ojai Avenue, Suite 101, PMB 529, Ojai, California, 93023-3214.

On November 13, 2013, I served the *Petition for Review*, in Case No. B239022, on the parties legally entitled to service, by placing true copies thereof enclosed in sealed envelopes addressed as follows:

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Israel J. Sanchez, No. AK8280
K.V.S.P., B-6 203 low
P.O. Box 5102
Delano, CA 93216

I caused such envelope with postage thereon fully prepaid to be placed in the United States Mail at Ojai, California.

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Executed this Thirteenth day of November, 2013, at Ojai, California.


Sylvia Whatley Beckham

TASHA GILBERT
Docketed
Los Angeles

OCT 16 2013

Filed 10/15/13

By: M. Blaine

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IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA

SECOND APPELLATE DISTRICT

DIVISION TWO

COURT OF APPEAL – SECOND DIST.

FILED

ELECTRONICALLY

Oct 15, 2013

JOSEPH A. LANE, Clerk

jhatter Deputy Clerk

THE PEOPLE,

Plaintiff and Respondent,

v.

ISRAEL JAMMIR SANCHEZ,

Defendant and Appellant.

B239022

(Los Angeles County
Super. Ct. No. BA372623)

APPEAL from a judgment of the Superior Court of Los Angeles County.
Craig Richman, Judge. Affirmed and remanded.

Sylvia Whatley Beckham, under appointment by the Court of Appeal, for
Defendant and Appellant.

Kamala D. Harris, Attorney General, Dane R. Gillette, Chief Assistant Attorney
General, Lance E. Winters, Assistant Attorney General, Paul M. Roadarmel, Jr., and
Tasha G. Timbadia, Deputy Attorneys General, for Plaintiff and Respondent.

In an information filed by the Los Angeles County District Attorney's Office, appellant Israel Jammir Sanchez was charged with attempted willful, deliberate, and premeditated murder. (Pen. Code, §§ 664/187, subd. (a).)¹ It was further alleged that appellant personally and intentionally used a firearm (a handgun) in the commission of the aforementioned crime (§ 12022.53, subd. (d)) and that the offense was committed at the direction of, in association with, or for the benefit of a criminal street gang (§ 186.22, subd. (b)). Appellant pled not guilty and denied the special allegations.

Trial was by jury. Appellant was found guilty of attempted murder. The intentional discharge of a firearm causing great bodily injury and gang allegations were also found true. The premeditation allegation was found not true.

Probation was denied, and appellant was sentenced to a term of seven years plus 25 years to life, consisting of the middle term of seven years for attempted murder and an additional 25 years to life for the use of a firearm resulting in great bodily injury. The gang enhancement was stayed.

Appellant timely appealed.² On appeal, he argues: (1) The trial court committed reversible error by admitting into evidence appellant's confession; the confession was improperly obtained by police coercion. (2) The trial court's instructions on accomplice witness evidence needed amplification; defense counsel's performance was deficient in failing to seek complete and necessary accomplice instructions. (3) Appellant was deprived of effective assistance of counsel at sentencing; therefore, the case must be remanded to the trial court to either strike or impose the gang enhancement.

We agree that the trial court erred by failing to either strike or impose the gang enhancement; the matter is remanded for the limited purpose of allowing the trial court to

¹ All further statutory references are to the Penal Code unless otherwise indicated.

² On December 3, 2012, appellant filed a petition for writ of habeas corpus, case No. B245387. On December 17, 2012, this court ordered that the petition be considered concurrently with this appeal. A separate order will be filed in that matter.

impose or strike the additional term specified in section 186.22, subdivision (b). In all other respects, the judgment is affirmed.

FACTUAL AND PROCEDURAL BACKGROUND

I. Prosecution Evidence

On October 21, 2008, appellant and the victim, William Thomas (Thomas), were detained in Juvenile Hall. Thomas was a member of the “Drifters” criminal street gang; appellant belonged to rival street gang, “Barrio Gods” or “Gods of Destruction.” The Barrio Gods gang’s primary activities include obtaining firearms, possession and sale of narcotics, and committing vandalism, robberies, and murder.

At approximately 11:55 a.m., appellant and Thomas were being escorted back to school from their dormitory when appellant approached Thomas and attacked him, striking him three times with a closed fist. Thomas suffered a dislocated nose. After the incident, Thomas told an officer that he and appellant had a “personal beef.”

On June 16, 2010, 16-year-old Jessica³ Lucero (Lucero) was appellant’s girlfriend and pregnant with his child. Lucero lived with her mother on 6th Avenue. At approximately 2:48 p.m., appellant and his friend Margarita Lopez (Lopez) went to Lucero’s house. Appellant and Lucero got into an argument and she left to walk to the library. As Lucero was walking, she saw Thomas. Lucero knew that appellant and Thomas were enemies because of their rival gang affiliations.

Lucero called appellant and told him about Thomas.⁴ Appellant replied, “Ooh. Say no more.” He was “laughing.” He went into the other room, got Lopez, and told her that they were going to pick up Lucero and get something to eat; they left in Lucero’s mother’s black Volvo, with Lopez driving and appellant riding as a passenger. Lopez

³ In the appellate record, her name is sometimes spelled “Yessica.”

⁴ During the police interview with Lucero, Lucero told the interviewing officer that at some point appellant told her that he was “gonna do one last thing for the hood” and then stop “gangbang[ing].”

and appellant picked up Lucero, who got into the car. When they stopped and picked up Lucero, appellant told Lopez that his “enemy was walking on the street.”

They drove until appellant told Lopez to stop. He told Lopez that he was going to Winchell’s and asked her if she wanted a donut. Appellant then exited the vehicle and ran in the opposite direction of the Winchell’s.

Lopez continued driving and Lucero pointed out where Thomas was walking. Appellant then said, “Ooh. Say no more.” Lopez stopped the vehicle and appellant got out and snuck up behind Thomas. Appellant then took out a handgun and fired three shots at him. One bullet hit Thomas in the back; the other two bullets struck residences nearby. Appellant ran back to the vehicle, got in, and told Lopez to drive away. Then, he told Lopez and Lucero that he had shot someone.

Appellant was arrested later that night. During his interview at the police station, he admitted to shooting Thomas and declaring “Barrio Gods” before he pulled the trigger. Appellant said that he “had to do what [he] had to do.” Appellant knew that Thomas had been hit by a bullet and he thought that Thomas was “[g]onna die.”

II. Defense Evidence

Appellant did not present any evidence on his behalf.

DISCUSSION

I. Admission of Appellant’s Confession

Appellant contends that his conviction must be reversed because the admission of his confession into evidence was erroneous. Specifically, he argues that the confession was involuntary because it was “the result of psychological pressure and coercion,” including promises of leniency and the threat to prosecute Lucero.

A. Interview and confession

On June 16, 2010, at approximately 1:21 a.m., Detective Timothy Stack and Detective Talbot interviewed appellant after his arrest. Appellant indicated that he was “tired” and Detective Talbot removed appellant’s handcuffs to make him more “comfortable.” Appellant was allowed to stretch and was offered water. He was read his rights pursuant to *Miranda v. Arizona* (1966) 384 U.S. 436 (*Miranda*), and he indicated that he understood them.

Appellant then proceeded to talk about an altercation that had occurred earlier in the day at a Winchell’s donut shop. After that incident, appellant indicated that he had “chill[ed],” “hopped [into a] van,” and went to “this side of town.” According to appellant, “[t]hat’s when everything happened.”

Detective Stack then told appellant, “it’s not looking good bro.” He advised appellant that it was his “job” to find out the truth. Detective Stack stated: “[Y]ou know that I already know that something happened. And, you know, I can—I’m not gonna sit here and try to prove to you that I know what happened. But [I will] tell you right now, it’s pretty overwhelming. You know what I’m saying? At 18 years old there’s a difference between going to jail for life, okay?—or getting paroled after X amount of years, okay? You know people who’ve gone to jail for shootings. You know people who’ve gone to jail for, you know, for other things, stabbings, or whatever—whatever they went to jail for, okay? And they either took a deal or they said, ‘You know what, okay this is what happened’ and they tell the truth and they don’t go to jail for the rest of their lives, okay? You’re only 18 years old. You don’t need to be in jail the rest of your life. I will tell you right now. All bullshit aside, I know what you did, okay? [F]or many different reasons I know what you did. And whether you believe me or not, again, we wouldn’t have been chasing you down Broadway. I wouldn’t have a certain vehicle already impounded for evidence. I wouldn’t have two girls going to jail tonight. I wouldn’t have all these things unless I had a lot of information.”

Detective Stack then told appellant that he wanted to hear “in [his] words” what happened, why he “had a beef with this guy” and “thought [he] needed to do what [he]

needed to do.” Detective Stack also advised appellant that he had talked to a “homicide detective with the suit,” and asked what he thought appellant was “gonna get [sentenced to].” Detective Stack was told that with the gang allegation, appellant was “‘guaranteed, 25 to life.’” Detective Stack said that he had also asked the detective if it would make a difference if appellant cooperated; he told appellant that he was told that the district attorney would consider appellant’s cooperation. He added: “[T]hey’re not going to give you 25 to life or it’s definitely not going to be, you know, ‘hey, we’re not—there’s no deals on the table. We’re done.’ [O]kay?”

Detective Stack again asked about the “beef” between appellant and Thomas. The following exchange occurred:

“[APPELLANT]: Well, what’s going to happen to my baby’s mama?”

“[DETECTIVE STACK]: Well, it depends on what you tell me. Because I’ll tell you what, when you go to court if you want to nut-up and say nothing happened—

“[APPELLANT]: Yeah. I know.

“[DETECTIVE STACK]: [T]hen your . . . baby’s mama is going to go down for just exactly the same thing you go down for.

“[APPELLANT]: Yeah. I know.

“[DETECTIVE STACK]: Okay. So what was the beef? Why’d you do what you do?

“[APPELLANT]: Because he’s a rival gang member.

“[DETECTIVE STACK]: He is? What a—have you seen him before?

“[APPELLANT]: Yeah.

“[DETECTIVE STACK]: How many times?

“[APPELLANT]: Plenty.

“[DETECTIVE STACK]: Have you gotten in fights before?

“[APPELLANT]: Yeah.

“[DETECTIVE STACK]: Yeah? Has he ever pulled a gun on you or anything?

“[APPELLANT]: Like I said—that don’t matter, but I had to do what I had to do sir.

“[DETECTIVE STACK]: Yeah? How many times you shoot at him?

“[APPELLANT]: Three times.

“[DETECTIVE STACK]: Three times, that’s it? How many times you think you hit him?

“[APPELLANT]: I don’t know sir.”

Appellant proceeded to provide additional details about the shooting, including how he arrived at the scene and that Lopez and Lucero were in the car with him. Appellant stated that he was “just angry” and thought that Thomas was going to die when he shot him. Appellant knew that he had hit Thomas because Thomas “screamed.”

Detective Stack then asked appellant what he had done with the weapon he used; appellant told the detective that he threw it into the ocean. Detective Stack told appellant that he was lying and offered to show him the weapon. Appellant replied, “You know I’m going to get 25 to life sir.” Detective Stack responded: “Dude, I told you already bro. I told you already. You know what I’m saying? I wouldn’t sit you across from me and try to get you to—all I need honestly from you right now is for you to tell me [that you] did it. I can walk out the door. You’ve just gave me a confession I walked out the door. I’m done. You see what I’m saying? There’s a difference between you telling me what you’re telling me and being cooperative with me than you just saying, ‘I did it. I’m not gonna say anything else.’ There’s a big difference. Okay?”

Appellant then inquired, “If I cooperate with you, everything is going to go good for” Detective Stack interjected: “Well, I could tell you what. If you cooperate with me everything is going to be—I would say—I’m not going to say it’s gonna be any easier on you. I’m not gonna say I’m gonna promise anything special. But I’m gonna say, ‘Who’s going to go file this case? Who’s gonna walk this case to the DA tomorrow?’ I am and my partner over there is. Okay? And this is my boss. So we’re the ones that are gonna talk to the DA’s office. We’re the ones that are gonna say, ‘Hey, this is what we want.’ And they’re either gonna listen to us or not gonna listen to us. Okay? [¶]

“On the other side of that, I also have a lot of say when I go [to] the DA’s office and I say, ‘Hey, I don’t think these girls are as involved as we thought they were,’ or ‘Hey, I think we should slam dunk—girls.’ Okay? And as far as I’m concerned, you’re being a man. Okay? You made a mistake. You did something you . . . probably shouldn’t have done. And you know that right now. Okay? And you got caught doing it. Okay?”

Detective Stack then encouraged appellant to tell the truth about what had happened to the weapon he had used and for additional details about his motive for the shooting. Appellant recalled that he had “sneaked up” on Thomas, yelled out “‘Barrio Gods,’” and then shot him. Appellant wanted Thomas to know “what[was] up.”

Detectives Stack and Talbot then talked to appellant about the importance of taking responsibility for his life and making a change for his baby on the way. When asked if appellant had any questions, he responded: “Yeah. My baby mama. So what you think could happen to her?” Detective Stack said that he would have to talk to his partner about it. Appellant then offered to tell them the “whole story” again to make sure that they got “everything straight.” He stated, “I just don’t want to let—let her do time for stupid shit that I did. I don’t even care about no time. Just not—not her. She didn’t do shit. Not my baby neither.”

Detectives Stack and Talbot asked appellant additional questions about his gang’s territory. He interrupted their conversation, stating, “Dang but—so my girl, like dang. She ain’t have nothing to do—like I don’t care if I do time, but I just don’t want her to do time.” Detective Stack indicated that he understood, reiterating, “[W]hat’s important here though is, like you said—I know you’re worried about baby mama and stuff—it’s—it’s important you stay with the truth.” Appellant concurred, saying, “You guys are gonna be honest with me and tell me that you gonna go—I come at you straight up and you gonna come back at me straight up.” The detectives agreed and appellant discussed the events that led up to the shooting. After providing these additional details, appellant asked: “By telling you all the truth, that means like, that probably—the [district attorney]

will probably cut me a little bit of slack?” Detective Talbot responded, “That’s up to the [district attorney].”

Detective Slack confirmed, saying: “Yeah. That’s completely up to the [district attorney]. Like I said man, don’t want to—I don’t want to let you—I don’t want to say, ‘Oh. [Y]eah dude. You tell the truth [¶] . . . [¶] [Y]ou’re just gonna’—You know? I don’t wanna say that. You know? What if they do throw the book at you? You know what I mean? [¶] . . . You’d think I’m a straight asshole for telling you that But, I’m telling you right now. You know, there is always that, [‘]well how was he?’ ‘Well he was cooperative?’ ‘What’d he tell—‘Yeah he told us everything’ You know? Okay. 18 years old. You know? [V]ery limited criminal background. All this—all these things they take into—you know—consideration.”

Appellant responded that he understood. After giving additional details about the shooting, appellant again asked whether the detectives were able to get him a “deal with the [district attorney], just at least try to get the two girls out of this.” Detective Stack replied that he would “do what [he could].” Appellant then inquired whether he should obtain an attorney to “cut down some years.” The detectives responded that they could not give him any legal advice.

Appellant was offered more water, and he asked what time it was. Detective Stack told him that it was “a little after three.” Appellant responded, “Dang. Time went by that quick?” Detective Stack replied: “Yeah. It’s crazy. Time goes fast when you’re thinking about everything else in the world, huh?”

B. Motion to exclude appellant’s confession

Defense counsel moved to exclude evidence of appellant’s confession. The People opposed the motion.

At the hearing on appellant’s motion, Detective Stack testified that when he told appellant that another detective had said that he would probably get “25 to life” and that there were “no deals on the table,” he was trying to get appellant to “be truthful.” When asked whether Detective Stack used appellant’s girlfriend (Lucero) as “pressure” to get appellant to confess, the trial court interjected and, citing *People v. Barker* (1986) 182

Cal.App.3d 921, ruled that it was going to “sustain its own objection to the form of the question. It was [appellant] who brought up [his girlfriend].”

Detective Stack reiterated that his comments to appellant were an attempt to get more of a very detailed description of the facts of the case and he was concerned about determining “how involved [Lucero and Lopez] were in the case.” Finally, Detective Stack stated that he did not advise appellant that his influence could be used with the district attorney to “fil[e] [the] case in a certain way.”

The prosecutor argued that despite appellant’s age, he was a “sophisticated” gang member, having joined the gang when he was 12 years old. In addition, he had had multiple contacts with the police and knew about concepts like “25 to life” and “how it works.” The prosecutor pointed out that Lopez and Lucero, who were in the car with appellant when the shooting occurred, had already indicated that appellant was the shooter. Thus, the only determination left was whether Lucero and Lopez were also involved as accomplices. Next, the prosecutor argued that appellant had initiated the inquiry into what would happen to his girlfriend and, accordingly, it did not play a role in getting him to confess. Then, the prosecutor noted that the interview was conducted while the officers were in “plain clothes” and that there was a “very calm, serene conversational tone” during the interview. Finally, the prosecutor argued that appellant was not made any promises and that, under the totality of the circumstances, the interview was not coercive.

Defense counsel argued that appellant was coerced into making inculpatory statements when an implied promise was made about his “baby mama.” Further, defense counsel stated that Detective Stack implied that if appellant cooperated and told them how “he did it,” then he would be given a deal.

After entertaining oral argument, the trial court stated that it had watched the videotape of the interview and found: “[T]he cold transcript does not reflect correctly the tone or color of this interview. And to Detective Stack’s credit, I find absolutely nothing in this interview that would even remotely approach improper police conduct that would be coercive; that would have caused, as a motivating factor, [appellant] to give a

statement. [¶] . . . [B]oth Detective Stack and Detective Talbot were wearing plain clothes. Detective Talbot's badge was hanging from his chest and prominently displayed, but each [was] almost nocturnal in their conversations with [appellant] discussing if he gets out of prison that he needs to take responsibility and become a good family man, which—and that portion of the conversation was long after the statements were made.

"The statement begins with basically a total denial of involvement. Detective Stack leans back in his chair and says, 'Hey, look. Basically'—And I'm paraphrasing—'I know that you are lying to me. I can just write the report right now and end it. But if you cooperate, everyone will know.' And there's nothing wrong with pointing out benefits that flow naturally from cooperation. . . .

"And—and that point that Detective Stack was trying to make at that point was, 'Look. We—we know what happened here. It's—it's up to you at this point in time.' And from that moment on, [appellant's] obvious thought process was to minimize the involvement of Ms. Lucero and Ms. Lopez.

"The discussion regarding 25 to life, the *Williams*^[5] case I cited to counsel originally at 49 Cal.4th 405, it talks about the death penalty. We are way below that. Again, no promises were made by the detectives. They merely said that his cooperation may be considered by the court and the jury—and, again, the cases cited in *Williams* reflect that there is nothing wrong with that.

"I do believe that the statement was voluntary. I already ruled that [out] there was no violation of *Miranda*. The statement is admissible."

C. Relevant law

"The Fourteenth Amendment to the federal Constitution and article I, section 15, of the state Constitution bar the prosecution from using a defendant's involuntary confession. [Citation.]" (*People v. Massie* (1998) 19 Cal.4th 550, 576.) A confession is involuntary if it is "obtained by force, fear, promise of immunity or reward" (*People v. Esqueda* (1993) 17 Cal.App.4th 1450, 1483 (*Esqueda*)). Thus, in order to use

⁵ *People v. Williams* (2010) 49 Cal.4th 405.

a confession, the prosecution has the burden of proving by a preponderance of the evidence that the defendant gave it voluntarily, and not as the result of any form of compulsion or promise of reward. (*People v. Williams* (1997) 16 Cal.4th 635, 659–661.)

Conversely, “[a] confession or admission is involuntary, and thus subject to exclusion at trial, only if it is the product of coercive police activity. [Citations.]” (*People v. Williams, supra*, 16 Cal.4th at p. 659.) Coercive activity must be “the ‘proximate cause’ of the statement in question [Citation.]” (*People v. Mickey* (1991) 54 Cal.3d 612, 647.)

In determining whether a confession was voluntary, “courts apply a ‘totality of circumstances’ test” (*People v. Massie, supra*, 19 Cal.4th at p. 576.) Among the factors to be considered are “‘the crucial element of police coercion [citation]; the length of the interrogation [citation]; its location [citation]; [and] its continuity’ as well as ‘the defendant’s maturity [citation]; education [citation]; physical condition [citation]; and mental health.’” (*People v. Williams, supra*, 16 Cal.4th at p. 660.) Other characteristics of the defendant to be considered are his age, sophistication, prior experience with the criminal justice system, and emotional state. (*In re Shawn D.* (1993) 20 Cal.App.4th 200, 209.)

Moreover, “‘[t]he question is whether defendant’s choice to confess was not ‘essentially free’ because his will was overborne.’ [Citation.]’ [Citation.]” (*People v. Boyette* (2002) 29 Cal.4th 381, 411.)

A reviewing court upholds the trial court’s findings as to the circumstances surrounding the confession if they are supported by substantial evidence, but exercises independent review in determining whether the confession was voluntary, given the totality of the circumstances, including those that are undisputed and those properly found by the trial court. (*Esqueda, supra*, 17 Cal.App.4th at p. 1465; see also *People v. Williams, supra*, 16 Cal.4th at pp. 659–661; see also *Arizona v. Fulminante* (1991) 499 U.S. 279, 285–286.) Thus, in the present case, we must analyze whether the influences brought to bear on appellant were such as to overbear his will to resist, thus bringing about a statement that he did not freely choose to make. (See *People v. Hogan* (1982) 31

Cal.3d 815, 841, disapproved on other grounds in *People v. Cooper* (1991) 53 Cal.3d 771, 836.) In making this determination, we evaluate whether the police conducting the interview acted in an oppressive or coercive manner. (See *Colorado v. Connelly* (1986) 479 U.S. 157, 163–164.)

Also, here, the interview was tape-recorded so the facts surrounding the giving of the statement are undisputed. (*People v. Maury* (2003) 30 Cal.4th 342, 404.)

D. Appellant's confession was properly admitted

Applying the foregoing legal principles, we conclude that the trial court did not err when it admitted appellant's confession into evidence.

1. Particular circumstances of the interview

Appellant contends that his particular circumstances (18 years old, limited prior contact with the criminal justice system, the fact that he had been smoking marijuana before his arrest, and the fact that he was tired and thirsty) resulted in him being in "relatively poor physical and mental condition" when he gave his confession. To the contrary, appellant was no neophyte with regard to the criminal justice system. He had been a gang member since he was 12 years old. He had numerous juvenile petitions starting in 2007, when he was only 15 years old, for drug offenses, possession of a loaded firearm, and vandalism. In addition, during his interview, he acknowledged his familiarity with several officers in the gang unit that patrolled his gang's "territory" and his understanding of terms like "25 to life" and "how the system works."

Moreover, appellant's handcuffs were removed at the start of the interview and he was offered water. Towards the end of the interview, he was again offered water. And, at that time, when appellant asked and was told what time it was, he commented on how quickly the time had passed by.

Furthermore, the interview was conducted in a relaxed and informal environment. Both officers were in plain clothes and spent a good portion of the interview time counseling appellant on the benefits of changing his "gang banging" lifestyle.

In addition, although the interview lasted about an hour and a half, appellant's confession came much earlier in the interview.

Finally, the trial court, having watched and listened to the videotape of the interview and heard Detective Stack's live testimony, was in the best situation to make a determination that appellant's confession was voluntary. This determination is well-supported by the evidence. (*People v. McWhorter* (2009) 47 Cal.4th 318, 358.)

2. *Promises of leniency or threats*

Appellant contends that his confession was involuntary because it was coerced and induced by threats and promises of leniency for himself and Lucero, his pregnant girlfriend. He further argues that the trial court improperly found that *People v. Barker, supra*, 182 Cal.App.3d at page 933, made Detective Stack's alleged threats to prosecute Lucero irrelevant.

"In general, "any promise made by an officer or person in authority, express or implied, of leniency or advantage to the accused, if it is a motivating cause of the confession, is sufficient to invalidate the confession and to make it involuntary and inadmissible as a matter of law." [Citations.] In identifying the circumstances under which this rule applies, we have made clear that investigating officers are not precluded from discussing any 'advantage' or other consequence that will 'naturally accrue' in the event the accused speaks truthfully about the crime. [Citation.] The courts have prohibited only those psychological ploys which, under all the circumstances, are so coercive that they tend to produce a statement that is both involuntary and unreliable." (*People v. Ray* (1996) 13 Cal.4th 313, 339–340; see also *People v. Seaton* (1983) 146 Cal.App.3d 67, 74 (*Seaton*).)

Exhortations to tell the truth are not impermissible. (*People v. Holloway* (2004) 33 Cal.4th 96, 115.) Nor is it improper for the police to emphasize the realities of a defendant's plight. (See *Seaton, supra*, 146 Cal.App.3d at p. 74 [mention of parole hold simply a comment "on the realities of defendant's position"]; *People v. Flores* (1983) 144 Cal.App.3d 459, 469 ["truthful and 'commonplace' statements of possible legal consequences, if unaccompanied by threat or promise, are permissible police practices"].) In this case, the various exhortations to appellant to confess were not inherently coercive, and there were no bargains. (See *Seaton, supra*, 146 Cal.App.3d at p. 74 [no implied

promise of lenity where officer “told defendant the district attorney would make no deals unless all of the information defendant claimed to have was first on the table”]; *People v. Ramos* (2004) 121 Cal.App.4th 1194, 1203–1204; *People v. Spears* (1991) 228 Cal.App.3d 1, 27–28.)

Detective Stack’s comments did not constitute improper promises of leniency. Instead, the advisements were exhortations to tell the truth. Detective Stack repeatedly told appellant that it was the district attorney’s decision as to what he would be charged with. Even in response to appellant’s query (“By telling you all the truth . . . the [district attorney] will probably cut me a little bit of slack?”), both Detective Stack and Detective Talbot told him that it was “up to the [district attorney].” Their statements made it clear that the only effect the detectives could make on the charges filed was to bring appellant’s statements to the district attorney, who could consider appellant’s honesty in coming forward. (*People v. Groody* (1983) 140 Cal.App.3d 355, 359.) In other words, the interview with appellant was a “dialogue or debate between suspect and police in which the police commented on the realities of [his] position and the courses of conduct open to [him].” (*People v. Holloway, supra*, 33 Cal.4th at p. 116.)

Detective Stack did not improperly promise appellant any benefit or other lenient treatment; he merely highlighted the benefits that could ensue from a truthful statement. As set forth above, appellant was cognizant of his rights when he decided to talk to the detectives. Before appellant confessed, Detective Stack informed him that he could deny any knowledge of why he had been arrested in the face of already overwhelming evidence or tell them in his own words what had happened. It was at that point that appellant chose to continue to talk to the detectives and admitted that he had “snuck up” on Thomas and shot him because of their rival gang affiliation.

Just as Detective Stack’s comments were not promises, they were also not threats. At the onset of the interview, Detective Stack informed appellant that he “had a lot of information.” He told appellant that he already knew what he had done and that the situation was “pretty overwhelming.” He explained that he would not have chased appellant down, have impounded the Volvo, and had “two girls going to jail tonight” if

he did not have a lot of information. In context, Detective Stack was only enumerating the evidence the police already had against appellant. (*People v. Andersen* (1980) 101 Cal.App.3d 563, 579 [urgings by the police to tell the truth do not amount to threats or promises of leniency].)

People v. Barker, supra, 182 Cal.App.3d 921 does not compel reversal. In that case, the interviewing detective told the defendant that he would not charge his girlfriend if he told the truth. (*Id.* at p. 929.) Even in those circumstances, the Court of Appeal found that the defendant's subsequent confession was "not necessarily" inadmissible. (*Id.* at p. 933.) In contrast, here no promises not to charge Lucero were made.

We are likewise not convinced by appellant's claim that Detective Stack "exploit[ed] appellant's concern for his girlfriend and their unborn child." Again, Detective Stack only maintained that appellant "stay with the truth." It was appellant who repeatedly inquired as to the outcome for his girlfriend and offered, without prompting, to reiterate the details of the shooting to demonstrate Lucero's noninvolvement. By telling appellant to "stay with the truth," Detective Stack was able to point out the benefits that might naturally flow from a truthful and honest course of conduct, including Lucero avoiding being charged as an accomplice and the district attorney being informed of appellant's cooperation. (*People v. Ramos, supra*, 121 Cal.App.4th at pp. 1202, 1204.)

E. Any assumed error was harmless

Even if appellant's confession should not have been admitted because it was involuntary, any error was harmless. (*People v. Cahill* (1993) 5 Cal.4th 478, 487.)

Apart from appellant's confession, ample evidence supports the jury's conclusion that appellant was guilty of attempted murder. Lucero's statements to law enforcement shortly after the shooting, coupled with Lopez's trial testimony, strongly implicated appellant as the shooter. It follows that any alleged error was harmless beyond a reasonable doubt.

II. *Instructions on Accomplice Testimony*

Appellant contends that the trial court's instructions on accomplice testimony were deficient and defense counsel's failure to request amplification of the accomplice instruction (and raise this theory during closing argument) constitute ineffective assistance of counsel. Appellant's argument notwithstanding, a request for natural and probable consequences doctrine for aider and abettor liability would not have been meritorious under these circumstances. And, even assuming counsel's performance was deficient, there is no reasonable probability that but for counsel's deficiency, appellant would have received a more favorable result.

A. Proceedings below

On July 11, 2011, the parties conferred to discuss jury instructions. At that time, the trial court indicated that it had added an accomplice instruction to "evaluate whether [L]ucero and/or [L]opez were accomplices to the crime, and then [an instruction was needed] on how to . . . evaluate their testimony if [the jury finds] that they are accomplices or find that they are not accomplices." While the trial court did not believe that Lucero and Lopez were accomplices as a matter of law, the jury could have found that they were, and therefore an instruction would be given to help the jury determine how to evaluate their testimony.

The trial court subsequently instructed the jury with CALCRIM No. 334 (accomplice liability).

B. Relevant law

To prevail on a claim of ineffective assistance of counsel, appellant must establish that his counsel's representation fell below an objective standard of reasonableness and that there is a reasonable probability that, but for counsel's deficient performance, the results of the trial would have been different. (*Strickland v. Washington* (1984) 466 U.S. 668, 686–687; *People v. Cunningham* (2001) 25 Cal.4th 926, 1003.) A conviction will be reversed for ineffective assistance of counsel only when the record demonstrates that there could have been no rational tactical purpose for counsel's challenged act or omission. (*People v. Lucas* (1995) 12 Cal.4th 415, 436–437.) Appellant must

affirmatively show counsel's deficiency involved a crucial issue and cannot be explained on the basis of any knowledgeable choice of tactics. (*People v. Ashmus* (1991) 54 Cal.3d 932, 1011, fn. 29.)

In considering a claim of ineffective assistance of counsel, it is not necessary to determine "whether counsel's performance was deficient before examining the prejudice suffered by the defendant as a result of the alleged deficiencies. . . . If it is easier to dispose of an ineffectiveness claim on the ground of lack of sufficient prejudice, which we expect will often be so, that course should be followed." (*In re Fields* (1990) 51 Cal.3d 1063, 1079.)

C. No ineffective assistance of counsel

The natural and probable consequences doctrine provides that one who knowingly aids and abets criminal conduct can be found guilty not only of the criminal conduct but also of any other crime the perpetrator commits that is a natural and probable consequence of the intended crime. (*People v. Ayala* (2010) 181 Cal.App.4th 1440, 1449.) A request for instruction on the doctrine should be granted "when (1) the record contains substantial evidence that [one] intended to encourage or assist a confederate in committing a target offense, and (2) the jury could reasonably find that the crime actually committed by the defendant's [c]onfederate was a 'natural and probable consequence' of the specifically contemplated target offense." (*People v. Prettyman* (1996) 14 Cal.4th 248, 269.) There is no sua sponte duty to instruct on the doctrine where the prosecution is not relying on the testimony of potential accomplices to prove appellant's guilt. (*People v. Gonzalez* (2002) 99 Cal.App.4th 475, 485.)

Here, as acknowledged by appellant, there was no sua sponte duty to instruct on the natural and probable consequences doctrine because the prosecution did not rely on that doctrine to prove appellant's guilt. In fact, as appellant concedes, the prosecutor urged the jury to find that Lopez and Lucero were not accomplices. But, appellant argues that defense counsel was required to request an additional or clarifying instruction to explain that Lucero and Lopez could be considered accomplices if they aided and abetted

an assault and if attempted murder was a natural and probable consequence of that assault.

We disagree. The purpose of the accomplice testimony instruction (CALCRIM No. 334) was to advise the jury on how to evaluate Lucero and Lopez’s testimony—if the jury found that they were accomplices, then their testimony required corroboration; if the jury found that they were not accomplices, then no supporting evidence was required. The instruction given met that purpose. No further amplification or clarification was required.

For similar reasons, defense counsel’s failure to argue accomplice liability to the jury does not amount to ineffective assistance of counsel. Defense counsel may have had tactical reasons for arguing the case to the jury as she did; there is no indication that appellant has demonstrated that “there simply could be no satisfactory explanation” for her conduct. (*People v. Hart* (1999) 20 Cal.4th 546, 623–624 [““Tactical errors are generally not deemed reversible; and counsel’s decisionmaking must be evaluated in the context of the available facts. [Citation.] To the extent the record on appeal fails to disclose why counsel acted or failed to act in the manner challenged, we will affirm the judgment “unless counsel was asked for an explanation and failed to provide one, or unless there simply could be no satisfactory explanation” [Citation.]””].)

D. Any assumed error was harmless

As set forth above, there was strong evidence corroborating Lucero’s statements and Lopez’s trial testimony, including appellant’s admissions and ultimate confession to the detectives. Thus, even if defense counsel had requested the instruction and argued the possible implications of Lucero and Lopez’s accomplice liability to the jury, it is not reasonably probable that he would have received a more favorable result. Thus, any alleged error was harmless.

III. *Sentencing*

Appellant contends that he was deprived of effective assistance of counsel at sentencing because defense counsel advocated for a “stay” of the gang enhancement when the enhancement should have been imposed or stricken. The People agree that the

matter should be remanded for this limited purpose, rendering the ineffective assistance of counsel claim moot.

A. Proceedings below

On January 31, 2012, probation was denied and appellant was sentenced to an aggregate term of seven years plus 25 years to life for attempted murder. The trial court selected the middle term of seven years for attempted murder; the 25 years to life term was imposed for the personal use of a firearm in the commission of an offense that resulted in great bodily injury. Although the trial court acknowledged that the jury also found the gang allegation to be true, it stated that, because of the firearm allegation, the gang allegation had “no [e]ffect” on sentencing. “[W]ith that understanding,” the trial court sentenced appellant to the midterm of seven years, plus a consecutive term of 25 years to life for the firearm enhancement. In so doing, the trial court reiterated that the gang allegation was “stayed, having no [e]ffect as a result of the jury finding, the 12022.53[, subd. (d)] allegation true.”

B. Relevant law

In general, when a sentence is in excess of the court’s jurisdiction or in violation of the law, it is considered unauthorized. (*People v. Scott* (1994) 9 Cal.4th 331, 354 & fn. 17.) “‘The failure to impose or strike an enhancement is a legally unauthorized sentence subject to correction’ [citation], even if the correction results in a harsher punishment. [Citations.]” (*In re Renfrow* (2008) 164 Cal.App.4th 1251, 1254; see also *People v. Bradley* (1998) 64 Cal.App.4th 386, 390–391.)

C. Analysis

Here, the jury determined that appellant personally used or discharged a firearm in the commission of the attempted murder. Thus, the 10-year gang enhancement should have been imposed or stricken. (§ 12022.53, subd. (e)(2).) By failing to do either, the trial court pronounced a legally unauthorized sentence. (*People v. Serrato* (1973) 9 Cal.3d 753, 763, overruled on other grounds in *People v. Fosselman* (1983) 33 Cal.3d 572, 583, fn. 1.) Accordingly, the matter is remanded to the trial court for the limited purpose of allowing the trial court to impose or strike the additional term specified in

section 186.22, subdivision (b). In addition, because the trial court appears to have based its midterm sentencing decision, at least in part, on the fact that it believed that the gang enhancement had no effect on appellant's sentence, it is allowed to reconsider the sentence for attempted murder. Such "restructuring" does not amount to double jeopardy. (*People v. Seel* (2004) 34 Cal.4th 535, 542.)

DISPOSITION

The judgment is affirmed. The matter is remanded to the trial court for the limited purpose of allowing the trial court to impose or strike the additional term specified in section 186.22, subdivision (b). In so doing, the trial court may reconsider the sentence for attempted murder.

NOT TO BE PUBLISHED IN THE OFFICIAL REPORTS.

_____, J.
ASHMANN-GERST

We concur:

_____, P. J.
BOREN

_____, J.
CHAVEZ

LA 2012603162

PEOPLE OF THE
STATE OF CALIFORNIA,

Plaintiff and Respondent,

vs.

ISRAEL JAMMIR SANCHEZ,

Defendant and Appellant.

Honorable Craig Richman, Judge Presiding

ADB 12/3/12
RB 1/2/13

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II.

**THE COURT'S INSTRUCTIONS ON ACCOMPLICE
WITNESS EVIDENCE NEEDED AMPLIFICATION AND
COUNSEL'S PERFORMANCE WAS DEFICIENT IN
FAILING TO SEEK COMPLETE AND NECESSARY
ACCOMPLICE INSTRUCTIONS**

A. Introduction.

The trial court sua sponte instructed the jury to consider the possibility that Jessica Lucero and/or Margarita Lopez were accomplices, and, if the jury so found, there were requirements for corroboration and to view their statements and testimony with caution. The jury should have been instructed on the natural and probable consequences doctrine for aider and abetter liability, as that is the theory of accomplice liability supported by the evidence.

Amplification of the instruction should have been requested by appellant's defense counsel. Accomplice witness evidence was a pivotal aspect of the case in chief. In absence of the confession evidence, there was not even slight corroborating evidence connecting appellant with the commission of the alleged offense. Therefore, viewed cumulatively with the erroneous admission of the confession evidence (see Argument I, *ante*), the errors were not harmless.

B. Relevant Proceedings Below.

Appellant was charged with attempted premeditated murder (Pen. Code, §§ 664/187, 664, subd. (a)), of William Thomas. It was also alleged appellant personally used and intentionally discharged a firearm resulting in great bodily injury to a non-accomplice (Pen. Code, § 12022.53, subd. (d)), and that the offense was committed at the direction of, in association with, or for the benefit of a criminal gang (Pen. Code, § 186.22, subd. (b)). (1CT

C. Counsel's Performance was Deficient Because There are No Conceivable Tactical Reasons for Not Requesting the Accomplice Witness Instruction Include the Natural and Probable Consequences Theory of Liability, and Not Arguing the Females were Accomplices.

Appellant's claim of ineffective assistance of counsel is reviewable on direct appeal because counsel failed to request an appropriate instruction on a matter pivotal to the jury's assessment of the evidence, and failed to make a meritorious closing argument on that matter, without any conceivable tactical reasons. The record demonstrates that counsel did not prepare for trial consistent with a reasonably competent defense attorney. The claim is also raised in a Petition for Writ of Habeas Corpus submitted contemporaneously herewith. The petition includes additional references to the record of jury instruction settlement which support appellant's assertion that counsel was not prepared as she could have been with investigation of the facts and research of the law.

Appellant was guaranteed by the State and Federal Constitutions the right to counsel which includes the right to the effective assistance of counsel. (Cal. Const., Art I, § 15; U.S. Const., 6th Amend.; *People v. Ledesma* (1987) 43 Cal.3d 171, 215; *Strickland v. Washington* (1984) 466 U.S. 668, 684-685 [104 S.Ct. 2052, 80 L.Ed.2d 674].) The right to effective assistance of counsel has as its focus and purpose the protection of the fundamental right to a fair trial. (*Strickland v. Washington, supra*, 466 U.S. at p. 684.) To prevail on a claim of ineffective assistance of counsel, the defendant must show that counsel's performance was both deficient and prejudicial, i.e., that it is reasonably probable that counsel's unprofessional errors affected the outcome. (*People v. Ledesma*,

question of whether the witnesses were accomplices under the natural and probable consequences doctrine. Since the instruction which was given did not omit or withdraw an element from the jury's determination, appellant was required to request an additional or clarifying instruction if he believed that the instruction was incomplete or needed elaboration. (*People v. Cox* (1991) 53 Cal.3d 618, 669; *People v. Bell* (1989) 49 Cal.3d 502, 550.) This was defense counsel's responsibility, and she failed to request the amplifying instruction.

A request for amplification of the accomplice witness instruction would have been meritorious and erroneously refused. When a defendant requests an instruction that is legally correct and supported by the evidence, the trial court generally must give an instruction that covers the point requested by the defendant. (See Pen. Code, §§ 1093, subd. (f), 1127; *People v. Marshall* (1997) 15 Cal.4th 1, 39.) Thus, appellant has established the first prong of a claim of ineffective assistance of counsel.

Also, counsel failed to even argue based on the instruction that was given, that the witnesses were accomplices and their testimony and statements should be viewed with caution. Defense counsel's closing argument (only six pages of transcript) did not mention the accomplice witness instruction or accomplice testimony or statements. In rebuttal argument, the prosecutor remarked that defense counsel had not addressed the issue of whether Lucero and Lopez were accomplices. (7RT 688.) The prosecutor took full advantage of counsel's errors. The prosecutor told the jury that in order to find the two females were accomplices the jury had to find by a preponderance of evidence that they knew

that appellant's "goal was," that appellant was "going out there and kill him, not just fight with him." (7RT 689.)

The prosecutor urged the jury to conclude that they did not know appellant was going to try to kill Thomas, based on Lucero's statement that she thought appellant was just going to fight with Thomas, and appellant's statement that the females did not know what he was going to do. (7RT 689.) The prosecutor argued that the evidence that the women did not know of an intent to kill was credible, which meant they "are not accomplices, so you wouldn't need any evidence to corroborate their statement, and you can view this testimony just as anybody else's testimony." (7RT 689.)

The question remains whether appellant can establish the second prong of an ineffective assistance of counsel claim.⁸ Recently, the California Supreme Court stated that the test under the second prong of an ineffective assistance claim was "whether there was 'a reasonable probability that, but for counsel's unprofessional errors, the result of the proceeding would have been different.'" (*People v. Friend* (2009) 47 Cal.4th 1, 46.) That issue, in this case, would seem to turn on the question whether, had the jury been instructed on the natural and probable consequences theory in the accomplice witness instruction, appellant would have obtained a better result.

It may seem a foregone conclusion that with the

8. In the Petition for Writ of Habeas Corpus submitted contemporaneously with this brief, appellant contends that due to the numerous errors by defense counsel during critical stages of the proceedings, there has been a complete breakdown of the adversarial process and counsel's deficient performance is reversible error per se without the necessity to demonstrate prejudice under the second prong of *Strickland*.

confession in evidence there is overwhelming corroboration for the accomplice statements and testimony. However, appellant raises the instant claim despite the confession serving as adequate corroboration for the accomplice testimony because appellant also challenges the court's ruling allowing the confession into evidence. Moreover, that challenge includes another aspect of deficient performance by defense counsel of the same general variety, i.e., failure to investigate, research and prepare for trial as more fully discussed in the petition for writ of habeas corpus filed contemporaneously herewith. Without any properly admitted corroboration, the erroneous failure to provide the jury with appropriate accomplice witness instruction was not harmless.

Docketed
Los Angeles

NOV - 4 2013

By: M. Blaine

IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA

SECOND APPELLATE DISTRICT

DIVISION TWO

COURT OF APPEAL - SECOND DIST.

FILED

OCT 15 2013

JOSEPH A. LANE

Clerk

Deputy Clerk

In re

ISRAEL JAMMIR SANCHEZ

on

Habeas Corpus.

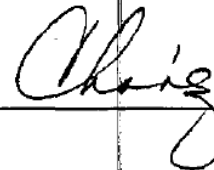
B245387

(Los Angeles County
Super. Ct. No. BA372623)

ORDER

THE COURT:*

The petition for writ of habeas corpus filed on December 3, 2012, has been read and considered. We take judicial notice of the record in case No. B239022, the appeal which is considered concurrently with this petition. Petitioner's claim of ineffective assistance of counsel is rejected. The petition is denied.



* BOREN, P. J., ASHMANN-GERST, J., CHAVEZ, J.

IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA
SECOND APPELLATE DISTRICT, DIVISION TWO



_____	) No. _____
In re ISRAEL JAMMIR SANCHEZ,)
On habeas corpus,	) Related Case No. B239022
_____)
ISRAEL JAMMIR SANCHEZ,	) Superior Court No. BA372623
Petitioner,)
vs.)
MARTIN BITER, Warden)
Kern Valley State Prison,)
Respondent.)
_____)
PEOPLE OF THE STATE)
OF CALIFORNIA,)
Real Party at Interest.)
_____)

PETITION FOR WRIT OF HABEAS CORPUS

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Representing petitioner by
appointment of the Court of
Appeal

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ATTACHMENTS are in a separately bound volume

**IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA
SECOND APPELLATE DISTRICT, DIVISION TWO**

In re ISRAEL JAMMIR SANCHEZ, On habeas corpus,	)	No. _____
)	
	)	Related Case No. B239022
)	
ISRAEL JAMMIR SANCHEZ, Petitioner,	)	Superior Court No. BA372623
)	
vs.)	
)	
MARTIN BITER, Warden Kern Valley State Prison, Respondent.)	
)	
PEOPLE OF THE STATE OF CALIFORNIA, Real Party at Interest.)	
)	

PETITION FOR WRIT OF HABEAS CORPUS

TO THE HONORABLE ROGER W. BOREN, PRESIDING
JUSTICE, AND TO THE HONORABLE ASSOCIATE JUSTICES OF
THE COURT OF APPEAL, SECOND APPELLATE DISTRICT,
DIVISION TWO:

Petitioner, ISRAEL JAMMIR SANCHEZ, by an through
counsel, petitions for a Writ of Habeas Corpus and by this verified
petition alleges the following:

I.

The liberty ISRAEL JAMMIR SANCHEZ (hereafter "petitioner")
is restrained as he is in the custody of the Department of Corrections
and Rehabilitation, Kern Valley State Prison, P.O. Box 5102, Delano,
California, 93216 (Inmate No. AK8280) serving an aggregate term of

seven years plus 25 years to life for his convictions in Case No. BA372623.

II.

This petition concerns petitioner's criminal conviction in Case No. BA372623, on July 12, 2011, for attempted murder (Pen. Code, § 664/187), with findings of personal use and intentional discharge of a firearm resulting in great bodily injury to a non-accomplice (Pen. Code, § 12022.53, subd. (d)), and that the offense was committed at the direction of, in association with, or for the benefit of a criminal gang (Pen. Code, § 186.22, subd. (b)). The judgment was imposed on January 31, 2012, by the Superior Court of the State of California, for the County of Los Angeles, 210 West Temple Street, Los Angeles, California, 90012.

III.

As of the date of arraignment on the Information, on November 4, 2010, when petitioner entered his last plea of not guilty, petitioner was represented in the Superior Court by retained counsel, Louisa B. Pensanti (hereafter "Pensanti") of Pensanti and Associates, 14431 Ventura Boulevard, No. 227, Sherman Oaks, California 91423, for all pretrial matters, through trial by jury and sentencing. (See 1CT 170, 2CT 445.)^{1/}

IV.

Petitioner's direct appeal from the judgment is pending in this Court in Case No. B239022, and counsel is appointed by this Court, Sylvia Whatley Beckham, 226 West Ojai Avenue, Suite 101 PMB 529, Ojai, California 93023.

1. As used throughout, "CT" refers to the Clerk's Transcript, and "RT" to the Reporter's Transcript in related Case No. B239022.

V.

AS TO EACH GROUND STATED HEREIN, petitioner's confinement and sentence are illegal and unconstitutional under the Fifth, Sixth, Eighth, and Fourteenth Amendments to the United States Constitution, under Article I, section 15 of the California Constitution, *Strickland v. Washington* (1984) 466 U.S. 668 [80 L.Ed.2d 674, 104 S.Ct. 2052], and the statutory and decisional law of the State of California, because he was deprived of the assistance of counsel. Petitioner was deprived of his fundamental constitutional right to counsel due to Pensanti's deficient performance during several critical stages of the proceedings. Pensanti was prevented from assisting petitioner due to time constraints. Reasonably competent counsel would, but Pensanti did not, investigate the facts and research the law. Pensanti was inadequately prepared, and relied on the court for matters that were Pensanti's responsibility as an advocate. The errors cumulatively resulted in a breakdown of the adversarial process such that prejudice is presumed.

VI.

This petition is necessary because petitioner's claims of ineffective assistance of counsel involve matters both on the record for the direct appeal and matters which are outside of the record for the direct appeal. Petitioner's opening brief is being submitted contemporaneously with this petition along with a motion for consolidation of the petition with the direct appeal.

VII.

This petition is being filed in this Court pursuant to its original habeas corpus jurisdiction (Cal. Const., art. VI, § 10), because two of the claims are simultaneously presented to this Court on direct appeal from the judgment (Arguments II and III), and other claims

overlap with a third claim raised on appeal (Argument I). Additionally, facts necessary for decision on this petition are contained in the record filed in related Case No. B239022.

VIII.

Facts and Procedural Background

William Thomas was shot once in the back as he was walking on a city sidewalk in Los Angeles on June 16, 2010. (6RT 540, 2CT 421.) Petitioner's girlfriend (Lucero) provided statements that led investigators to believe petitioner was the shooter. (See 2CT 245-279.)

The Interrogation and Confession

Petitioner was arrested at 8:30 PM, and transported to Wilshire Division where he was interviewed by Detectives Stack and Talbot. (5RT 470.) Petitioner was 18 years old. He had been smoking marijuana shortly before his arrest. (2CT 327) The Interview took place about four or five hours after the arrest, so sometime around 12:30 to 1:30 AM, in the middle of the night. (5RT 474.) Petitioner indicated at the outset that he was both tired and thirsty. (2CT 323-324.) Petitioner was given his *Miranda* rights. Petitioner indicated he understood his rights. (2CT 325.) Petitioner denied any involvement in the shooting. Detective Stack told petitioner he already knew something happened that the situation was "pretty overwhelming." (2CT 329.)

Stack then told petitioner, "At 18 years old there's a difference between going to jail for life . . . or getting paroled after X amount of years." (2CT 329.) He told petitioner that people who did not spend the rest of their lives in jail had either made a deal or told the truth. (2CT 329.) The detective told petitioner he knew what petitioner did, otherwise he would not have "two girls going to jail tonight." (2CT

the trial was denied, and the trial was trailed to June 14, 2011. (1CT 186.)

On June 14, 2011, Pensanti appeared for trial in this matter and requested a continuance which was granted. The trial was set for June 22, 2011. (1CT 191.) On June 22, 2011, Sicat appeared for Pensanti and a continuance was granted. (1CT 194.) Finally on June 28, 2011, this matter was sent to Department 120 for trial. (1CT 220.) Trial was conducted over the course of June 28, through July 12, 2011.

*Advice as to Potential Outcome of Trial,
Advice as to Maximum Potential Punishments,
And the Rejected Plea Offer*

Pensanti represented petitioner for eight months prior to trial, but did not make any attempt to have the admissibility of his confession litigated before trial commenced. Sometime prior to trial, Pensanti provided petitioner with misleading advice as to possible convictions on lesser included offenses if petitioner went to trial on the charge of attempted premeditated murder. Petitioner declares under penalty of perjury that Pensanti advised him that there was a "solid defense" to the firearm enhancement and that petitioner could be found guilty of only assault with a deadly weapon or manslaughter. (Exh. E, p. 1, point 9.)

Appellate counsel asked Pensanti whether she advised the client that he could be found guilty of assault with a deadly weapon. Pensanti stated in a voice message response that, "I advised my client that he could possibly be found guilty of all the charges." (Exh. H, p. 1.) Pensanti subsequently responded in a letter to appellate counsel that she advised petitioner, "of all the possible things he could be found guilty of including any lesser included crimes." (Exh.

I, p. 1, point 2.) Pensanti's responses are evasive, but she has not denied that she advised petitioner that he could be found guilty of assault with a deadly weapon.

Prior to trial, Pensanti provided petitioner with erroneous advice about the maximum possible punishment both with a finding of premeditation, and if the premeditation charge were found not true. Petitioner declares under penalty of perjury that Pensanti advised him that if he were found guilty of premeditated attempted murder, he would get a life term, but if Pensanti could get the charge of premeditation dismissed, or if the jury found that charge not true, then he would not be subject to a life term. (Exh. E, p. 2, point 11.) Petitioner has declared under penalty of perjury that Pensanti advised him that if Pensanti could obtain an acquittal on the charge of premeditation then petitioner would be subject to a maximum term of 30 years. (Exh. E, p. 2, point 12.)

Pensanti initially stated that she discussed premeditation with petitioner, "but I don't think we talked about it before he was sentenced." (Exh. H, p. 1.) Pensanti later denied advising petitioner that if premeditation were found not true he could not be sentenced to life in prison. (Exh. I, p. 1, point 4.) Pensanti informed appellate counsel that she advised petitioner that he was facing a term of "life" on the charge and enhancements. (Exh. I, p. 1, point 3.)

Petitioner rejected a plea offer the prosecutor made just before the jury was selected because he had been misadvised by Pensanti as to possible outcomes of the trial and maximum possible punishments if found guilty of all charges, or guilty of all charges with a not true finding on premeditation. Petitioner has declared under penalty of perjury that Pensanti advised him that when jury selection started, the prosecutor would offer a "good deal." When petitioner

asked during jury selection about the deal offer, Pensanti told petitioner, "You don't want to know." (Exh. E, p. 2, point 14.) Petitioner expressed a desire to know about the offer, and Pensanti conveyed that it was for 39 years. Petitioner, considered 39 years too long to accept. (*Id.* point 15.)

However, petitioner was then under the impression, based on Pensanti's advice, that the maximum without premeditation was 30 years, and that he could possibly be found guilty of only assault with a deadly weapon. Petitioner would not have rejected the plea offer if he had been correctly advised on possible outcomes and maximum penalties. (*Id.* point 16.)

Pensanti initially confirmed to appellate counsel during a telephone conversation, that the prosecutor offered a plea bargain for 39 years. (Exh. A, p. 3, point 20.) In Pensanti's letter to appellate counsel dated October 8, 2012, in context of denying that Pensanti made any promise to get petitioner a good deal, Pensanti added, "The problem with his matter is that he was never offered any deal." (Exh. I, p. 1, point 1.) Pensanti later claimed that when appellate counsel asked if was a plea offer of 39 years, what she told appellate counsel was that Pensanti could not recall, but it was possible. (Exh. L, p. 1.)

Mid-Trial Motion to Exclude the Confession

On June 29, 2011, the prosecutor filed an opposition to a motion to exclude petitioner's confession. Therein, the prosecutor took the positions that the detective did not make any implied promise of leniency, and that petitioner's confession was not coerced in any event. (1CT 226-230.) Pensanti neglected to file any points and authorities in support of such a motion to exclude the confession. (2RT 41.) Pensanti has admitted she was prevented

threat by police to arrest or punish a close relative, or a promise to free the relative in exchange for a confession, may render an admission invalid. (*In re Shawn D.*, *supra*, 20 Cal.App.4th 200, 209, quoting *People v. Steger* (1976) 16 Cal.3d 539, 550, and citing *People v. Barker*, *supra*, 182 Cal.App.3d 921, 932.)

Having determined to make the motion, there is no conceivable tactical decision to not research and prepare supporting points and authorities for the motion to exclude petitioner's confession, the outcome of which was pivotal to the outcome of the trial. Pensanti's performance at the hearing, including the failure to cite even the most basic and fundamental authority in support of the motion, ignoring the significance of the detective being the first to mention the fate of petitioner's girlfriend, and arguing the matter as a breach of contract as if seeking a plea offer rather than exclusion of the confession evidence, was clearly deficient performance. Pensanti's performance was so inadequate and inept that there was a consequent breakdown of the adversarial process which undermines confidence in the verdict.

D. GROUND FOUR: Pensanti Provided Misleading Advice About Possible Conviction on Lesser Included Offenses, Information Essential to Considering the Value of the Prosecutor's Pretrial Disposition Offer

Pensanti misled petitioner by advising him that he could obtain a conviction on lesser included offenses of manslaughter or assault with a deadly weapon, and that there was a "solid defense" to the firearm enhancement. The misleading advice prevented petitioner from meaningfully considering the value of the prosecutor's plea offer of 39 years.

Pensanti has been given ample opportunity to respond to the question whether she advised petitioner that he could be found guilty of assault with a deadly weapon. Assault with a deadly weapon is not a lesser included offense, so Pensanti has neither admitted nor denied the advice petitioner declares he was provided. (See Exh. H, p. 1, Exh. I, p. 1.) Petitioner's declaration is under penalty of perjury, and it is amply corroborated. First, there is the small Post-It note Pensanti provided (perhaps inadvertently) to appellate counsel when sending appellate counsel the discovery. The note reflects a thought process that assault with a deadly weapon was a realistic possible outcome of the trial. (See Exh. J.)

Additionally, Pensanti remarked in her opening statement that the prosecutor had overcharged the case as attempted murder, and it should be an assault with a deadly weapon. (3RT 99-100.) Also, Pensanti repeatedly asked the court to instruct on assault with a deadly weapon as a lesser included offense. (6RT 592-593, 7RT 608.) It is therefore not unbelievable that she advised petitioner that he could be found guilty of assault with a deadly weapon. Pensanti's responses have not denied that she provided that advice.

However, it is settled law that any experienced competent defense attorney would know or would learn upon diligent research that assault with a deadly weapon is never a lesser offense of attempted murder because one can attempt to murder someone without a deadly weapon. (*People v. Gragg* (1989) 216 Cal.App.3d 32, 41.) Enhancement allegations in the accusatory pleading, such as the firearm enhancement alleged in petitioner's case, are not considered in the determination of lesser included offenses for purposes of instructing the jury. Assault with a deadly weapon is not

a lesser included offense of attempted murder alleged with personal use of a firearm under the accusatory pleading test. (*People v. Wolcott* (1983) 34 Cal.3d 92, 100-101; *People v. Delahoussaye* (1989) 213 Cal.App.3d 1, 10; *In re David S.* (1983) 148 Cal.App.3d 156 158-159.)

The small note placed on a page of discovery states, "If V released same day, follow-up 8 days later - injuries NOT THAT serious. ADW w/ GBI NOT 664/187." (Exh. J, p. 1, emphasis in original.) This note not only corroborates petitioner's declaration, it also demonstrates that Pensanti lacked familiarity with and understanding of basic principles of criminal law and procedure. Assault with a deadly weapon was never a possible outcome because it is not a lesser included offense. Also, "a defendant may properly be convicted of attempted murder when no injury results." (*People v. Avila* (2009) 46 Cal.4th 680, 702, citing *People v. Stone* (2009) 46 Cal.4th 131, 135-136.) Pensanti's advice was wrong and misleading.

Petitioner's declaration that Pensanti advised him that he could possibly be found guilty of attempted manslaughter is also corroborated by the record. Pensanti requested an instruction on attempted manslaughter based on petitioner's statement that when he saw Thomas "something sparked" and he became immediately angry, which Pensanti asserted was evidence of "heat" of passion because to Pensanti the words "sparked" and "heat" were synonymous. (6RT 593, 7RT 605.) Furthermore, Pensanti began closing argument by urging the jury that this case was overcharged and "should have been an attempted voluntary manslaughter." (7RT 672.) Thus, the record itself corroborates petitioner's declaration as

to Pensanti's advice to him that he could possibly be found guilty of only attempted manslaughter if he went to trial.

Pensanti's response admits that she advised petitioner that he could be found guilty of any lesser included offenses, and manslaughter is a lesser included offense. Therefore, Pensanti herself, albeit not in a direct manner, even corroborated petitioner's declaration. However, Pensanti's advice was misguided because there was simply no realistic possibility of such an outcome based on the evidence. The crux of "heat of passion" is not just "heat." To partially excuse an attempted homicide, it must be shown in the evidence that the defendant attempted to kill "as the result of a strong passion aroused by a 'provocation' sufficient to cause an 'ordinary [person] of average disposition . . . to act rashly or without due deliberation and reflection, and from this passion rather than from judgment.'" (*People v. Breverman* (1998) 19 Cal.4th 142, 163.)

Manslaughter is a lesser included offense. However, it was realistically unattainable based on the facts in this case. Assault with a deadly weapon was never a possible outcome of a jury trial. Pensanti's advice was therefore wrong and misleading. It appears that Pensanti's time constraints prevented her from correctly assessing the matters necessary to correctly advise petitioner. Petitioner was later offered a plea agreement which, unfortunately, he assessed the value of based on Pensanti's erroneous advice that he might be found guilty of only manslaughter or assault with a deadly weapon. Had petitioner been correctly advised about the realistic probable outcome of a trial, he would have accepted the plea offer to avoid a life term. (Exh. E, p. 2, point 16.) This is another aspect of deficient performance at a critical stage of the

proceedings that cumulatively resulted in a breakdown of the adversarial process.

E. GROUND FIVE: Pensanti Significantly Misadvised Petitioner About the Maximum Punishment Exposure, Information Essential to Considering the Value of the Prosecutor's Pretrial Disposition Offer.

Pensanti's performance in advising petitioner about penal consequences was deficient. Although Pensanti denies it, Pensanti advised petitioner that he would not be sentenced to life if premeditation was found not true and that the maximum punishment would be a term of 30 years. The advice was wrong because, unless the alleged firearm use were found not true, petitioner was facing an enhancement of 25 years to life even if the premeditation were found not true. The advice was also wrong because if premeditation were found not true, the maximum exposure would increase from 40 years to life, to 44 years to life. The erroneous advice prevented petitioner from meaningfully considering the value of the prosecutor's plea bargain offer of 39 years determinate.

There is a credibility contest. However, the credibility contest should be resolved in petitioner's favor for reasons discussed *post*. The assertion that Pensanti makes, that she did not discuss premeditation with petitioner before trial (exh. H, p. 2) impacts negatively on the credibility of her subsequent denial of advising petitioner that a lack of premeditation removed the possibility of a life sentence (exh. I, p. 1). It is difficult to believe that Pensanti represented petitioner for all those months prior to trial and did not even discuss the topic of premeditation with petitioner. Stepping back and looking at the totality of the circumstances, petitioner's recollection of the advice that Pensanti provided is not at all

farfetched. On the record, Pensanti repeatedly demonstrated unfamiliarity with criminal law and procedure.

A not true finding on premeditation actually exposed petitioner to a longer term. The charges filed against petitioner exposed him to a possible maximum prison term of 40 years to life, according to the following provisions of law: Subdivision (a) of section 664 of the Penal Code provides that, as a general matter, a person guilty of attempted murder must be punished by imprisonment for five, seven, or nine years. It goes on to provide, however, that, "if the [murder] attempted is willful, deliberate, and premeditated . . . , the person guilty of that attempt shall be punished by imprisonment . . . for life (*Ibid.*)

Penal Code section 186.22, subdivision (b)(1)(C), provides for an enhancement of ten years in the event that the defendant is convicted of attempted murder (because attempted murder is a violent felony offense under Penal Code section 667.5, subdivision (c)(12)). However, when the attempted murder is found to have been premeditated, and the life term punishment applies, then the penalty provision under section 186.22, subdivision (b)(5) comes into play, and the minimum term of the life term that otherwise would be seven years (see Pen. Code, § 3046, subd. (a)(1)) is increased to 15 years. In the event that the penalty provision comes into play to increase the minimum term for the life term, the ten-year enhancement is stricken. (*People v. Lopez* (2005) 34 Cal.4th 1002, 1011.)

Penal Code section 12022.53, provides that if the defendant commits an enumerated offense, such as attempted murder, and the defendant personally and intentionally discharges a firearm resulting in great bodily injury to a person other than an

accomplice, the punishment for the underlying offense is enhanced by a term of 25 years to life. (§ 12022.53, subds. (a)(1), (a)(18), (d).)

According to these provisions, In the event that the jury found petitioner guilty of attempted murder and the other allegations, but the trier of fact found the charge of premeditation not true, then petitioner was facing a maximum punishment of 19 years (upper term of nine years plus a ten year gang enhancement) plus 25 years to life (or 44 years to life), which is actually greater than the 40 years to life term that petitioner was subject to if all the allegations including the premeditation charge were found true.

The prosecutor offered a 39 year term in exchange for a plea. The 39 year term offered by the prosecutor presumably would be composed of the nine-year upper term for attempted murder (without premeditation), a ten-year gang enhancement, plus a 20-year determinate enhancement for discharge of a firearm under subdivision (c) of section 12022.53. Although 39 years was a long term, it was better than the certainty of the punishment plus 25 years to life term that would follow from the finding that petitioner personally discharged a firearm and inflicted great bodily injury in the commission of attempted murder. At least with a 39 year term, petitioner would be entitled to a parole date. Petitioner did not accept the offer.

However, petitioner had been misadvised by Pensanti, and was led to believe that so long as the jury did not find the premeditation charge true, petitioner was not subject to a life term and the maximum punishment would be a term of 30 years. (Exh. E, p. 2, point. 12.) Pensanti also erroneously advised petitioner she would attempt to obtain a guilty verdict on the lesser offense of assault with a deadly weapon, which was absolutely impossible, or

attempted manslaughter which was realistically unattainable. (See GROUND FOUR, *ante*.)

Because Pensanti's assertions lack credibility, the preponderance of the evidence establishes that Pensanti provided unreasonably inaccurate advice to petitioner regarding the maximum exposures for conviction, with and without a premeditation finding. This inaccurate advice constituted ineffective assistance of counsel because it left petitioner without the pertinent information necessary to meaningfully consider the value of the prosecutor's plea offer. In *United States v. Day* (3d Cir. 1992) 969 F.2d 39, 43, the Third Circuit found that a criminal defendant who rejected a plea offer based upon his attorney's grossly inaccurate assessment of his potential sentence exposure had received ineffective assistance of counsel. (*Ibid.*)

Several Circuits, including the Eleventh, have since held that a defense attorney's unreasonably inaccurate advice to his or her client related to accepting or rejecting a proposed plea agreement can rise to the level of ineffective assistance. (See e.g., *United States v. Gordon* (2d Cir. 1998) 156 F.3d 376, 380 ["By grossly underestimating Gordon's sentencing exposure in a letter to his client, Dedes breached his duty as a defense lawyer in a criminal case ..."]; *Meyers v. Gillis* (3d Cir. 1998) 142 F.3d 664, 667 [finding that counsel was ineffective where he provided his client with erroneous information about parole eligibility]; *Finch v. Vaughn* (11th Cir. 1995) 67 F.3d 909, 916 [holding that attorney was ineffective where he mistakenly informed his client that his state and the remainder of his federal term of imprisonment would be served concurrently].

A defendant's loss of a beneficial plea bargain amounted to a constitutional deprivation. (*In re Alvernaz* (1992) 2 Cal.4th 924.) The defendant in *Alvernaz* claimed that had defense counsel correctly advised him of his maximum possible sentence, he would not have rejected an offered plea bargain. The Supreme Court held "where counsel's ineffective representation results in a defendant's rejection of an offered plea bargain, and in the defendant's decision to proceed to trial" this give rise to a claim of ineffective assistance of counsel." (*Id.* at p. 934, fn. omitted.)

Petitioner is similarly situated with the defendant in *Alvernaz*. (See Exh. E, p. 2, point 16.) Here, Pensanti's failure to research the applicable law and correctly advise petitioner about his maximum exposure upon conviction, with and without a true finding on the charge of premeditation, was clearly deficient performance. It appears that Pensanti was prevented from preparing to correctly advise petitioner due to time constraints. It is much more time consuming to research all the applicable statutes and cases in order to correctly advise a client as to realistic chances of convictions on lesser offenses and maximum penalty upon conviction, yet Pensanti was prevented from even writing out a motion due to her time constraints. This failure to properly advise petitioner alone, and in combination with other errors, resulted in a breakdown in the adversarial process.

F. GROUND SIX: Pensanti Failed to Request Necessary Amplification of the Court's Accomplice Witness Instruction.

Pensanti's performance during jury instruction settlement was deficient. The prosecutor's two key witnesses, Lucero and Lopez, were involved in the alleged crime, although the

A defendant's loss of a beneficial plea bargain amounted to a constitutional deprivation. (*In re Alvernaz* (1992) 2 Cal.4th 924.) The defendant in *Alvernaz* claimed that had defense counsel correctly advised him of his maximum possible sentence, he would not have rejected an offered plea bargain. The Supreme Court held "where counsel's ineffective representation results in a defendant's rejection of an offered plea bargain, and in the defendant's decision to proceed to trial" this give rise to a claim of ineffective assistance of counsel." (*Id.* at p. 934, fn. omitted.)

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evidence was close whether they were accomplices to the alleged attempted murder or to another offense for which attempted murder was a natural and probable consequence. At the jury instruction settlement conferences, Pensanti did not request that the Court amplify the accomplice witness instruction to provide that the witnesses were accomplices if they were aiders and abettors under the natural and probable consequences doctrine.

The Sixth Amendment requires “thorough investigation of law and facts relevant to plausible options” at trial. (*Strickland v. Washington*, *supra*, 466 U.S. 668, 690-691; accord *People v. Pope*, *supra*, 23 Cal.3d 412, 426-427 [“where the record shows that counsel has failed to research the law . . . defendant has been deprived of adequate assistance of counsel”].) In his Opening Brief, Argument II, pages 39-52, petitioner argues that he was deprived of the effective assistance of counsel as guaranteed by the Sixth Amendment of the Federal Constitution when Pensanti failed to advocate in favor of necessary accomplice witness instructions and did not even argue that the witnesses were accomplices.

The record itself demonstrates a lack of research and preparedness by Pensanti at the jury instruction settlement conference. Even after having eight months to prepare for trial, and a weekend to perform additional research before the jury instructions were settled, the record shows by a preponderance of evidence that Pensanti did not perform even the most basic research into possible lesser included offenses and seemed unfamiliar generally with pattern jury instructions. (6RT 592-594, 7RT 604-617.) A complete instruction on accomplice witness evidence was critical to the fairness of the trial. There is no conceivable tactical reason to not

request the amplification because it was a pivotal aspect of the evidence.

Petitioner here incorporates by reference the argument in the opening brief addressing ineffective assistance of counsel for failing to request amplification of the accomplice witness instruction. Settlement of jury instructions is surely a critical stage of the proceedings. The overall performance at the jury instruction settlement, especially with regard to the accomplice witness instructions, was clearly deficient. Pensanti was prevented from assisting petitioner at the instruction settlement conference by a lack of time to prepare. Pensanti's obvious failure to research and prepare for the jury instruction settlement conference left petitioner without the assistance necessary to justify reliance on the outcome of the proceeding. The failure to request amplification of the accomplice witness instructions alone, and in combination with other errors, resulted in a breakdown in the adversarial process.

G. GROUND SEVEN: Pensanti's Closing Argument Was Deficient and Ineffective.

Pensanti's performance during closing argument was deficient. Pensanti's closing argument was very brief and hardly vigorous, aggressive or competent, as one would expect of an experienced and well-prepared defense attorney. Argument to the jury is, of course, a critical stage of trial, at which assistance of counsel is vital. (See *Herring v. New York* (1975) 422 U.S. 853, 858 [45 L.Ed. 2d 593, 95 S.Ct. 2550] [no doubt that closing argument for the defense is a basic element of the adversary fact-finding process in a criminal trial"]; *People v. Rodrigues* (1994) 8 Cal.4th 1060, 1184 ["a criminal defendant has a constitutional right to have counsel present closing argument to the trier of fact"].)

This seems to fit within Pensanti's pattern of being too busy to prepare, in this instance, for closing argument. Pensanti was definitely not prepared for jury instruction settlement and neglected to advocate in favor of amplification of the accomplice witness instruction. Apparently due to a lack of preparedness, Pensanti did not argue that the accomplice witnesses were accomplices and so their statements implicating petitioner should be viewed with distrust. The accomplice witnesses provided statements and testimony that tended to corroborate petitioner's statements during the interrogation. Without that corroboration, the jury might have reasonable doubt as to whether petitioner actually conducted himself as he stated in the interrogation, as opposed to providing an exaggerated and boastful account.

Usually, review of the adequacy of closing argument for purposes of evaluating effective representation is highly deferential. (*Yarborough v. Gentry* (2003) 540 U.S. 1, 6 [124 S.Ct. 1, 157 L.Ed.2d 1].) However, here, the failure to even address the defense of accomplice witnesses in closing argument amounted to an argument against petitioner because the omission withdrew a crucial defense. (*People v. Moore* (1988) 201Cal.App.3d 51, 57; see also *People v. Tewksbury* (1976) 15 Cal. 3d 953, 963 [defense burden to prove witness is accomplice].) In rebuttal argument, the prosecutor remarked that defense counsel had not addressed the issue of whether Lucero and Lopez were accomplices. (7RT 688.) The prosecutor took full advantage of the lack of amplification in the accomplice witness instruction, and that the defense had been withdrawn in closing argument, and argued that the witnesses were not accomplices because they did share an intent to kill. (7RT 689.)

In closing argument Pensanti urged the jury to find the

allegation of premeditation not true. The jury found petitioner guilty, found the premeditation not true, and found the alleged enhancements true. A guilty verdict on attempted murder, with a not true finding on premeditation with true findings on the alleged enhancements increased the maximum possible punishment from 40 to life to 44 years to life. (See discussion of sentencing law under GROUND FIVE, *ante*.) Therefore, Pensanti advocated in favor of a longer potential prison term.

The court did not prevent or prohibit Pensanti from making a closing argument, which would be in and of itself per se reversible error. Even if Pensanti was not prevented by the court from making a closing argument, Pensanti's performance at this critical stage was deficient. Her argument was extremely brief and did not even touch upon the accomplice witness evidence. The argument advocated for an outcome that actually increased the possible maximum punishment. The deficient argument, in combination with other errors, resulted in a breakdown in the adversarial process.

H. GROUND EIGHT: Pensanti Failed to Request the Court Exercise Discretion in an Authorized Manner at the Sentencing Hearing.

Pensanti's performance for the sentencing hearing was deficient. At the sentencing hearing, Pensanti urged the trial court to "stay" the gang enhancement. The court stayed the gang enhancement. This resulted in an unauthorized sentence which could be corrected at any time. Here, and on the direct appeal, petitioner seeks remand for appointment of competent counsel to advocate in favor of striking the enhancement, and for the court to

Pensanti advocated in favor of an unauthorized stay of the gang enhancement which, if simply corrected, would result in petitioner being sentenced to an aggregate term of 17 years plus 25 years to life, or 42 years to life – a sentence that ironically is longer than would have applied had the premeditation been found true.

I. Other Cases Offered to Impeach Pensanti's Credibility, Establish a Pattern of Deficient Performance, and that Pensanti Was Prevented from Assisting Petitioner During Critical Stages of the Proceedings due to Time Constraints.

In some respects, Pensanti's responses conflict with the sworn declarations of petitioner and his mother, as well as the court record and the sworn declaration of appellate counsel. This creates a credibility contest. In Pensanti's legal advertising brochure, Pensanti represents that Pensanti and Associates is "California's Most Respect Criminal Defense Firm." (Exh. C, p. 3.) Even taking into consideration Pensanti's own estimation of the level of respect her firm might have in this State, the credibility contest involved here must be resolved in favor of petitioner. Petitioner and his mother, as well as appellate counsel, have presented their declarations under penalty of perjury. Pensanti's limited responses are not made under penalty of perjury, they were tardy, and evasive.

Pensanti's responses are also not reliable. Of course Pensanti deserved a chance to check the file before responding. That is what appellate counsel generally anticipates and desires that trial counsel will do. Pensanti chose to contact appellate counsel from her vehicle, away from her office, with the file at her residence. (Exh. A, p. 2, points 16, 17.) Months later, on October 3, Pensanti stated at the beginning of her messages that "I do want to talk to you about this. I thought we did have a conversation. But I'm going to

California State Bar in Case No. 10-O-07420, and ultimately found culpable by stipulation in October, 2011, for failing to provide legal services of value after being hired to represent a Torres in a criminal appeal, the appeal was dismissed for her neglect to timely file an opening brief, for Pensanti ignoring requests refund a \$10,000 unearned fee, and for Pensanti having filed a motion to recall a remittitur and reinstate an appeal after being fired by the client. (Exh. S.)

Although the filing of the motion to recall the remittitur warranted suspension or disbarment (Exh. S, p. 11), the stipulated disposition was a one-year suspension stayed during a one-year probationary period with terms and conditions. (Exh. S, pp. 5-6.) However, on June 21, 2012, the Supreme Court ordered the matter returned to the State Bar for further consideration of the recommended discipline in light of the applicable attorney discipline standards. (Exh. T.) Discipline in this matter is still pending at the time this petition is submitted.

III.

Petitioner Is Entitled to Relief Because Pensanti Provided Ineffective Assistance to a Degree That Amounts to a Deprivation of Counsel and a Complete Breakdown of the Adversarial Process

What each instance of counsel's deficient performance in this case has in common is that each amounted to uninformed representation due to lack of time to research and investigate the law and facts. Pensanti's experience with time constraints prevented Pensanti from providing assistance to petitioner during multiple critical stages of the proceedings, resulting in a deprivation of counsel. The right to effective assistance of counsel has as its focus and purpose the protection of the fundamental right to a fair trial.

(*Strickland v. Washington, supra*, 466 U.S. 668, 684.) The purpose of this Sixth Amendment guarantee was and "is to ensure that a defendant has the assistance necessary to justify reliance on the outcome of the proceeding." (*Id.* at p. 689.)

Usually, a criminal defendant seeking relief on the basis that he was provided ineffective assistance of counsel must show by a preponderance of evidence that not only was trial counsel negligent but that it is reasonably probable that, but for counsel's shortcomings, a more favorable determination would have resulted. (*Strickland v. Washington, supra*, 466 U.S. 668, 688, *People v. Fosselman* (1983) 33 Cal.3d 572, 584; *People v. Hayes* (1990) 52 Cal.3d 577, 607-608.) Prejudice is presumed, however, where counsel's performance was so deficient that a breakdown in the adversarial process occurred, or counsel was prevented from providing assistance to the defendant. (*United States v. Cronin* (1984) 466 U.S. 648, 656-659 [104 S.Ct. 2039, 80 L.Ed.2d 657, 666-668, 788.]

It is well established that defendants have the Sixth Amendment right to effective assistance of counsel at every critical stage of the proceedings against them. (See *Powell v. Alabama* (1932) 287 U.S. 45, 69 [53 S.Ct. 55, 64, 77 L.Ed. 158].) Pensanti was prevented by time constraints from assisting petitioner during multiple critical stages of the proceedings to the point it created a breakdown of the adversarial system requiring reversal per se. (*United States v. Cronin, supra*, 466 U.S. 648, 659, fn. 25.)

In the Criswell case Pensanti offers to excuse her failure to comply with reasonable and repeated requests for information from the file because she is "rushed into trial," engaged in one trial after the other, and "crazy busy." (Exh. Q.) In the Gil case, Pensanti

did not comply with polite requests for items from the file, and she eventually complained she does “not have the luxury of being able to drop everything” to pull a file for appellate counsel. (Exh. P.) In this case, Pensanti eventually admitted that despite being retained on petitioner’s case for eight months, she did not “write out a written motion,” because she was prevented from doing so due to “time constraints.” (Exh. I, p. 2, point 6.)

Since there was no time to write out a simple notice of motion and motion, as Pensanti admits, then certainly there was no time in Pensanti’s schedule to research the law and prepare persuasive points and authorities in support of the motion. There was apparently also not time to research the law necessary to provide petitioner with accurate advice as to possible lesser included offenses, or the maximum exposure if found guilty with and without a finding of premeditation. Pensanti denies giving defective advice, but her credibility is impeached with other instances of misrepresenting material information. Pensanti also neglected to research the law to prepare for jury instruction settlement in petitioner’s case, closing argument, and sentencing.

Pensanti also has established a pattern of not cooperating with appellate counsel probably due to a lack of time, but possibly also to conceal a lack of work product. Pensanti demonstrated extreme resistance in the Torres case. (Exh. R/H, Declaration of Jaime Harley, p. 2.) Pensanti did not cooperate with Patricia Ihara in Ihara’s attempts to obtain information and the client’s file from Pensanti in the Criswell case. (Exh. Q.) This was similar to Pensanti’s dealings with appellate counsel David Thompson in the Gill case (Exh. P), and with appellate counsel for petitioner in this case (Exh. A, pp. 2-5.) The pattern is that Pensanti

does not respond to all questions, and responds with a lack of certainty. Pensanti indicates that she will check the file and respond, but Pensanti does not provide definite responses even after an extended period of time. In each of these cases, Pensanti eventually ceased communicating, left appellate counsel without responses to all questions, failed to check the file for information, and failed to turn over items from the file despite repeated requests.

Stepping back and looking at the totality of the circumstances, it appears that during the time Pensanti represented petitioner, and before that time and after that time, Pensanti had taken on more work than she could competently handle. During the years shortly before and during the time that Pensanti represented petitioner, there are many examples of Pensanti's performance where it is reasonable to assume that Pensanti was inadequately prepared and performed deficiently because of time constraints.

In 2008, the Court of Appeal filed a decision addressing Pensanti's performance as trial counsel in the Lee case. The trial court had found she was way above her head in her ability to handle the case, and was unprepared amounting to ineptness. The Court of Appeal agreed she had been "clearly inadequately prepared." (Exh. N, pp. 15-25.) Pensanti took on the Cabanillas appeal in December, 2008, and the appeal was dismissed in March, 2009, due to her failure to file the opening brief. (*Id.* p. 26.) Pensanti raised only one frivolous claim in the Stanley appeal in 2009. (*Id.* pp. 27-32.) In the Torres case, Pensanti took on the appeal in August 2008, and it was dismissed in February 2009, for failing to file the opening brief. (*Id.* p. 33.) There is much more egregious unprofessional conduct in the Torres case, including lying to the client. (Exhs. R.)

At the very pertinent time period that Pensanti represented petitioner, Pensanti was clearly prevented from assisting petitioner because of time constraints. Pensanti took on the Valdez appeal in June, 2010, and was removed as counsel for the appellant in November, 2010, due to her failure to file the opening brief. (Exh. N, pp. 36-37.) Pensanti accepted retainer from petitioner's mother and began representing petitioner in this case in November, 2010. The trial was conducted at the end of June, through mid-July, 2011. However, in March, 2011, Pensanti had volunteered to represent Lonnie Franklin Jr. in a highly publicized death penalty prosecution. (Exh. O.)

One might reasonably question whether Pensanti took on Franklin's representation pro bono, despite any prior experience in a death penalty case, for the benefit of the defendant. Since inexperienced counsel is hardly an asset, it is likely that Pensanti volunteered in order to garner publicity for herself. Petitioner was harmed in that the time and attention Pensanti devoted to the Franklin case appears to be a factor in Pensanti neglecting to perform necessary services in petitioner's case.

While Pensanti was representing petitioner, Pensanti was communicating with appellate attorney Patricia Ihara in the Criswell case, from April to October, 2011. On July 16, 2011, less than a week after petitioner's trial concluded on July 12, Pensanti told Ihara that she was tardy in responding because she was "crazy busy." (Exh. Q, p. 2, point 7.) On October 23, 2011, Pensanti sent Ihara an e-mail message which she offered to excuse her tardiness in responding because Pensanti was in "back-to-back-to-back-to-back ad infinitum trials for over a year." (Exh. Q, p. 5, point 15.) Pensanti referred to petitioner's trial as one of those trials. Yet she

also refers to many trials, which explains Pensanti's time constraints.

Pensanti established a pattern of not assisting clients during this period of time. While representing petitioner, Pensanti took on the Clark appeal in January, 2011, and eventually was allowed to be relieved in October, 2011, without having filed the opening brief. (Exh. N, pp. 38-40.) While still representing petitioner, Pensanti took on the Castillo appeal in December, 2011, but did not file the opening brief until September, 2012. (*Id.* pp. 42-43.) Pensanti took on the Rosas appeal in February, 2012, and it was dismissed in April, 2012 for failure to file the opening brief. The appeal was reinstated in May, and Pensanti did not file the opening brief until October, 2012. (*Id.* pp. 44-45.)

While Pensanti represented petitioner in this case, from November, 2010, through January, 2012, there was a consistent lack of investigation, research, and preparation. Pensanti demonstrated throughout the record in this case and other cases that she is not attentive to the court process. Even the simple notice of appeal was prepared in an inattentive manner. (2CT 446.) Here, Pensanti was consistently prompted by the judge. Pensanti relied on the judge for significant matters that she should have been prepared for, such as who first mentioned the fate of the girlfriend during the interrogation, and what lesser included offenses were available. Relying on the judge resulted in a breakdown of the adversarial process.

At the time Pensanti agreed to represent petitioner, Pensanti had taken on too many clients to assist petitioner in this case. This is shown not only by the exhibits supporting this petition, but also by the record. During the trial, based on being contacted by judges in other courtrooms, the presiding judge in this case, Honorable Craig Richman, observed of Pensanti, "your dance card

seems to be pretty full, and the people are clamoring to know when you are going to be available.” (5RT 330.) Pensanti represented that she was “working on my schedule with Supervising Criminal Judge Schnegg,” so the messages should go to that judge. (5RT 330.)

Pensanti’s failure to research and investigate the law and facts in this case might be explained, although not excused, by her unwieldy schedule. The time constraints Pensanti experienced during this time support the reasonable inference from the record of a pervasive lack of preparedness. In *United States v. Cronin*, *supra*, 466 U.S. 648, the Supreme Court identified three situations implicating the right to counsel that involved circumstances “so likely to prejudice the accused that the cost of litigating their effect in a particular case is unjustified.” These are, simply stated, complete denial of counsel, counsel prevented from assisting the defendant, and counsel’s performance so deficient there is a breakdown of the adversarial process. (*Id.* at 466 U.S. pp. 658-659.)

Pensanti’s time constraints prevented her assistance to petitioner, there was deficient performance at critical stages, and a resort to relying on the court. All this resulted in a breakdown of the adversarial process. To remedy the deprivation of the fundamental right to the assistance of counsel at so many critical stages of the proceedings, the judgment must be reversed.

Respectfully submitted,

Dated: November 26, 2012


Sylvia Whatley Beckham

Representing petitioner by
appointment of the Court of
Appeal

PROOF OF SERVICE BY MAIL

STATE OF CALIFORNIA, COUNTY OF VENTURA

I am employed in the County of Ventura, in the State of California and my business address is 226 West Ojai Avenue, Suite 101, PMB 529, Ojai, California, 93023-3214.

On November 26, 2012, I served the attached *Petition for Writ of Habeas Corpus*, related to Case No. B239022, on the parties legally entitled to service, by placing true copies thereof enclosed in sealed envelopes addressed as follows:

(Representing respondent, The People)

↓

Kamala D Harris
Attorney General
300 South Spring Street
Los Angeles, CA 90013

Office of the District Attorney
County of Los Angeles
210 West Temple Street, 17th Floor
Los Angeles, CA 90012

Hon. Craig Richman
Judge of the Superior Court
CSF-CJC, 210 West Temple Street
Los Angeles, CA 90012

California Appellate Project
520 South Grand Avenue, 4th Floor
Los Angeles, CA 90071

Israel J. Sanchez, No. AK8280
K.V.S.P., B-6 203 low
P.O. Box 5102
Delano, CA 93216

Louisa Belle Pensanti, Attorney at Law
Pensanti and Associates
14431 Ventura Boulevard, No. 227
Sherman Oaks, CA 91423

I caused such envelope with postage thereon fully prepaid to be placed in the United States Mail at Ojai, California.

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

Executed this Twenty-sixth day of November, 2012, at Ojai, California.


Sylvia Whatley Beckham

IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA
SECOND APPELLATE DISTRICT, DIVISION TWO



_____) No. _____
In re ISRAEL JAMMIR SANCHEZ,)
On habeas corpus,) Related Case No. B239022
_____)
ISRAEL JAMMIR SANCHEZ,) Superior Court No. BA372623
Petitioner,)
_____)
vs.)
_____)
MARTIN BITER, Warden)
Kern Valley State Prison,)
Respondent.)
_____)
PEOPLE OF THE STATE)
OF CALIFORNIA,)
Real Party at Interest.)
_____)

PETITION FOR WRIT OF HABEAS CORPUS
ATTACHMENTS

Sylvia Whatley Beckham
Lawyer (SBN 160568)

226 West Ojai Avenue
Suite 101, PMB 529
Ojai, CA 93023-3214
telephone: (805) 646-6208
e-mail: s.beckham@att.net

Representing petitioner by
appointment of the Court of
Appeal

TABLE OF ATTACHMENTS

EXHIBIT A	Declaration of Appellate Counsel
EXHIBIT B	Declaration of Petitioner's Mother
EXHIBIT C	Pensanti's Legal Advertising
EXHIBIT D	Petitioner's School Transcripts
EXHIBIT E	Declaration of Petitioner
EXHIBIT F	Letter to Pensanti of 08/18/2012
EXHIBIT G	Letter to Pensanti of 09/20/2012
EXHIBIT H	Voice Messages from Pensanti of 10/03/2012
EXHIBIT I	Letter from Pensanti of 10/08/2012
EXHIBIT J	Post-It Note Stuck to Page of Discovery
EXHIBIT K	Letter to Pensanti of 10/17/2012
EXHIBIT L	Letter from Pensanti of 10/26/2012
EXHIBIT M	Letter to Pensanti of 10/30/2012
EXHIBIT N	Miscellaneous Court Dockets and Decisions
EXHIBIT O	News Article and Docket Case BA382700
EXHIBIT P	Declaration of David M. Thompson Case B236796
EXHIBIT Q	Declaration of Patricia Ihara Case B239047
EXHIBIT R	Motion to Recall Remittitur Case B208896
EXHIBIT S	Public Record of State Bar Pending Discipline
EXHIBIT T	Order of Supreme Court Re: Pensanti Discipline

EXHIBIT A

DECLARATION OF APPELLATE COUNSEL

I, Sylvia Whatley Beckham, declare:

1. I am an active member of the California State Bar, and I am appointed counsel for petitioner, Israel Jammir Sanchez, in his direct appeal in Case No. B239022;

2. All references to clerk's and reporter's transcripts in the petition for writ of habeas corpus and attached memorandum of points and authorities submitted with the opening brief in this case are to the record in Case No. B239022;

EXHIBITS

3. I drafted the declaration of Lilian Garcia, petitioner's mother, which is **Exhibit B**, based on my communication with her, and it was returned to me in the mail with her signature after I sent it to her address;

4. I drafted the declaration of Israel Sanchez which is **Exhibit E**, based on information that was provided to me by Sanchez in the course of representing him in on the direct appeal, and it was returned to me in the mail with his signature after I sent it to him at Kern Valley State Prison;

5. I obtained the "legal advertisement" brochure for the "Pensanti and Associates" law firm that is part of **Exhibit C**, from Lillian Garcia;

6. I printed out from the Internet a page from the "Pensanti-Law.com" website which is part of **Exhibit C**;

7. I obtained from Lilian Garcia an unofficial copy of Israel J. Sanchez's "transcript of record" of the Los Angeles County Office of Education, which is **Exhibit D**;

8. I printed out from appellatecases.courtinfo.ca.gov, the e-dockets, which are **Exhibit N**, regarding cases where Attorney

Louisa Pensanti represented the defendant on appeal in this Court;

9. I printed out from the Internet the news article about attorney Pensanti taking on representation of Lonnie Franklin Jr., which is part of **Exhibit O**;

10. I obtained the court docket from Case No. BA382700, People v. Lonnie Franklin, which is part of **Exhibit O**, from Sylvia Hoffman of California Appellate Project in Los Angeles;

11. I obtained the declaration of David M. Thompson regarding People v. Gil, which is **Exhibit P**, from Mr. Thompson;

12. I obtained the declaration of Patricia Ihara regarding People v. Criswell, which is **Exhibit Q**, from Ms. Ihara;

13. I obtained the motion to recall the remittitur from the Case of People v. Torres, which is **Exhibit R**, from Elizabeth Courtenay at California Appellate Project in Los Angeles, and Attorney Theodore Stalcup, of Bay Area Defense Associates;

14. I printed out from the Internet the "stipulation re facts, conclusions of law and disposition and order approving" concerning state bar discipline of attorney Louisa B. Pensanti, which is **Exhibit S**;

15. I printed out from Lexis Nexis the Supreme Court order regarding the discipline decision of Pensanti by the State Bar, which is **Exhibit T**;

COMMUNICATION WITH PENSANTI / EXHIBITS

16. I contacted Pensanti's office assistant and left messages for Pensanti to call back on May 31, at 3:23 PM, on June 1, 9 AM, 2:48 PM, and 4:05 PM, and on June 5, at 9:05 AM, and 11:59 AM. Pensanti called me back on June 25, while Pensanti was traveling in her vehicle;

17. During that conversation, Pensanti answered some

questions but had no recollection regarding some of the questions, and she indicated the file in this matter was at her residence;

18. During that conversation Pensanti indicated that she was not aware of Israel Sanchez's level of education, that she believed that he had a GED or a high school diploma, but she was uncertain;

19. During that conversation, I asked Pensanti her opinion of Sanchez's level of intelligence and Pensanti responded that it was "normal" although she had observed "bursts of high function" to offer suggestions to her;

20. During that conversation attorney Pensanti confirmed that the plea offer from the prosecutor in this case was 39 years;

21. During that conversation I asked Pensanti about her advice to Israel Sanchez about the "10-20-Life law," to which she responded, "What's that?";

22. I sent a three-page letter to attorney Pensanti on August 18, 2012, a copy of which is **Exhibit F**, requesting her response as to several matters concerning her representation of Israel Sanchez, as well as her file on this matter;

23. I did not receive any response to my letter of August 18, 2012, nor the file, and my letter was not returned to my address;

24. On September 20, 2012, I sent a second letter to attorney Pensanti with USPS confirmed delivery on September 21, 2012 (**Exhibit G**), which again requested the file in this matter and also requested her response on or before October 1, 2012;

25. I did not receive any written response to my letters, or the file on or before October 1, 2012;

26. On October 3, 2012, Pensanti called me and left

two voice messages at 8:16, and 8:20 AM, which I transcribed and the transcriptions are part of **Exhibit H**;

27. I called Pensanti back on October 3, 2012, at approximately 8:45 AM, but was able to reach only the answering service where I left a message that the response was not complete, and that I still needed the file;

28. On October 12, 2012, I sent to the Court of Appeal an application to extend the due date and in making that application, I believed that the only reason that the petition could not be filed was petitioner's declaration was not delivered to me. At that time, it appeared to me that Pensanti was not going to provide any more complete response or the client's file in this matter;

29. However, on Saturday, October 13, 2012, I received a USPS box in the mail without a return address, postmarked October 12, 2012, from Agoura Hills, containing a letter dated October 8, 2012, from Pensanti, which is **Exhibit I**;

30. Also in the box from Pensanti were only some items which I would expect to find in the client's file. Specifically, Pensanti sent only the preliminary hearing transcript (unbound), the information, and items of discovery from the District Attorney;

31. One page of discovery in the box from Pensanti, concerning the hospitalization of Williams Thomas, had a post-it note attached with a hand written notation, which is **Exhibit J**;

32. On October 17, 2012, I sent Pensanti a letter, **Exhibit K**, confirming her previous verbal responses, and confirming the items received in the box she sent on October 12, did not include any correspondence, investigation reports, notes regarding witness interviews, expert evaluations, or any defense work product, and requesting that if she had any further response to provide that on or

before October 27, 2012;

33. On October 29, 2012, I received a letter from Pensanti dated October 26, and postmarked October 27, 2012, which is **Exhibit L**, written with a resolutely "unfriendly tone," wherein Pensanti refuted her statements during the telephone call of June 25, asserted that I had "willingly or ineptly misrepresented" her "ad hoc remarks" of June 25, and expressed that I either failed to understand Pensanti's remarks or was possessed of an "eagerness to falsify." Pensanti's letter stated that since I "put words in [her] mouth" she would "endorse nothing" I "claim[ed]" Pensanti said on my voice messaging service on October 3, 2012;

34. On October 30, 2012, I sent a letter to Pensanti, which is **Exhibit M**, thanking her for her letter of October 26, and requesting that she provide "in the absolute immediate future," the entire client file, including but not limited to the retainer agreement, defense reports, expert evaluations, memorandums regarding interviews of petitioner and his mother, witness interviews, plea discussions, all legal research and defense work product;

35. On October 30, 2012, I sent to AT&T Recording Department in Houston, Texas, my consent to access and record the two saved voice messages I received from Pensanti of October 3, 2012, and I subsequently received a recording of those messages from AT&T Recording Department, attached as part of **Exhibit H**;

36. I did not receive any further response from Pensanti as of November 14, 2012;

I declare under penalty of perjury the foregoing is true.
Executed this Fourteenth day of November, 2012, at Ojai, California.



Sylvia Whatley Beckham

EXHIBIT E

DECLARATION OF PETITIONER

I, Israel Jammir Sanchez, declare:

1. I am the defendant who was convicted of attempted murder in Case No. BA372623, which is pending on direct appeal in Case No. B239022.

2. I am presently incarcerated on this conviction at Kern Valley State Prison, in Delano, California;

3. At the time of trial, I did not have a high school diploma or a general education degree;

4. I had learning difficulties in school;

5. I have previously been prescribed psychological medication although I stopped taking the medication when I was a young child;

6. The attorney my mother retained to represent me, Louisa B. Pensanti, never asked me about my education background, learning difficulties, or any history of mental or emotional problems;

7. I have requested copies of the discovery and Ms. Pensanti never provided any police reports or discovery to me;

8. Ms. Pensanti did not advise me that I could be sentenced to life for discharging the firearm if found guilty of attempted murder;

9. Ms. Pensanti advised me that there was a "solid defense" to the firearm enhancement allegation. She advised me that she would attempt to obtain a guilty verdict on lesser offenses of either assault with a deadly weapon or attempted manslaughter.

10. Ms. Pensanti advised me that her strategy was to concede that it was me who fired the gunshots, try to get a conviction

on the lesser offenses, or at least an acquittal on the charge of premeditation so I would not be sentenced to a life term;

11. Ms. Pensanti advised me that if I was found guilty of premeditated attempted murder I would get a life term, but if she could get the charge of premeditation dismissed, or if the jury found that charge not true, then I would not be subject to a life term;

12. Ms. Pensanti advised me that if she could obtain my acquittal on the charge of premeditation then I would be subject to a maximum term of 30 years;

13. Ms. Pensanti never advised me that if the premeditation were found not true that I would be subject to a possible maximum term of 44 years to life;

14. Ms. Pensanti advised me that when we started picking a jury, the prosecutor would offer a "good deal," and when I asked during jury selection about the deal offer Ms. Pensanti told me, "You don't want to know;"

15. I told Ms. Pensanti I did want to know the deal offer and she told me it was 39 years, which I considered too long to accept;

16. If I had been informed by Pensanti that it was impossible to get a conviction for assault with a deadly weapon, that realistically a manslaughter conviction was not going to happen, and that I was facing a term of 25 years to life for the firearm enhancement upon conviction for attempted murder even if the jury found the premeditation allegation not true, and a total term of 44 years to life if premeditation were found not true, I would not have rejected the plea offer for 39 years.

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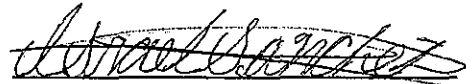
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17. When the verdicts were returned by the jury, Ms. Pensanti was not present and her associate stood in as defense counsel;

18. When the verdicts were read including the not true finding on premeditation, Ms. Pensanti's associate told me "At least we beat life;"

19. When it was time for sentencing Ms. Pensanti told me that I was going to get a life term, and she ignored me when I reminded her that she and her associate told me that by beating the premeditation charge I was not going to get a life term;

I declare under penalty of perjury the foregoing is true.
Executed this 29 day of October, 2012, at Delano, California.

A handwritten signature in black ink, appearing to read "Israel Jammir Sanchez", written over a horizontal line.

Israel Jammir Sanchez

EXHIBIT F

Sylvia Whitley Beckham
#2242
Lawyer

226 West Ojai Avenue, Suite 101, PMB 529, Ojai, California 93023-3214

TELEPHONE: (805) 646-6208

e-mail: s.beckham@att.net

August 18, 2012

Louisa B. Pensanti, Attorney at Law
Pensanti and Associates
14431 Ventura Boulevard, No. 227
Sherman Oaks, CA 91423

In re: People v. Israel Sanchez, 2d Dist. No. E239022
[Los Angeles County Superior Court No. BA372623]

Dear Ms. Pensanti,

I am counsel appointed by the Court of Appeal to represent Israel Sanchez on appeal from his conviction in the above referenced matter. We spoke briefly about this case on June 25, 2012, although you were not at your office and also did not have the file with you at that time. This is to request your response as to the following matters:

In accepting a retainer from Mr. Sanchez's mother to represent him in this case, did you promise her and/or Mr. Sanchez that you would get a good deal for him? Did you set the fee for representation through trial at \$10,000, plus \$7,000 if the matter went to trial? If this is not correct, what was the fee charged for representation of Mr. Sanchez through trial? Were you paid any part of the fee and, if so, how much of the fee was paid?

As you prepared for the hearing on the motion to exclude the confession, did you ask Mr. Sanchez about, or undertake any investigation personally or through an investigator regarding, Mr. Sanchez's educational background such as the last completed grade level, the course grades, and any special education or remedial classes? Did you know whether or not Mr. Sanchez had a high school diploma or a GED? Do you know where Mr. Sanchez last attended school?

Did you ask Mr. Sanchez or undertake any investigation personally or through an investigator regarding any mental health or emotional health diagnosis Mr. Sanchez may have had currently or in the past? Did you have or consider having Mr.

Louisa B. Pensanti, Attorney at Law
August 18, 2012
Page 2

Sanchez evaluated by an expert to determine his IQ and/or any other personality traits that would arguably make him susceptible to an implied promise of leniency during the interrogation? If you considered having such an evaluation done and did not arrange this, why not?

Did you have any tactical reason to not prepare any written motion to exclude the confession? Did you have a tactical reason to not provide any legal authority in support of the oral motion?

When we discussed this case you indicated that there was a plea disposition offer of 39 years, although you did not then recall the proposed composition to reach 39 years. Was this an offer for 39 years or 39 years to life? What was the proposed composition of that plea offer? Assuming that you discussed the plea offer with Mr. Sanchez, what was your advice to Mr. Sanchez regarding the plea offer compared to the maximum possible punishment should he be found guilty of all charges and all enhancement allegations were found true? What did you understand the maximum possible exposure to be? Did you advise Mr. Sanchez that if the jury returned a not true finding on the charge of premeditation that he would not be subject to a life term? Did you advise Mr. Sanchez that he could possibly be found guilty of only assault with a deadly weapon? Did you advise Mr. Sanchez that there was a solid defense to the firearm enhancement allegation?

Did you research the issue of what lesser included offenses applied to the charge of attempted murder? Did you have any tactical reason to rely on the trial court's explanation of applicable lesser included offenses? Did you consider whether the jury should be instructed on aider and abetter liability under the natural and probable consequences doctrine? If so, did you have any tactical reason to not request that the jury be so instructed?

I realize that you are a very busy trial lawyer, and that you are involved in current trial matters including I believe pro bono representation of Lonnie Franklin Jr. (dubbed "the grim sleeper") which you undertook around the same time-frame that you undertook representation of Mr. Sanchez. However, I do request that you give this matter your priority attention and remind you that you are under a continuing duty of loyalty to his former client. (*Galbraith v. State Bar of California* (1933) 218 Cal. 329, 333; *Wutchumna v. Water Co. v. Bailey* (1932) 216 Cal. 564, 573-574) and you are bound to place your former client's interests over your own. (ABA Standards for Criminal Justice (2nd ed. 1986 Supplement) Standard 4-1.6.) Even though the employment relationship between yourself and Mr. Sanchez has ended, "an attorney's obligation to [the] client does not cease with the termination of the employment relationship," but

Louisa B. Pensanti, Attorney at Law
August 18, 2012
Page 2

extends beyond and encompasses a continuing obligation "to avoid prejudice to the rights of the client." (State Bar of California Standing Committee on Professional Responsibility, Formal Opinion No. 1992-127, pp. 1-2; rule 3-700.)

In fact, in the criminal context in particular, trial counsel is ethically obligated to fully and candidly discuss matters relating to the representation of the client with appellate counsel and to respond to the questions of appellate counsel, even if to do so would be to disclose that trial counsel failed to provide effective assistance of counsel. This requirement is in accord with the general rule that the attorney owes a duty of complete fidelity to the client and to the interests of the client. "[I]asmuch as the attorney's duty to the client survives the termination of the attorney-client relationship, the fiduciary duty to the former client requires the attorney to protect the interests of the client and make appropriate disclosure." (State Bar of California Standing Committee on Professional Responsibility, Formal Opinion No. 1992-127, p. 4; italics added.) In accordance with the duty of complete fidelity to the client, it is also prohibited for a trial attorney to "assume a position adverse or antagonistic to [the client]. . . ." (*People v. Davis* (1957) 48 Cal.2d 241, 256.)

The disclosure requirement referred to above includes a duty to release any papers and property in the client's file to successor counsel. This rule encompasses "not just the pleadings, depositions and exhibits in the file, [but also] work product reasonably necessary to the client's representation . . . [and] [t]he attorney's impressions, conclusions, opinions, legal research, and legal theories prepared in the client's underlying case. . . ." (State Bar of California Standing Committee on Professional Responsibility, Formal Opinion No. 1992-127, p. 2, relying on rule 3-700(a) and (d); *Kallen v. Delug* (1984) 157 Cal.App.3d 940, 950.)

I urge you to place the interest of the client first rather than placing your own self-interest and reputation ahead of any duty to their client. I am enclosing a copy of Mr. Sanchez's written authorization for you to provide copies of documents you have in your possession, and I do request that you provide any such documents relevant to the matters raised in this letter. This would include such documents as police reports, investigation reports generated by yourself or your investigator, notes regarding witness interviews, discovery provided by the prosecution, forensic reports, expert evaluations, and attorney notes reflecting research and trial strategy.

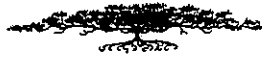
I look forward to your response.

Yours very truly,


Sylvia Whatley Beckham

EXHIBIT G

#2246
Lawyer



226 West Ojai Avenue, Suite 101, PMB 529, Ojai, California 93023-3214

TELEPHONE: (805) 646-6208

e-mail: s.beckham@att.net

September 20, 2012

Louisa B. Pensanti, Attorney at Law
Pensanti and Associates
14431 Ventura Boulevard, No. 227
Sherman Oaks, CA 91423

In re: People v. Israel Sanchez, 2d Dist. No. E239022
[Los Angeles County Superior Court No. BA372623]

Dear Ms. Pensanti,

I have already introduced myself as counsel appointed by the Court of Appeal in the above referenced matter. I have not received any response from you to my letter of August 18, 2012, wherein I requested that you provide copies of documents you have in your possession in the client's file including police reports, investigation reports generated by yourself or your investigator, notes regarding witness interviews, discovery provided by the prosecution, forensic reports, expert evaluations, and attorney notes reflecting research and trial strategy. I believe you are obliged to cooperate with this request.

In connection with the client's claims of ineffective assistance of counsel, please know that unless you take advantage of the opportunity to respond so that the Court of Appeal can consider any tactical reasons you may have had for certain action and inaction in representing your former client, I intend to attach a copy of this letter to the petition for writ of habeas corpus that I am currently drafting. This letter, with my declaration as to receiving no response from you, would be exhibits in support of a claim that trial counsel was asked about tactical reasons and failed to respond.

I offer you this opportunity in fairness and because when a reviewing court responds to a claim of ineffective assistance of counsel, it will usually defer to the tactical decisions of defense counsel. Where the record on appeal fails to disclose why counsel acted or failed to act in the manner challenged, the court will affirm the judgment unless counsel was asked for an explanation and failed to provide one or unless there could be no satisfactory explanation for the conduct. (See, e.g., *People v. Gray* (2005) 37 Cal.4th 168, 207.)

Louisa B. Pensanti, Attorney at Law
September 20, 2012
Page 2

Did you promise appellant's mother that you could get the client a "good deal"? Did you advise the client that he could possibly be found guilty of assault with a deadly weapon? What was your advice to the client as to his maximum possible exposure if found guilty on all charges and enhancement allegations? Did you advise the client that if there were a not true finding on the charge of premeditation, he could not be sentenced to a life term?

Before the hearing on the motion to exclude the confession, did you ask your client or his mother about, or undertake any investigation personally or through an investigator regarding, the client's educational background such as the last completed grade level, course grades, and any special education or remedial classes? Did you ask the client or his mother, or undertake any investigation personally or through an investigator regarding any mental health or emotional health diagnosis the client may have had currently or in the past? Did you have or consider having the client evaluated by an expert to determine his IQ, mental competence, and/or any other personality traits that would arguably make him susceptible to an implied promise of leniency during the interrogation? If you did not make inquiries or investigate, did you have a tactical reason for not doing so?

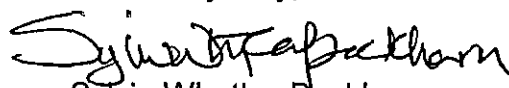
Did you have any tactical reason to not prepare any written motion to exclude the confession? Did you have a tactical reason to not provide any legal authority in support of the oral motion?

Did you consider whether the jury should be instructed on aider and abetter liability under the natural and probable consequences doctrine? If so, did you have any tactical reason to not request that the jury be so instructed?

You urged the court to stay the gang enhancement. Did you have any tactical reason to ask the court to stay that punishment rather than pursuing an order to strike the enhancement in the furtherance of justice?

I do need to receive your response by October 1, 2012, because the habeas petition will be submitted with the opening brief which is currently due on or before October 17, 2012, with extensions of the due date having already been granted. I enclose Israel Sanchez's written authorization for you to communicate with me about his case and provide the requested items from his file.

Yours very truly,


Sylvia Whatley Beckham

AUTHORIZATION

This document, or a photocopy thereof, will verify that my attorney, Sylvia Whatley Beckham, is authorized to communicate with probation officers, prior attorneys, prison authorities, psychiatrists, psychologists, physicians and all other persons having information which she deems necessary in her representation of me. I further authorize my attorney, Sylvia Whatley Beckham, to examine, inspect and make photocopies of all probation reports, documents in the possession of my prior attorneys, employment records, prison records, medical records, psychiatric records, and all correspondence, reports, charts and any other documents pertaining to me.

Dated: May, 15, 2002


ISRAEL JAMMIR SANCHEZ



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FROM Sylvia Whatley Beckham
226 W. Ojai Ave Suite 101, PMB 529
Ojai, CA 93023-3214

TO: Louisa B. Pensanti, Attorney at Law
Pensanti & Associates
14431 Ventura Blvd. No. 227
Sherman Oaks, CA 91423

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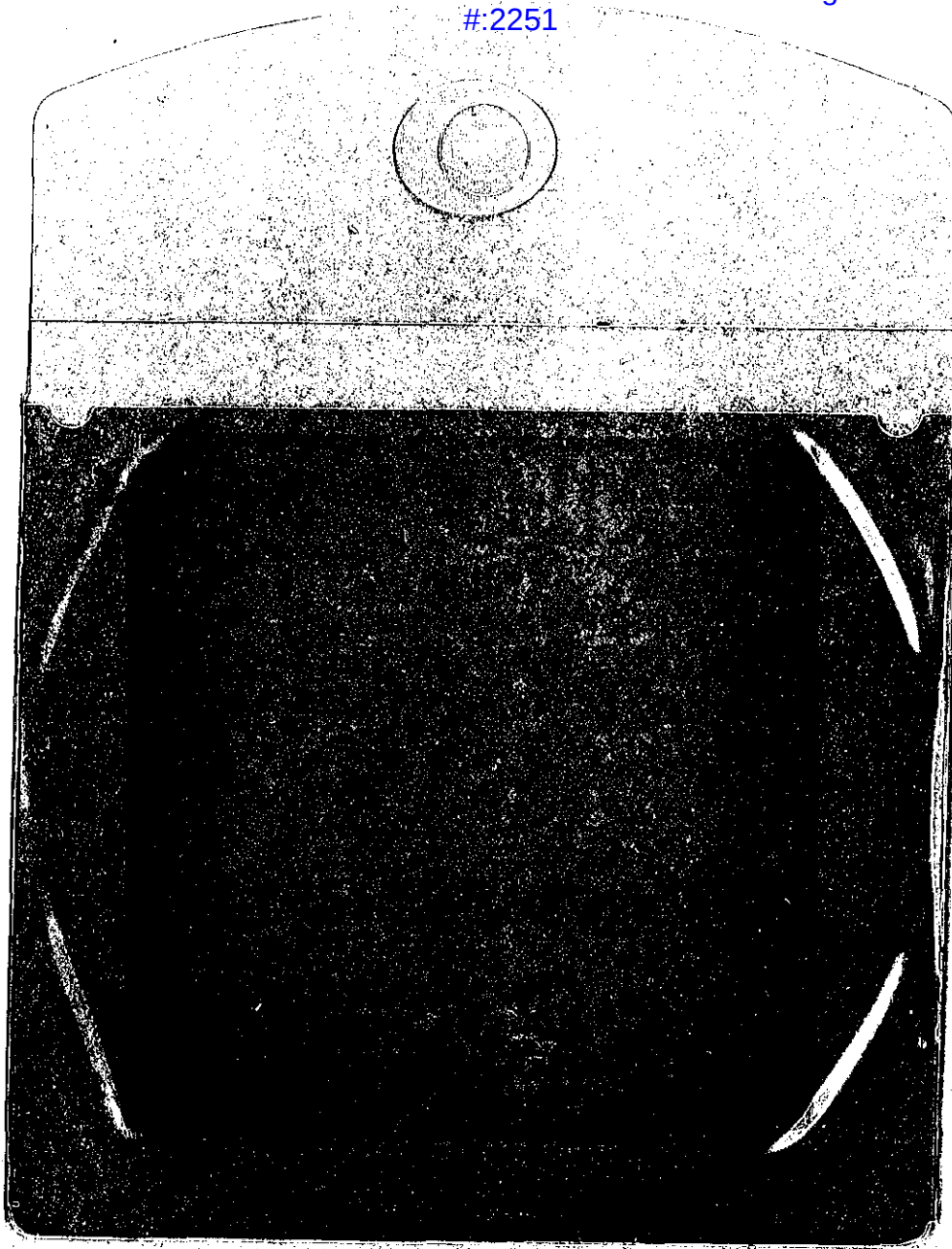


EXHIBIT H

Voice messages received from Attorney Louisa Pensanti

October 3, 2012 8:16 AM

“Hi Ms. Beckham. Uh, this is Attorney Louisa Pensanti. Sorry I haven’t been able to get back to you. I’ve been extremely busy running a business. And uhm, I’ve downsized, and so its been incredibly, incredibly stressful on me. I do want to answer your questions regarding People v. Israel Sanchez. You sent me a letter indicating that you were going to attach the letter to your, to your, uh, claim for ineffective assistance of counsel because I’m not answering your questions. But uhm, I do want to talk to you about this. I thought we did have a conversation. But I’m going to go through this right now.”

Did you promise appellant’s mother that you could get the client a “good deal”?

“I did not promise anything and I never promise anything when I discuss my clients’ matters with their parents or their loved ones or themselves. I did not promise anything. I indicated to the mother that I would try to get him a good deal.”

Did you advise the client that he could possibly be found guilty of assault with a deadly weapon?

“I advised my client that he could possibly be found guilty of all the charges.”

What was your advice to the client as to his maximum possible exposure if found guilty on all charges and enhancement allegations?

“And that’s life in prison which is what he was being faced with.”

Did you advise the client that if there were a not true finding on the charge of premeditation, he could not be sentenced to a life term?

“I don’t think we, well I do think we discussed the premeditation matter but I don’t think we talked about it before he was sentenced.”

END OF MESSAGE

October 3, 2012 8:20 AM

“Okay, I’m going on further. This is Louisa Pensanti. It’s regarding the People v. Israel Sanchez. I think we were talking about, uh . . .”

Before the hearing on the motion to exclude the confession, did you ask your client or his mother about, or undertake any investigation personally or through an investigator regarding, the client’s educational background such as the last completed grade level, course grandes, and any special education or remedial classes?

“‘Course grandes’ I don’t know what that is, maybe you mean course grades. Course grades?”

“Yes I did. I did make an inquiry regarding my client’s educational background. And I knew that he was of limited mental capacity. And I took that into, took that into account during the motion to exclude the confession.”

Did you ask the client or his mother, or undertake any investigation personally or through an investigator regarding any mental health or emotional health diagnosis the client may have had currently or in the past?

“And I did ask the mother regarding special education classes and things like that.”

Did you have or consider having the client evaluated by an expert to determine his IQ, mental competence, and/or any other personality traits that would arguably make him susceptible to an implied promise of leniency during the interrogation?

“I believe that we did have a psychologist appointed, but I’ll have to check on that to make sure.”

If you did not make inquiries or investigate, did you have a tactical reason for not doing so?

“No answer to that because, uh, need to find out what I actually did.”

Did you have any tactical reason to not prepare any written motion to exclude the confession? Did you have a tactical reason to not provide any legal authority in support of the oral motion?

“I believe there was a written motion.”

END OF MESSAGE

AT&T Messaging
3303 Wesleyan, Room 900
Houston, TX 77027



02 1M
000 4285865 NOV 13 2012
MAILED FROM ZIP CODE 77002

\$ 01.10⁰

EXHIBIT I

Pensanti & Associates
Attorneys at Law

A Professional Law Corporation

14431 Ventura Boulevard #227

Sherman Oaks, CA 91423

Telephone: (818) 947-7999 □ Fax: (818) 947-7995

Ms. Sylvia Whatley Beckham
226 West Ojai Avenue, Suite 101
PMB#529
Ojai, CA 93023-3214

October 8, 2012

Re: People v. Israel Sanchez-E239022

Dear Ms. Beckham,

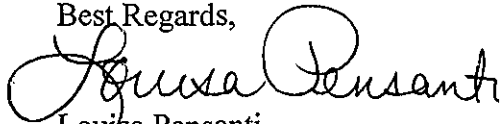
Enclosed is a copy of Israel's file including the CD's provided by the District Attorney's Office. If there is anything that you see is incomplete let me know.

In answer to your questions:

1. Q: Did you promise appellant's mother that you could get the client a "good deal"?
A: I would not and cannot make promises to any client regarding getting a "good deal." I probably said that I would do my best to get him a good deal. The problem with his matter is that he was never offered any deal.
2. Q: Did you advise the client that he could possibly be found guilty of assault with a deadly weapon?
A: I advised Israel of all the possible things he could be found guilty of including any lesser included crimes.
3. Q: What was your advice to the client as to his maximum possible exposure if found guilty on all charges and enhancement allegations?
A: I advised Israel that he was facing LIFE on both the crime and the allegations.
4. Q: Did you advise the client that if there were a not true finding on the charge of premeditation, he could not be sentenced to a life term?
A: No. I did not advise him of that.

5. Q: Before the hearing on the motion to exclude the confession...did I undertake any investigation regarding the client's special education or remedial classes?
A: Yes. I made inquiries.
6. Q: Did you have any tactical reason to not prepare any written motion to exclude the confession?
A: Time constraints prevented me from writing out the written motion.
7. Q: Aider and Abetter liability under the natural and probable consequences doctrine?
A: I considered it.
8. Stay instead of strike the gang enhancement?
A: I hoped for as much discretion that the judge could give.

Best Regards,


Louisa Pensanti
Attorney at Law



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Ojai, CA 93023-3214

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EXHIBIT J



**PATIENT / CAREGIVER
EDUCATION RECORD**

3810

990-000-916/2910-325-8821
TRAUMA, GOLF 2952
U/1/1/1850 E 6/16/2010
MARGULIES, DANIEL R
MARGULIES, DANIEL R
IP SUR PATIENT I.D.

UNIVERSAL CARDIAC-PULMONARY-RENAL EDUCATION

8. For questions and follow up appointment call:

Physician	Telephone Number	Type
Dr. Daniel Margulies	(310) 423-8874	Attending
	()	
	()	
	()	
	()	

9. Additional instructions / referrals:

10. Patient education materials:

- ☐ Supplementary booklet for newly diagnosed Heart Failure
- ☐ Supplementary Pacemaker / Implanted Cardioverter Defibrillator
- ☐ Smoking avoidance and cessation pamphlet has been given.
- Ask your nurse for information / eligibility regarding the Pneumonia Vaccination and Flu Shot (Vaccine).

Activities: NO strenuous activities or heavy lifting
X3 week

Follow up in ACE clinic on Thursdays
6/24/10 Call 310 423 2811
for appointment!

if patient
needs follow up
6/24/10
MARGULIES NOT
SERIOUS
XENT W/ 6/25
NOT 6/24/10

TAB 4 (PATIENT EDUCATION)

DISTRIBUTION: WHITE = Medical Record; YELLOW = Patient

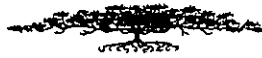
Form No. 8513 (Rev. 9/05) Page 4 of 6

THOMAS, WILLIAM 990000916

EXHIBIT K

Sylvia Whitley Beckham

Lawyer



226 West Ojai Avenue, Suite 101, PMB 529, Ojai, California 93023-3214

TELEPHONE: (805) 646-6208

e-mail: s.beckham@att.net

October 17, 2012

Louisa B. Pensanti, Attorney at Law
Pensanti and Associates
14431 Ventura Boulevard, No. 227
Sherman Oaks, CA 91423

In re: People v. Israel Sanchez, 2d Dist. No. E239022
[Los Angeles County Superior Court No. BA372623]

Dear Ms. Pensanti,

In addition to your voice messages of October 3, 2012, I received from you a box containing items of discovery provided by the prosecution, and the preliminary hearing transcript, along with your letter to dated October 8, 2012. The box was postmarked October 12, and it was received on October 13, 2012.

In your letter, you asked me to let you know if I saw anything that was not complete. I see that the materials you provided do not include any correspondence, investigation reports generated by yourself or your investigator, notes regarding witness interviews by defense investigator or yourself, any expert evaluations prepared at your request, or any attorney notes reflecting research and trial strategy.

I am writing to follow up on our communication in the above referenced matter. This is to confirm that on June 25, 2012, when we initially discussed this case, you recalled that there was a plea disposition offer of 39 years determinate, although you did not recall how that was composed.

This is to confirm that on June 25, 2012, when I asked you about your advice to the client about "the 10-20-Life law," you responded, "What's that?"

This is to confirm that on June 25, 2012, when asked about the client's level of education, you informed me that you believe that he had a GED or a high school diploma, but you did not know.

This is to confirm that on June 25, 2012, when I asked you your opinion of the client's level of intelligence that you gave your opinion that it was "normal" although you observed "bursts of high function" to offer suggestions to you.

Sylvia Whalley Beckham
Lawyer

Louisa B. Pensanti, Attorney at Law
October 17, 2012
Page 2

As to whether you promised the client's mother that you would get the client a "good deal," this is to confirm that you left the following statements for my on my voice messaging service at 8:16 AM on October 3, 2012: "I did not promise anything and I never promise anything when I discuss my clients' matters with their parents or their loved ones or themselves. I did not promise anything. I indicated to the mother that I would try to get him a good deal."

As to whether you advised the client that he could be found guilty of assault with a deadly weapon, this is to confirm that you stated on my voice messaging service at 8:16 AM on October 3, 2012: "I advised my client that he could possibly be found guilty of all the charges."

As to your advice to the client as to his maximum possible exposure if found guilty on all charges and enhancement allegations, this is to confirm that you stated on my voice messaging service at 8:16 AM on October 3, 2012, "And that's life in prison which is what he was being faced with."

As to your advise the client that if there were a not true finding on the charge of premeditation, he could not be sentenced to a life term, this is to confirm that you stated on my voice messaging service at 8:16 AM on October 3, 2012, "I don't think we, well I do think we discussed the premeditation matter but I don't think we talked about it before he was sentenced."

As to whether you asked the client or his mother about, or undertook any investigation personally or through an investigator regarding, the client's educational background such as the last completed grade level, course grades, and any special education or remedial classes, this is to confirm that you stated on my voice messaging service at 8:20 AM on October 3, 2012, "Yes I did. I did make an inquiry regarding my client's educational background. And I knew that he was of limited mental capacity. And I took that into, took that into account during the motion to exclude the confession."

As to whether you asked the client or his mother, or undertook any investigation personally or through an investigator regarding any mental health or emotional health diagnosis the client may have had currently or in the past, this is to confirm that you stated on my voice messaging service at 8:20 AM on October 3, 2012, "And I did ask the mother regarding special education classes and things like that."

As to whether you considered having the client evaluated by an expert to determine his IQ, mental competence, and/or any other personality traits that would arguably make him susceptible to an implied promise of leniency during the interrogation, this is to confirm that you stated on my voice messaging service at 8:20 AM on October 3, 2012, "I believe that we did have a psychologist appointed, but I'll have to check on that to make sure."

Louisa B. Pensanti, Attorney at Law
October 17, 2012
Page 3

As to whether, if you did not make inquiries or investigate, did you have a tactical reason for not doing so, this is to confirm that you stated on my voice messaging service at 8:20 AM on October 3, 2012, "No answer to that because, uh, need to find out what I actually did."

As to whether you had any tactical reason to not prepare any written motion to exclude the confession, this is to confirm that you stated on my voice messaging service at 8:20 AM on October 3, 2012, "I believe there was a written motion."

As to whether you had a tactical reason to not provide any legal authority in support of the oral motion, this is to confirm that you did not respond to that question in your voice messages of October 3, 2012.

As to whether you considered whether the jury should be instructed on aider and abetter liability under the natural and probable consequences doctrine, this is to confirm that you did not respond to that question in your voice messages of October 3, 2012.

As to your advocating at the sentencing hearing for the court to stay the gang enhancement, and whether you had any tactical reason to ask the court to stay that punishment rather than pursuing an order to strike the enhancement in the furtherance of justice, this is to confirm that you did not respond to that question in your voice messages of October 3, 2012.

It is my understanding that you represented to the court on the record in People v. Franklin, Case No. BA382700, that you had never defended a death penalty case before, but you had experience handling multiple murder cases. Please list those cases, including which Superior Court and under which case numbers those multiple murder cases tried.

If you have any further comment in addition to your responses as confirmed in this letter, as well as in your letter of October 8, 2012, please respond on or before October 27, 2012. If I do not receive any further response by that date, I will have to proceed with the information that you have provided.

Yours very truly,


Sylvia Whatley Beckham

EXHIBIT L

Pensanti & Associates
Attorneys at Law

A Professional Law Corporation

14431 Ventura Boulevard #227

Sherman Oaks, CA 91423

Telephone: (818) 947-7999 □ Fax: (818) 947-7995

Ms. Sylvia Whatley Beckham, Lawyer
226 West Ojai Avenue
Suite 101, PMB 529
Ojai, CA 93023-3214

October 26, 2012

RE: People v. Israel Sanchez, 2nd Dist. E239022
Los Angeles County Superior Court BA-372623

Ms. Beckham,

I have your response of October 17, 2012. Its transparency is noted.

It appears you are interested in providing an Ineffective Assistance of Counsel component in your appellate brief. I am eager to assist my client Israel Sanchez in his appeal, but I must draw the line when from an impromptu phone call you have either willingly or ineptly misrepresented my ad hoc remarks.

On June 25, 2012, I took your call as I was driving back from a San Bernardino County Courthouse and prefaced our conversation with the proviso that while driving in traffic I had neither access to the file nor the benefit of preparing for your questions. Nevertheless, for Mr. Sanchez's sake I tried to answer your questions as best I could--even when during that conversation your voice was sometimes unintelligible and, as an added irritant, there were several drops necessitating callbacks.

In that June 25, 2012 conversation you indicated that Israel told you there was a plea disposition offer of 39 years determinate. I responded that I could not recall, but that it was possible.


Again from that June 25, 2012, you indicate that when you asked me about my advice to the client about "the 10-20-Life law" I responded, "What's that?" To propone that I would not know about "the 10-20-Life law" belies either your failure to understand what I said or your eagerness to falsify.

On June 25, 2012, when asked about the client's level of education, I told you I believed he had a GED or a high school diploma, but that I would have to look at the file to confirm or deny it.

On June 25, 2012, when you asked my opinion of the client's level of intelligence I do not recall giving an opinion, yet you wrongly assert that I "...observed 'bursts of high function' to offer suggestions to me." I am unsure of what your sentence states.

Because your estimations of the June 25, 2012 discussion are muddled, I refute them. Additionally based on your endeavor to put words in my mouth, I endorse nothing you claim I left on your voice messaging service at 8:20 A.M. on October 3, 2012.

On rereading the above you will probably become aware of an unfriendly tone. Good. However, because Israel Sanchez deserves the best appeal he can get, I remain willing to cooperate--although in a professional setting.

A handwritten signature in black ink, appearing to read "Louisa Pensanti". The signature is fluid and cursive, with the first name "Louisa" and last name "Pensanti" clearly distinguishable.

Louisa Pensanti
Attorney at Law

PENSANTI & ASSOCIATES
14431 Ventura Blvd.
Suite # 227
Sherman Oaks, CA 91423

SANTA CLAYTON CA 913

27 OCT 2012 PM 2:1



Ms. Sylvia Whwatley Beckham, Lawyer
226 West Ojai Avenue
Suite 101, PMB 529
Ojai, CA
93023-3214

93023327826

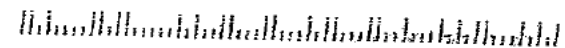


EXHIBIT M

Sylvia Whatley Beckham

Lawyer



226 West Ojai Avenue, Suite 101, PMB 529, Ojai, California 93023-3214

TELEPHONE: (805) 646-6208

e-mail: s.beckham@att.net

October 30, 2012

Louisa B. Pensanti, Attorney at Law
Pensanti and Associates
14431 Ventura Boulevard, No. 227
Sherman Oaks, CA 91423

In re: People v. Israel Sanchez, 2d Dist. No. E239022
[Los Angeles County Superior Court No. BA372623]

Dear Ms. Pensanti,

Thank you for your letter of October 26, which was postmarked October 27, 2012. Your letter indicates that you are eager to assist Israel Sanchez, and are willing to cooperate in a professional setting.

As I explained in my letter of October 17, the contents of the box you sent to me on October 12, 2012, is limited to the Information, the preliminary hearing transcript, and discovery provided by the prosecution. It appears that you did not provide the complete client file.

Therefore, this is to again request that you cooperate with appellate counsel and provide the client's file. I need the entire file, including but not limited to the retainer agreement, all correspondence, all investigation reports generated by yourself or your investigator, all notes or memorandums regarding witness interviews by defense investigator or yourself, any expert evaluations prepared at your request, memorandums to the file about plea discussions or any other matters related to this case, all attorney notes and work product of research, trial strategy, and sentencing.

It has been approximately ten weeks since I first requested the client's file. Please endeavor to comply with this request in the absolute immediate future.

Yours very truly,

Sylvia Whatley Beckham

PROOF OF SERVICE BY MAIL

STATE OF CALIFORNIA, COUNTY OF VENTURA

I am employed in the County of Ventura, in the State of California and my business address is 226 West Ojai Avenue, Suite 101, PMB 529, Ojai, California, 93023-3214.

On November ____, 2012, I served the attached *Petition for Writ of Habeas Corpus Attachments*, related to Case No. B239022, on the parties legally entitled to service, by placing true copies thereof enclosed in sealed envelopes addressed as follows:

(Representing respondent, The People)

↓

Kamala D Harris
Attorney General
300 South Spring Street
Los Angeles, CA 90013

Office of the District Attorney
County of Los Angeles
210 West Temple Street, 17th Floor
Los Angeles, CA 90012

Hon. Craig Richman
Judge of the Superior Court
CSF-CJC, 210 West Temple Street
Los Angeles, CA 90012

California Appellate Project
520 South Grand Avenue, 4th Floor
Los Angeles, CA 90071

Israel J. Sanchez, No. AK8280
K.V.S.P., B-6 203 low
P.O. Box 5102
Delano, CA 93216

Louisa Belle Pensanti, Attorney at Law
Pensanti and Associates
14431 Ventura Boulevard, No. 227
Sherman Oaks, CA 91423

I caused such envelope with postage thereon fully prepaid to be placed in the United States Mail at Ojai, California.

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

Executed this _____ day of November, 2012, at Ojai, California.


Sylvia Whatley Beckham

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SUPERIOR COURT OF THE STATE OF CALIFORNIA
FOR THE COUNTY OF LOS ANGELES
DEPARTMENT 100 HON. PATRICIA M. SCHNEGG, JUDGE
PEOPLE OF THE STATE OF CALIFORNIA,)
PLAINTIFF,)
VS.) SUPERIOR COURT
ISRAEL SANCHEZ,) NO. BA372623
DEFENDANT.)

REPORTER'S TRANSCRIPT OF PROCEEDINGS
JANUARY 2, JUNE 14 AND JUNE 22, 2011

APPEARANCES:

FOR THE PLAINTIFF: JACKIE LACEY,
DISTRICT ATTORNEY
BY: EUGENE HANRAHAN, DEPUTY
18000 CRIMINAL COURTS BUILDING
210 WEST TEMPLE STREET
LOS ANGELES, CALIFORNIA 90012
FOR THE DEFENDANT: PENSANTI & ASSOCIATES,
BY: LOUISA PENSANTI
14431 VENTURA BOULEVARD
SUITE 227
SHERMAN OAKS, CALIFORNIA 91423

CANDACE J. HENRY, #9311
OFFICIAL REPORTER

1 CASE NAME: PEOPLE VS. ISRAEL SANCHEZ
2 CASE NUMBER: BA372623
3 LOS ANGELES, CALIFORNIA WEDNESDAY, JANUARY 2, 2011
4 DEPARTMENT 100 HON. PATRICIA SCHNEGG, JUDGE
5 REPORTER: CANDACE J. HENRY, CSR #9311
6 TIME: 9:59 A.M.
7

8 APPEARANCES:

9 JOCELYN SICAT, FOR LOUISA PENSANTI, ATTORNEY AT
10 LAW, FOR THE DEFENDANT; EUGENE HANRAHAN, DEPUTY
11 DISTRICT ATTORNEY, FOR THE PEOPLE OF THE STATE
12 OF CALIFORNIA;
13

14 THE COURT: NUMBER 11, SANCHEZ. APPEARANCES.

15 MS. SICAT: GOOD MORNING, YOUR HONOR.

16 JOCELYN SICAT, S-I-C-A-T, ON BEHALF OF MS. LOUISA
17 PENSANTI WHO'S ON BEHALF OF MR. SANCHEZ WHO'S BACK IN
18 LOCKUP.

19 MR. HANRAHAN: GENE HANRAHAN FOR THE PEOPLE.

20 THE COURT: JUDGE VEALS WANTED TO HEAR THIS MOTION
21 TO CONTINUE.

22 MS. SICAT: I'M NOT SURE. I WAS TOLD I THOUGHT WE
23 WERE SUPPOSED TO BE IN JUDGE VEALS' COURT, BUT THEY TOLD
24 ME TO COME DOWN TO 100.

25 THE COURT: THAT'S TRUE BECAUSE THIS CASE IS READY
26 TO GO TO TRIAL --

27 MS. SICAT: OKAY.

28 THE COURT: -- AS EIGHT OF 10 DATE TODAY. SO

1 THAT'S WHY YOU WERE SENT HERE. JUDGE VEALS DIRECTED IT
2 HERE. BUT HE ALSO LEFT A NOTE THAT IF THERE WAS A 1050
3 HE WANTED TO BE THE ONE --

4 MS. SICAT: TO HEAR IT.

5 THE COURT: -- TO DETERMINE WHETHER IT SHOULD BE
6 GRANTED OR NOT.

7 MS. SICAT: OKAY.

8 THE COURT: I DON'T HAVE A PROBLEM WITH THAT.
9 LOTS OF TIMES THAT HAPPENS.

10 DO YOU KNOW ANY MORE THAN WHEN WERE YOU
11 LAST IN JUDGE VEALS' COURT?

12 MR. HANRAHAN: WE WERE LAST IN JUDGE VEALS' COURT
13 ON JANUARY 25TH. AND AT THAT TIME, I BELIEVE THE
14 DEFENSE COUNSEL -- GENE HANRAHAN FOR THE PEOPLE -- AND
15 WHOEVER WAS STANDING IN FOR MS. PENSANTI DID INDICATE
16 THAT MS. PENSANTI WAS GOING TO BE IN TRIAL. THAT SHE
17 DID INTEND THAT A 1050 WOULD BE FILED. AND,
18 NEVERTHELESS, JUDGE VEALS SENT IT HERE. SO I -- FOR
19 WHAT IT'S WORTH, I HAVE CALLED OFF MY WITNESSES FOR
20 TODAY IN RELIANCE ON THE 1050. I COULD PROBABLY REEL
21 THEM BACK IN IF WE WERE SENT OUT, BUT --

22 THE COURT: WELL, I HAVE A FEELING THAT THE PERSON
23 WHO'S APPEARING HERE IS NOT PREPARED TO GO TO TRIAL.

24 MS. SICAT: I AM NOT, YOUR HONOR.

25 THE COURT: SO I HAVE HERE THAT MS. PENSANTI IS
26 ACTUALLY ENGAGED?

27 MS. SICAT: YES, IN MURRIETTA.

28 THE COURT: MURRIETTA?

1 MS. SICAT: RIVERSIDE COUNTY.

2 THE COURT: IS THAT NEAR TEMECULA?

3 MS. SICAT: YES.

4 THE COURT: WHEN IS SHE SUPPOSED TO BE --

5 MS. SICAT: IT'S ESTIMATED TO BE A THREE- TO
6 FOUR-WEEK TRIAL, YOUR HONOR. AND I HAVEN'T HAD A CHANCE
7 TO TALK TO THE PEOPLE ABOUT TRAILING THIS. IF YOU'RE
8 INCLINED TO GRANT THE 1050, WE CAN PICK A DATE. IF NOT,
9 THEN I CAN SAVE THOSE DATES.

10 THE COURT: WELL, WHAT KIND OF DATES HAVE YOU
11 SELECTED?

12 MS. SICAT: BECAUSE OF MS. PENSANTI'S TRIAL
13 SCHEDULE, PRELIM SCHEDULE, WE CHOSE APRIL 4TH, ZERO OF
14 10.

15 THE COURT: APRIL?

16 MS. SICAT: YES. SHE DOES HAVE A COUPLE OTHER
17 LONG CAUSE TRIALS IN THE LINE.

18 THE COURT: THIS CAST ISN'T THAT OLD.

19 MR. HANRAHAN: NO.

20 THE COURT: I HAVE THE INFORMATION WAS FILED ON --
21 ATTEMPTED MURDER?

22 MR. HANRAHAN: YEAH. NOVEMBER 4TH, 2010. IT'S
23 NOT A REFILING. I'VE WANTED TO GO TO TRIAL IN THIS
24 MONTH JUST GIVEN MY SCHEDULE. I START BACK UP AT THE
25 END OF THIS MONTH. AND I'M GOING TO BE IN TRIAL FOR THE
26 END OF THIS MONTH AND THE FIRST FEW WEEKS OF MARCH AND
27 THEN GOING ON VACATION FOR A WEEK. SO THAT'S THE
28 PEOPLE'S SCHEDULE.

1 THE COURT: APRIL 4TH, ZERO OF 10. IS THAT WHAT
2 YOU SUGGESTED? I'M INCLINED TO GRANT THAT BECAUSE IF IT
3 WAS A MATTER OF MS. PENSANTI NOT BEING READY, I WOULD
4 SEND IT BACK THERE FOR A DETERMINATION. IF SHE'S STILL
5 ENGAGED IN TRIAL, I HAVE NO CHOICE BUT TO DO THAT. SO I
6 WILL GRANT IT, BUT LET MS. PENSANTI KNOW THAT APRIL 4TH
7 IS NOT A DATE WE'RE GOING TO MOVE AROUND FOR HER. SHE'S
8 GOING TO HAVE TO START WORKING HER TRIAL SCHEDULE AROUND
9 THIS CASE. ALL RIGHT?

10 MS. SICAT: YES.

11 THE COURT: SO, MR. SANCHEZ, DO YOU AGREE TO WAIVE
12 YOUR RIGHT TO A SPEEDY TRIAL AND AGREE THAT YOUR NEW
13 TRIAL DATE WILL BE APRIL 4TH? WE'LL GO TO TRIAL ON THAT
14 DATE OR WITHIN 10 DAYS OF THAT DATE.

15 THE DEFENDANT: YES, MA'AM.

16 THE COURT: COUNSEL JOIN?

17 MS. SICAT: JOIN, YOUR HONOR. WILL IT IN BE THIS
18 COURT OR BACK --

19 THE COURT: NO, YOU WON'T. YOU'LL BE GOING BACK
20 TO JUDGE VEALS IN DEPARTMENT 122 FOR THE ZERO OF 10
21 DATE.

22 MS. SICAT: THANK YOU, YOUR HONOR.

23 MR. HANRAHAN: YOUR HONOR, COULD THE COURT QUICKLY
24 ORDER BACK A WITNESS FOR THE PEOPLE? YESSICA LUCERO.

25 THE COURT: J-E-S-S-I-C-A.

26 MR. HANRAHAN: ACTUALLY WITH A Y.

27 THE COURT: L-U-C-E-R-O.

28 MR. HANRAHAN: YES. AND COULD THE COURT ALSO

1 MAINTAIN THE ARREST WARRANT BODY ATTACHMENT FOR
2 WILLIAM THOMAS?

3 THE COURT: IS THAT THE ONE ISSUED FIRST TRIAL?
4 IT'S BEEN HERE -- THIS IS SANCHEZ.

5 MR. HANRAHAN: IT'S BEEN ISSUED AND HELD IN JUDGE
6 VEALS' COURT.

7 THE COURT: YOU JUST WANT TO KEEP TRACK OF IT?

8 MR. HANRAHAN: YES.

9 THE COURT: DO YOU WANT MS. LUCERO BACK HERE ON
10 APRIL 4TH?

11 MR. HANRAHAN: PLEASE, YES.

12 THE COURT: DO YOU NEED AN INTERPRETER FOR
13 ANYTHING? NO? OKAY.

14 YOU'RE ORDERED TO RETURN ON APRIL 4TH AT
15 8:30 A.M., THEN.

16 MR. HANRAHAN: THANK YOU, YOUR HONOR.

17 MS. SICAT: THANK YOU.

18 THE COURT: AND THE BODY ATTACHMENT FOR MR. THOMAS
19 WILL CONTINUE TO HOLD TO APRIL 4TH.

20 MR. HANRAHAN: THANK YOU.

21

22 (AT 10:05 A.M., AN ADJOURNMENT WAS TAKEN
23 UNTIL MONDAY, APRIL 4, 2011, DEPARTMENT
24 122 AT 8:30 A.M.)

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28

1 CASE NAME: PEOPLE VS. ISRAEL SANCHEZ
2 CASE NUMBER: BA372623
3 LOS ANGELES, CALIFORNIA TUESDAY, JUNE 14, 2011
4 DEPARTMENT 100 HON. PATRICIA SCHNEGG, JUDGE
5 REPORTER: CANDACE J. HENRY, CSR #9311
6 TIME: 9:13 A.M.

7

8 APPEARANCES:

9 LOUISA PENSANTI, ATTORNEY AT LAW, FOR THE
10 DEFENDANT; GENE HANRAHAN, DEPUTY DISTRICT
11 ATTORNEY, FOR THE PEOPLE OF THE STATE OF
12 CALIFORNIA;

13

14 THE COURT: PEOPLE VS. SANCHEZ, BA372623. AND
15 WE'RE GOING TO NEED MR. SANCHEZ OUT.

16 THE DEPUTY: YES, YOUR HONOR.

17 THE COURT: APPEARANCES.

18 MS. PENSANTI: GOOD MORNING, YOUR HONOR.

19 LOUISA PENSANTI ON BEHALF OF MR. SANCHEZ.

20 MR. HANRAHAN: GOOD MORNING, YOUR HONOR.

21 GENE HANRAHAN FOR THE PEOPLE.

22 THE COURT: HAVE YOU BOTH DISCUSSED ANOTHER DATE?

23 MS. PENSANTI IS ENGAGED IN ANTELOPE VALLEY.

24 MR. HANRAHAN: MY UNDERSTANDING WAS THIS TRIAL WAS
25 GOING TO FOLLOW THE ONE FROM ANTELOPE VALLEY THAT HAS
26 ABOUT A SEVEN TO 10-DAY TIME ESTIMATE. SO SEVEN TO 10
27 DAYS FROM NOW IS GOOD WITH THE PEOPLE, SO THAT'S --

28 MS. PENSANTI: WHAT IS THAT?

1 MR. HANRAHAN: TODAY IS THE 14TH. 24TH?

2 MS. PENSANTI: TWENTY-SECOND.

3 THE COURT: CAN YOU BE DONE BY THEN?

4 MS. PENSANTI: I THINK SO.

5 THE COURT: TWENTY-SECOND, THEN. DO YOU WANT TO
6 COME BACK HERE AS AN EIGHT OF 10 OR DO YOU WANT TO GO
7 BACK TO THE TRIAL COURT AS ZERO OF 10?

8 MR. HANRAHAN: I'D RATHER COME BACK HERE.

9 MS. PENSANTI: HERE.

10 MR. HANRAHAN: EIGHT OF 10 IS SIMPLER.

11 THE COURT: THAT'S FINE. OKAY. I DO BELIEVE THIS
12 IS MR. SANCHEZ. DOES HE NEED AN INTERPRETER?

13 MS. PENSANTI: OH.

14 THE DEFENDANT: NO, MA'AM.

15 MS. PENSANTI: NO.

16 THE COURT: OKAY. GREAT. HAVE YOU ALREADY TOLD
17 YOUR CLIENT WE'RE GOING TO BE CONTINUING THE CASE?

18

19 (OFF-THE-RECORD DISCUSSION BETWEEN DEFENSE
20 COUNSEL AND DEFENDANT.)

21

22 THE COURT: MR. SANCHEZ?

23 THE DEFENDANT: YES, MA'AM.

24 THE COURT: SIR, DO YOU AGREE TO WAIVE YOUR RIGHT
25 TO A SPEEDY TRIAL AND AGREE THAT YOUR NEW TRIAL DATE
26 WILL BE JUNE 22ND? WE'LL GO TO TRIAL ON THAT DATE OR
27 WITHIN TWO DAYS OF THAT. DO YOU AGREE TO THAT?

28 THE DEFENDANT: YES, YOUR HONOR.

1 THE COURT: THANK YOU.

2 COUNSEL JOIN?

3 MS. PENSANTI: I JOIN.

4 THE COURT: THAT WILL BE BACK HERE IN DEPARTMENT
5 100.

6 MS. PENSANTI: THANK YOU.

7 MR. HANRAHAN: YOUR HONOR, COULD THE COURT ORDER
8 BACK YESSICA LUCERO INTO COURT Y-E-S-S-I-C-A, LUCERO,
9 L-U-C-E-R-O. SHE'S IN THE COURT RIGHT NOW.

10 THE COURT: MS. LUCERO, WHERE ARE YOU? ALL RIGHT.
11 MS. LUCERO, YOU'RE ORDERED TO RETURN TO THIS COURT ON
12 JUNE 22ND AT 8:30 A.M. DO YOU UNDERSTAND THAT?

13 MS. LUCERO: YES.

14 THE COURT: THANK YOU VERY MUCH.

15

16 (AT 9:16 A.M., AN ADJOURNMENT WAS TAKEN
17 UNTIL WEDNESDAY, JUNE 22, 2011, DEPARTMENT
18 100 AT 8:30 A.M.)

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1 CASE NAME: PEOPLE VS. ISRAEL SANCHEZ
2 CASE NUMBER: BA372623
3 LOS ANGELES, CALIFORNIA WEDNESDAY, JUNE 22, 2011
4 DEPARTMENT 100 HON. PATRICIA SCHNEGG, JUDGE
5 REPORTER: CANDACE J. HENRY, CSR #9311
6 TIME: 10:10 A.M.
7
8 APPEARANCES:
9 JOCELYN SICAT, FOR LOUISA PENSANTI, ATTORNEY AT
10 LAW, FOR THE DEFENDANT; GENE HANRAHAN, DEPUTY
11 DISTRICT ATTORNEY, FOR THE PEOPLE OF THE STATE
12 OF CALIFORNIA;
13
14 THE COURT: PEOPLE VERSUS SANCHEZ. WE'RE GOING TO
15 NEED MR. SANCHEZ OUT. APPEARANCES.
16 MS. SICAT: GOOD MORNING, YOUR HONOR.
17 JOCELYN SICAT ON BEHALF OF LOUISA PENSANTI ON BEHALF OF
18 MR. SANCHEZ PRESENT AND IN CUSTODY BEFORE THE COURT.
19 THE COURT: NOT QUITE BEFORE THE COURT.
20 MS. SICAT: WELL, IN LOCKUP ON HIS WAY BEFORE THE
21 COURT, YOUR HONOR.
22 MR. HANRAHAN: GOOD MORNING, YOUR HONOR.
23 GENE HANRAHAN FOR THE PEOPLE.
24 THE COURT: THANK YOU. I KNOW THAT MS. PENSANTI
25 IS ENGAGED IN TRIAL IN ANTELOPE VALLEY STILL.
26 MS. SICAT: YES. I SPOKE TO MR. HANRAHAN THIS
27 MORNING, YOUR HONOR. IF IT'S OKAY WITH THE COURT, SHE
28 WOULD LIKE TO DO AN EIGHT OF 10 DATE FOR -- MR. HANRAHAN

1 INDICATED TO ME THAT HE DOES HAVE JURY DUTY ON MONDAY
2 AND DEPENDING ON THE OUTCOME OF THAT, BECAUSE OF --

3 THE COURT: YOU KNOW, IF YOU DON'T GET
4 MS. PENSANTI ON THE DANCE CARD, YOU MIGHT GO TO THE END
5 OF THE LINE. DO YOU WANT ME TO CONTINUE YOUR JURY DUTY
6 FOR YOU?

7 MR. HANRAHAN: YES, I WOULD ASK THE COURT TO DO
8 THAT FOR ME.

9 THE COURT: WHAT WE'LL DO IS MAKE A REQUEST. IF
10 YOU COULD BRING ME YOUR JUROR -- IN THIS BUILDING?

11 MR. HANRAHAN: NO. AIRPORT.

12 THE COURT: THAT CAN BE -- COME TALK TO ME
13 AFTERWARDS.

14 MR. HANRAHAN: OKAY.

15 MS. SICAT: ALSO, I WANTED TO -- WE'RE ALSO
16 HOPEFULLY DISCUSSING AN OFFER THAT WAS CONVEYED TO
17 MR. HANRAHAN AND HOPEFUL FOR CONSIDERATION FROM HIS
18 SUPERVISOR.

19 THE COURT: WITHIN STRIKING DISTANCE?

20 MR. HANRAHAN: PROBABLY NOT.

21 THE COURT: OKAY. ALL RIGHT. WHAT ABOUT -- DO WE
22 HAVE A BODY ATTACHMENT FOR THOMAS OUTSTANDING OR IS HE
23 IN CUSTODY?

24 MR. HANRAHAN: IT IS OUTSTANDING.

25 THE COURT: BUT IT HAS BEEN ISSUED?

26 MR. HANRAHAN: YES.

27 THE COURT: ALL RIGHT. LET'S JUST CONFIRM THAT
28 WAS ISSUED.

1 ALL RIGHT. MR. SANCHEZ, SIR, DO YOU AGREE
2 TO WAIVE YOUR RIGHT TO SPEEDY TRIAL AND AGREE THAT YOUR
3 NEW TRIAL DATE WILL BE THE 28TH OF JUNE? AND WE'LL GO
4 TO TRIAL ON THAT DATE OR WITHIN TWO DAYS OF THAT DATE.

5 THE DEFENDANT: YES, YOUR HONOR.

6 THE COURT: THANK YOU.

7 COUNSEL JOIN?

8 MS. SICAT: JOIN.

9 MR. HANRAHAN: YOUR HONOR, TO THAT DATE, COULD THE
10 COURT ALSO ORDER BACK YESSICA LUCERO, YESSICA BEGINNING
11 WITH A Y-E-S-S-I-C-A, LUCERO, L-U-C-E-R-O.

12 THE COURT: MS. LUCERO, STAND UP. YOU'RE ORDERED
13 TO RETURN TO THIS COURT ON JUNE 28TH. THAT'S NEXT
14 TUESDAY AT 8:30 A.M. DO YOU UNDERSTAND THAT?

15 MS. LUCERO: YES.

16 THE COURT: THANK YOU.

17

18 (AT 10:12 A.M., AN ADJOURNMENT WAS TAKEN
19 UNTIL TUESDAY, JUNE 28, 2011, DEPARTMENT
20 100 AT 8:30 A.M.)

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SUPERIOR COURT OF THE STATE OF CALIFORNIA
FOR THE COUNTY OF LOS ANGELES
DEPARTMENT 100 HON. PATRICIA M. SCHNEGG, JUDGE
PEOPLE OF THE STATE OF CALIFORNIA,)
PLAINTIFF,) NO. BA372623
VS.) REPORTER'S
ISRAEL SANCHEZ,) CERTIFICATE
DEFENDANT.)

I, CANDACE J. HENRY, CSR #9311, OFFICIAL REPORTER
OF THE STATE OF CALIFORNIA, FOR THE COUNTY OF
LOS ANGELES, DO HEREBY CERTIFY THAT THE FOREGOING PAGES
1 THROUGH 11 COMPRISE A FULL, TRUE, AND CORRECT
TRANSCRIPT OF THE PROCEEDINGS AND TESTIMONY TAKEN IN THE
MATTER OF THE ABOVE-ENTITLED CAUSE ON JANUARY 2, JUNE 14
AND JUNE 22, 2011.

DATED THIS 9TH DAY OF DECEMBER, 2016.

 , CSR #9311
OFFICIAL REPORTER

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SUPERIOR COURT OF THE STATE OF CALIFORNIA
FOR THE COUNTY OF LOS ANGELES
DEPARTMENT 100 HON. PATRICIA M. SCHNEGG, JUDGE
PEOPLE OF THE STATE OF CALIFORNIA,)
PLAINTIFF,) NO. BA372623
VS.) REPORTER'S
ISRAEL SANCHEZ,) CERTIFICATE
DEFENDANT.)

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MATTER OF THE ABOVE-ENTITLED CAUSE ON JANUARY 2, JUNE 14
AND JUNE 22, 2011.

DATED THIS 9TH DAY OF DECEMBER, 2016.

 , CSR #9311
OFFICIAL REPORTER

1 IN THE SUPERIOR COURT OF THE STATE OF CALIFORNIA
2 FOR THE COUNTY OF LOS ANGELES

3
4 DEPARTMENT CCB 122

HON. CRAIG E. VEALS, JUDGE

5
6 THE PEOPLE OF THE STATE OF
CALIFORNIA,

7 PLAINTIFF,

8 VS.

9 ISRAEL JAMMIR SANCHEZ,

10 DEFENDANTS.
11

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) NO. BA 372623
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12
13 REPORTER'S TRANSCRIPT OF PROCEEDINGS

14 THURSDAY, JANUARY 6, 2011

15
16
17 FOR THE PEOPLE:

18 JACKIE LACEY, DISTRICT ATTORNEY
19 BY: EUGENE HANRAHAN, DEPUTY
18000 FOLTZ CRIMINAL JUSTICE CENTER
20 210 WEST TEMPLE, 18TH FLOOR
LOS ANGELES, CALIFORNIA 90012

21
22 FOR THE DEFENDANT:

23 LAW OFFICES OF LOUISA B. PENSANTI
24 BY: LISA MATTERN, ESQ.
14431 VENTURA BOULEVARD, SUITE 227
25 SHERMAN OAKS, CALIFORNIA 91423

26
27 DIANNE M. MCGIVERN, CSR 7576, RMR, RDR, CRR, CLR
28 OFFICIAL COURT REPORTER

1 CASE NUMBER: BA 372623
2 CASE NAME: PEOPLE VS. SANCHEZ
3 LOS ANGELES, CALIFORNIA THURSDAY, JANUARY 6, 2011
4 DEPARTMENT CCB 122 HON. CRAIG E. VEALS, JUDGE
5 APPEARANCES: (AS HERETOFORE NOTED)
6 REPORTER: DIANNE M. MCGIVERN, CSR 7576
7 TIME: 9:58 A.M.
8

9 (THE FOLLOWING PROCEEDINGS WERE HELD IN
10 OPEN COURT:)
11

12 THE COURT: PEOPLE VERSUS ISRAEL SANCHEZ,
13 BA 372623. MR. SANCHEZ IS PRESENT. HE IS IN CUSTODY
14 AND IS WITH COUNSEL. THE PEOPLE ARE PRESENT AND
15 REPRESENTED.

16 CAN WE DO ANYTHING ON THIS MATTER TODAY?

17 MR. HANRAHAN: GOOD MORNING, YOUR HONOR. GENE
18 HANRAHAN FOR THE PEOPLE. COUNSEL AND I HAVE SPOKEN IN
19 AN EFFORT TO SETTLE THE CASE. WE WERE GOING TO ASK THE
20 COURT TO COME BACK ON JANUARY 19TH, WHICH IS WITHIN THE
21 PERIOD, AS ZERO OF FIVE WITH ONE MORE EFFORT TO TRY TO
22 SETTLE IT BEFORE WE'RE SENT TO 100.

23 THE COURT: OKAY. SO THE 24TH IS THE LAST DAY,
24 HUH?

25 MR. HANRAHAN: THAT'S WHAT I CALCULATE. I
26 CALCULATE THAT AS ZERO OF 18 TODAY.

27 THE COURT: HOW ABOUT THE 18TH OF JANUARY THEN.
28 THE 19TH WOULD BE PUSHING IT A LITTLE.

1 MR. HANRAHAN: THAT'S FINE IF THE COURT WANTS
2 THE 18TH INSTEAD OF THE 19TH.

3 THE COURT: ONLY BECAUSE WE'LL NEED TO GIVE
4 THEM ONE EXTRA DAY.

5 MR. HANRAHAN: OKAY. THAT WORKS FOR ME. WILL
6 THAT WORK FOR EVERYONE?

7 MS. MATTERN: THAT'S FINE.

8 THE COURT: OKAY. SO JANUARY THE 18TH, WE'LL
9 SEE ALL PARTIES. THANK YOU.

10 WHAT'S THE PEOPLE'S OFFER ON THE CASE?

11 MR. HANRAHAN: THERE HAS BEEN NO OFFER.
12 DEFENSE HAS CONVEYED AN OFFER AND I'M JUST DISCUSSING
13 THAT WITH MY SUPERVISORS TO SEE IF THAT'S ACCEPTABLE OR
14 WHETHER THE PEOPLE ARE GOING TO MAKE A COUNTEROFFER.

15 THE COURT: OKAY. WHAT'S THE COUNTEROFFER OF
16 THE DEFENSE?

17 MS. MATTERN: THE DEFENSE HAS MADE AN OFFER OF
18 14 YEARS.

19 THE COURT: OKAY. THE PEOPLE HAVE MADE IT THIS
20 FAR. YOURS TECHNICALLY IS LIFE, RIGHT, AT THIS POINT?

21 MR. HANRAHAN: CORRECT.

22 THE COURT: SO THEIR COUNTEROFFER IS, YOU SAID,
23 14 YEARS?

24 MR. HANRAHAN: YES.

25 THE COURT: OKAY. THANK YOU VERY MUCH.

26 MR. HANRAHAN: THANK YOU, YOUR HONOR.

27 THE COURT: THANK YOU.
28

1 (INTERRUPTION IN PROCEEDINGS.)

2
3 (THE FOLLOWING PROCEEDINGS WERE HELD IN
4 OPEN COURT:)

5
6 THE COURT: SO AGAIN ON THE RECORD. PEOPLE
7 VERSUS ISRAEL SANCHEZ. THERE IS A WITNESS TO BE ORDERED
8 BACK?

9 MR. HANRAHAN: YOUR HONOR, COULD THE COURT
10 ORDER BACK JESSICA LUCERO, WHO IS IN COURT, AND HER
11 MOTHER LILIAN LUCERO?

12 THE COURT: YES. SO EACH OF YOU, THIS
13 DEPARTMENT ON THE 18TH, NO LATER THAN 8:30. JANUARY THE
14 18TH BACK HERE WITHOUT NEED OF FURTHER SUBPOENA.

15 MR. HANRAHAN: THANK YOU.

16 THE COURT: THANK YOU. WE'LL SEE YOU THEN.

17
18 (WHEREUPON, THE PROCEEDINGS WERE
19 ADJOURNED AT 10:02 A.M.)
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IN THE SUPERIOR COURT OF THE STATE OF CALIFORNIA
FOR THE COUNTY OF LOS ANGELES

DEPARTMENT CCB 122

HON. CRAIG E. VEALS, JUDGE

THE PEOPLE OF THE STATE OF
CALIFORNIA,

PLAINTIFF,

VS.

ISRAEL JAMMIR SANCHEZ,

DEFENDANTS.

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) NO. BA 372623
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I, DIANNE M. MCGIVERN, C.S.R. 7576, OFFICIAL
REPORTER OF THE SUPERIOR COURT OF THE STATE OF
CALIFORNIA, FOR THE COUNTY OF LOS ANGELES, DO HEREBY
CERTIFY THAT THE FOREGOING IS A TRUE AND CORRECT
TRANSCRIPT OF THE PROCEEDINGS HELD IN DEPARTMENT CCB
122, ON THURSDAY, JANUARY 6, 2011, IN THE ABOVE-ENTITLED
CAUSE.

DATED THIS 22ND OF NOVEMBER, 2016.


DIANNE M. MCGIVERN, CSR 7576
RMR, RDR, CRR, CLR
OFFICIAL COURT REPORTER

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SUPERIOR COURT OF THE STATE OF CALIFORNIA
FOR THE COUNTY OF LOS ANGELES
DEPARTMENT 100 HON. PATRICIA M. SCHNEGG, JUDGE
PEOPLE OF THE STATE OF CALIFORNIA,)
PLAINTIFF,)
VS.)
ISRAEL SANCHEZ,)
DEFENDANT.)

ORIGINAL
SUPERIOR COURT
NO. BA372623

REPORTER'S TRANSCRIPT OF PROCEEDINGS

TUESDAY, JUNE 28, 2011

APPEARANCES:

FOR THE PLAINTIFF: JACKIE LACEY,
DISTRICT ATTORNEY
BY: EUGENE HANRAHAN, DEPUTY
18000 CRIMINAL COURTS BUILDING
210 WEST TEMPLE STREET
LOS ANGELES, CALIFORNIA 90012

FOR THE DEFENDANT: PENSANTI & ASSOCIATES,
BY: LOUISA B. PENSANTI
14431 VENTURA BOULEVARD
SUITE 227
SHERMAN OAKS, CALIFORNIA 91423

CANDACE J. HENRY, #9311
OFFICIAL REPORTER

1 CASE NAME: PEOPLE VS. ISRAEL SANCHEZ
2 CASE NUMBER: BA372623
3 LOS ANGELES, CALIFORNIA TUESDAY, JUNE 28, 2011
4 DEPARTMENT 100 HON. PATRICIA SCHNEGG, JUDGE
5 REPORTER: CANDACE J. HENRY, CSR #9311
6 TIME: 9:23 A.M.
7
8 APPEARANCES: (AS NOTED ON TITLE PAGE.)
9
10 THE COURT: PEOPLE VERSUS SANCHEZ, BA372623.
11 MS. PENSANTI: GOOD MORNING. LOUISA PENSANTI ON
12 BEHALF OF MR. SANCHEZ PRESENT -- I MEAN NOT PRESENT
13 BUT --
14 THE COURT: PRESENT IN LOCK UP.
15 MR. HANRAHAN: GOOD MORNING, YOUR HONOR.
16 EUGENE HANRAHAN FOR THE PEOPLE.
17 THE COURT: READY TO GO?
18 MS. PENSANTI: YES READY.
19 THE COURT: JUDGE RICHMAN DEPARTMENT 120
20 FORTHWITH.
21 MR. HANRAHAN: YES, YOUR HONOR. CAN I JUST
22 INQUIRE, IS MARIA ELENA ARIZ IN COURT RIGHT NOW?
23 THE COURT: SHE'S THERE.
24 MR. HANRAHAN: YOUR HONOR, COULD THE COURT ORDER
25 MS. ARIZ TO THAT COURTROOM AS WELL?
26 THE COURT: SPELLING OF THE LAST NAME?
27 MR. HANRAHAN: A-R-I-Z.
28 THE COURT: ALL RIGHT. MS. ARIZ, YOU'RE ORDERED

1 TO DEPARTMENT 120 IN THIS BUILDING. ALL RIGHT, MA'AM?

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(CASE IS TRANSFERRED TO DEPARTMENT 120

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FORTHWITH FOR TRIAL.)

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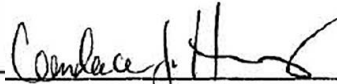
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1 SUPERIOR COURT OF THE STATE OF CALIFORNIA
2 FOR THE COUNTY OF LOS ANGELES
3 DEPARTMENT 100 HON. PATRICIA M. SCHNEGG, JUDGE
4
5 PEOPLE OF THE STATE OF CALIFORNIA,)
6 PLAINTIFF,) NO. BA372623
7 VS.) REPORTER'S
8 ISRAEL SANCHEZ,) CERTIFICATE
9 DEFENDANT.)
10
11

12 I, CANDACE J. HENRY, CSR #9311, OFFICIAL REPORTER
13 OF THE STATE OF CALIFORNIA, FOR THE COUNTY OF
14 LOS ANGELES, DO HEREBY CERTIFY THAT THE FOREGOING PAGES
15 1 THROUGH 2 COMPRISE A FULL, TRUE, AND CORRECT
16 TRANSCRIPT OF THE PROCEEDINGS AND TESTIMONY TAKEN IN THE
17 MATTER OF THE ABOVE-ENTITLED CAUSE ON TUESDAY, JUNE 28,
18 2011.

19 DATED THIS 28TH DAY OF OCTOBER, 2016.

20
21  , CSR #9311
22 OFFICIAL REPORTER
23
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1 COURT OF APPEAL OF THE STATE OF CALIFORNIA

2 SECOND APPELLATE DISTRICT

3
4 THE PEOPLE OF THE STATE OF CALIFORNIA,)

5 PLAINTIFF-RESPONDENT,)

) SUPERIOR
) COURT

6 VS.)

) NO. BA372623-01

7 01) ISRAEL JAMMIR SANCHEZ,)

8 DEFENDANT-APPELLANT.)

9
10 **COPY**

11 APPEAL FROM THE SUPERIOR COURT OF LOS ANGELES COUNTY

12 HONORABLE CRAIG RICHMAN, JUDGE PRESIDING

13 REPORTER'S TRANSCRIPT OF PROCEEDINGS

14 JUNE 28, 2011

15
16
17 APPEARANCES:

18 FOR THE PEOPLE:

STEVE COOLEY, DISTRICT ATTORNEY
BY: EUGENE HANRAHAN, DEPUTY
210 West Temple Street
18th Floor
Los Angeles, Ca 90012
(213) 974-3512

22 FOR DEFENDANT:

LOUISA PENSANTI, ATTORNEY AT LAW
BY: LOUISA PENSANTI, ESQ
14431 Ventura Boulevard
Suite 227
Sherman Oaks, Ca 91423
(818) 947-7999

27 REPORTED BY:

28 TRACY M. WILLIAMS, CSR, RPR, CRR #10139
OFFICIAL COURT REPORTER

1 CASE NUMBER: BA372623-01
2 CASE NAME: PEOPLE OF THE STATE OF
3 CALIFORNIA
4 VS.
5 ISRAEL JAMMIR SANCHEZ
6 LOS ANGELES, CALIFORNIA TUESDAY, JUNE 28, 2011
7 DEPARTMENT 120 HON. CRAIG RICHMAN, JUDGE
8 REPORTER: TRACY WILLIAMS, CSR #10139
9 TIME: 2:10 P.M.

10
11 APPEARANCES:

12 The Defendant, ISRAEL JAMMIR SANCHEZ, not
13 present in court; represented by counsel,
14 LOUISA PENSANTI, Privately Retained Counsel;
15 The People represented by EUGENE HANRAHAN,
16 Deputy District Attorney, the following
17 proceedings were held in open court outside
18 the presence of the prospective jury:

19
20 -oOo-

21
22 THE COURT: People vs. Israel Sanchez, BA372623.
23 Mr. Sanchez is not present in court, although his
24 attorney, Ms. Pensanti, is. Mr. Hanrahan is here for
25 the People.

26 We have called up a panel, and they are
27 outside.

28 What I'd like to do is order that Yessica,

1 Y-e-s-s-i-c-a, Lucero, L-u-c-e-r-o --

2 Ms. Lucero?

3 WITNESS LUCERO: (Indicates.)

4 THE COURT: Good afternoon, ma'am.

5 WITNESS LUCERO: Good afternoon.

6 THE COURT: All right.

7 Ma'am, I am ordering that you return to this
8 courtroom at 10:00 o'clock on Thursday, although you
9 can make arrangements with Mr. Hanrahan to go somewhere
10 else. But my order is the same as the subpoena.

11 I don't know if another judge has talked to
12 you about this along the way. If you don't come back,
13 I'd have no choice but to issue a warrant for your
14 arrest. I do not want to do that.

15 Is she on probation, Mr. Hanrahan?

16 WITNESS LUCERO: No.

17 MR. HANRAHAN: No.

18 THE COURT: All right.

19 So ma'am, again, if you do not come back, I
20 would issue a warrant for your arrest. I don't want
21 to do that.

22 So you are free to go at this point in
23 time, but you must return on Thursday, the 30th at
24 10:00 o'clock right back here. Okay?

25 WITNESS LUCERO: (Nods head in the affirmative.)

26 THE COURT: Is that "yes"?

27 WITNESS LUCERO: Yes.

28 THE COURT: Thank you, ma'am.

1 (The following proceedings were held
2 in open court outside the presence of
3 Witness Lucero:)

4
5 THE COURT: All right. Who are the other people,
6 Ms. Pensanti?

7 MS. PENSANTI: This is --

8 MS. GARCIA: Israel Sanchez's mother.

9 THE COURT: All right. All right. Welcome,
10 ma'am.

11 What's your name?

12 MS. GARCIA: Leanne Garcia.

13 THE COURT: All right.

14 Ma'am, you are welcome here any time. Okay?
15 The children --

16 MS. GARCIA: That's my grand babies.

17 THE COURT: They are Israel's children?

18 MS. GARCIA: No.

19 THE COURT: You are just watching them?

20 MS. GARCIA: Yes.

21 THE COURT: Are you watching them? You are the
22 grandmother? Because I can't say "baby-sitter,"
23 because that's like parenting.

24 If the children start to create a situation
25 where they are drawing attention, I'm going to have to
26 ask them to leave. Okay?

27 Do you understand, ma'am?

28 MS. GARCIA: Yes.

1 THE COURT: All right. And I don't want to do
2 that.

3 I need all you --

4 Ms. Lucero, are you going to stay?

5 MS. LUCERO: (Nods head in the affirmative.)

6 THE COURT: Is that "yes"?

7 MS. LUCERO: Yes.

8 THE COURT: Is there a motion to exclude?

9 MR. HANRAHAN: Yes.

10 THE COURT: Ms. Pensanti?

11 MS. PENSANTI: (Nods head in the affirmative.)

12 THE COURT: All right. The motion to exclude
13 is granted.

14 What's the position on Ms. Lucero?

15 MR. HANRAHAN: My position is that --

16 THE COURT: Is she the girlfriend?

17 MR. HANRAHAN: She is the girlfriend. She is the
18 mother of the infant child --

19 THE COURT: All right.

20 MR. HANRAHAN: -- of Mr. Sanchez.

21 THE COURT: All right.

22 Ms. Pensanti, do you have a position on
23 this, on whether she remains or not?

24 MS. PENSANTI: I don't have a position on whether
25 she remains or not. Although she is giving testimony
26 in this case, so --

27 THE COURT: All right.

28 Mr. Hanrahan, do you have a position?

1 MR. HANRAHAN: I move to exclude her.

2 I don't have a position one way or another
3 if she stays during jury selection, unless she takes up
4 too much space in the gallery.

5 THE COURT: All right.

6 Well, here's what we are going to do.

7 The mother, obviously, is welcome. She's
8 the girlfriend. She's the mother of his children.
9 Over your objection, I will allow her to remain during
10 the trial because she is family support for
11 Mr. Sanchez.

12 I understand, Mr. Hanrahan, that she's not
13 being cooperative anyway, so it really isn't going to
14 affect how things go. If it creates a problem, I would
15 exclude her.

16 Ms. Lucero, I'm going to allow you to remain
17 as a courtesy. If you create a problem or you mess
18 around, or whatever, I will remove you from the
19 courtroom. Okay?

20 MS. LUCERO: Yes, sir.

21 THE COURT: All right. So understand what I'm
22 telling you.

23 I need all of you to move over here, if you
24 would, please, behind my law clerks.

25 By the way, Mr. Hanrahan and Ms. Pensanti,
26 this is Mr. Delgadillo, Ms. Tahmassebi, and Ms. Towle.
27 They are all my law clerks here for the summer.
28 They will be here through most, if not all, of the

1 trial, although they are not here on Fridays.

2 Did I get the name right? Tahmassebi?

3 MS. TAHMASSEBI: Yes.

4 THE COURT: Okay. And you said no one ever said
5 it right.

6 Didn't she say that?

7 MS. TAHMASSEBI: The first time.

8 THE COURT: This is the first time I said it,
9 because you jumped all over me last name.

10 MS. TAHMASSEBI: That's correct.

11 Thank you.

12 THE COURT: Are we ready?

13 How is Mr. Sanchez doing? All changed out?

14 THE BAILIFF: He's ready.

15 THE COURT: Okay.

16

17 (The following proceedings were held
18 in open court in the presence of the
19 Defendant Israel Sanchez, outside the
20 presence of the prospective jurors:)

21

22 THE COURT: All right. Mr. Sanchez has now
23 entered the courtroom.

24 Good afternoon, Mr. Sanchez.

25 THE DEFENDANT: Good afternoon, your Honor.

26 THE COURT: So we are going to begin jury
27 selection at this time.

28 I have had our mandatory pretrial discussion

1 with counsel. We have discussed how we are going to
2 select the jury and how we are going to proceed.

3 I will, by the way, select two alternates.
4 Just so we are clear, you would have two peremptory
5 challenges for the alternates. Alternate No. 1 would
6 not necessarily be the first alternate who replaces a
7 juror, if necessary. They would randomly be selected,
8 just so we are all on the same page.

9 Anything we need to talk about before we
10 bring in the jury, Ms. Pensanti?

11 MS. PENSANTI: Nothing.

12 Thank you, your Honor.

13 THE COURT: Mr. Hanrahan.

14 MR. HANRAHAN: No, your Honor.

15 THE COURT: All right.

16 Let's bring them in.

17
18 (The following proceedings were held
19 in open court in the presence of the
20 prospective jurors:)

21
22 THE COURT: If you guys can scoot over and make
23 some room. We will create room for about 18 people in
24 just a couple of minutes.

25 THE PROSPECTIVE JURORS: (Comply.)

26
27 (A brief pause in the proceedings.)
28

1 THE COURT: Thank you.

2 The prospective jurors have now entered the
3 courtroom.

4 Good afternoon, everybody.

5 THE PROSPECTIVE JURY: (Collectively)
6 Good afternoon.

7 THE COURT: Welcome to Department 120. I know
8 how happy that you all are to be here.

9
10 (Laughter.)

11
12 THE COURT: There was a straggler.

13 Paul, we need another chair, please.

14 MR. DELGADILLO: (Complies.)

15 THE COURT: Again, welcome you all to
16 Department 120. You have been asked to come here to
17 see if you're an appropriate juror for the case of
18 People vs. Israel Sanchez. It is a one count case
19 involving attempted murder. There is an allegation
20 that the crime was willful, deliberate, and
21 premeditated, committed for the benefit of, in
22 association with, and at the direction of a criminal
23 street gang. And that a firearm was personally used
24 and inflicted great bodily injury.

25 We will talk a little bit more about those
26 charges in a few minutes, but I wanted to let you know
27 why you're here.

28 This is a criminal case. This is the

1 criminal courts building. All we do are Criminal cases
2 here.

3 The parties have told me that we expect
4 this case to be submitted to the jury somewhere around
5 July 13th. That is an overestimate, but we would
6 rather go that way than tell you that it would be done
7 sooner and then not have it done when we tell you.

8 So we are saying, probably at the latest,
9 it would be submitted to the jury for deliberation by
10 July 13th.

11
12 (A brief pause in the proceedings.)
13

14 THE COURT: That's Deputy Alvarez, by the way.

15 You have met Alberta. I'll introduce you
16 all again shortly. Alberta came out in the hallway.
17 I don't know if she spoke with you.

18 Alberta may not -- doesn't really look like
19 it, but she has a wicked sense of humor, and she likes
20 to play practical jokes on the jurors. She knows that
21 if your cell phone goes off in this courtroom and it
22 plays a song, you will actually stand up and sing that
23 song.

24 So I'm not sure whether she told you to turn
25 your cell phones off or not. Generally she tells you
26 to leave them on just for her sadistic sense of humor.

27 If you want to sing, I invite you to leave
28 your cell phone off or on. If you don't want to sing,

1 you might want to turn it off.

2 We did recently have a very rousing
3 rendition of the "Dukes of Hazard" theme song. And,
4 fortunately for the highway patrol officer, the theme
5 from "Chips" doesn't have lyrics.

6 But do me a favor: Actually turn them off.
7 Okay? Because the state-of-the-art public address
8 system that we have in this courtroom that doesn't even
9 pick up my voice right now --

10 Maybe if I turned it on, it would help.
11 That's better.

12 -- it actually picks up the vibrations of
13 your cell phone. It's about the only thing that it
14 actually does work on.

15 So, please, actually shut your cell phones
16 off. Shut off all of your personal data devices. I
17 don't know what those might be. They don't allow me to
18 have any electronics whatsoever. But please turn
19 everything off. I really do need your undivided
20 attention.

21 But you know by the nature of the charge
22 that what we are talking about here is fairly serious.
23 And we are going to pick a jury to determine whether
24 Mr. Sanchez has committed the offenses that he's
25 charged with, so please turn your cell phones off.

26 If someone needs to contact you, the phone
27 number of the courtroom is on the wall. And we will
28 talk about it again before we leave today, because I

1 will tell you that we are not going to get very far in
2 the process of selecting a jury today.

3 We are going to come back tomorrow. We will
4 probably be close to having a jury by the end of the
5 day tomorrow. All right?

6 But the phone number, again, of the
7 courtroom is (213)974-5755. I'll give that to you
8 again before we leave. If someone needs to get a hold
9 of you in case of an emergency, give them that phone
10 number. We will immediately stop the proceeding and
11 allow you to speak with whomever needs to talk to you.

12 Your employer is not an emergency. Okay?

13

14 (Laughter.)

15

16 THE COURT: And we are talking about emergencies.
17 Okay?

18 The second thing I need to talk to you
19 about: You all have been given juror identification
20 badges. This is not "Treasures of the Sierra Madre."

21 Does anyone know what I'm talking about when
22 I say --

23

24 (Whereupon, several prospective jurors
25 respond in the affirmative.)

26

27 THE COURT: A couple of you.

28 Thank you for patronizing me.

1 "This is badges. We don't need no stinkin'
2 badges."

3 We actually need the badges here. Okay?
4 So do me a favor: Please wear the badges prominently
5 about chest height. They actually do serve a purpose.

6 You have been in the building now most of
7 the day. You went through the metal detectors. You
8 stood in front of the elevators that never come. You
9 have ridden in an elevator like a sardine. And you
10 spent a good portion of the day in the jury assembly
11 room.

12 You recognize now that this is a very busy
13 place, and a lot of business is conducted in those
14 metal detector lines, waiting for the elevators, inside
15 the elevators, and in the hallways outside.

16 But the people who conduct that business
17 know that they may be talking about things that jurors
18 should not hear, and they will actually look around to
19 make sure that there aren't any jurors around who can
20 hear what they are talking about.

21 If you are not wearing that juror
22 identification badge prominently, they won't know that
23 you are jurors, and they may say something that you are
24 not supposed to hear. So please wear those badges
25 prominently so you don't hear something that you are
26 not supposed to hear and I have to conduct a hearing,
27 because I don't want to conduct a hearing that I don't
28 need to conduct.

1 In that same vein, you will see people
2 involved in this case standing in line for the metal
3 detectors, waiting for the elevators, riding in the
4 elevators, and out in the hallway in front of the
5 courtroom. They have been ordered not to have any
6 contact with you. That way, no one can say that they
7 did anything improperly with you.

8 So do me a favor, do them a favor. If you
9 see someone in the hallway involved in this case, do
10 not say "hi" to them. Do not knock knuckle them, you
11 know, chest bump them, hip bump them; anything like
12 that. All right? Ignore them like they were not
13 there, because they are going to ignore you like you
14 are not there.

15 They do not want to be rude to you. They
16 are following my orders. They would rather be rude to
17 you than hurt my feelings.

18 Do you understand?

19
20 (The prospective jurors respond
21 in the affirmative.)
22

23 THE COURT: So, please, to avoid having your
24 feelings hurt, just ignore them. If you are selected
25 as a juror in this case and stay throughout the entire
26 process, you will have an opportunity to speak with
27 the lawyers, if you want to, at the end of the case.
28 But between now and then, do not even acknowledge their

1 existence. All right?

2 We are going to begin the process of jury
3 selection. It is called "voir dire." It is a process
4 of asking a lot of questions that seem endless. What
5 we are trying to do is find people -- we are going to
6 end up with 14 jurors; 12 jurors and 2 alternates.
7 Alternates are like spare tires. You get a flat tire,
8 we will just put it on the car and keep going.

9 We do need you to be open and honest in all
10 the responses to questions that you are going to be
11 asked in this court.

12 In order to ensure your honesty, I'm going
13 to need you to take an oath.

14 So if you would all please stand at this
15 point in time and raise your right hand.

16
17 (Whereupon, the prospective jurors comply.)
18

19 THE CLERK: Do you, and each of you, understand
20 and agree that you will accurately and truthfully
21 answer under penalty of perjury all questions
22 propounded to you concerning your qualifications and
23 competency to serve as trial jurors in the matter
24 pending before this court, and that failure to do so
25 may subject you to criminal prosecution?

26 If you understand and agree, will you please
27 say "I do"?

28 //

1 (The prospective jurors respond
2 in the affirmative.)

3
4 THE CLERK: Thank you.

5 All right. Did anyone have their fingers
6 crossed, or anything like that?

7
8 (The prospective jurors respond
9 in the negative.)

10
11 THE COURT: Okay. I don't get out, so I would
12 appreciate it if you guys would laugh at my jokes.

13 All right. We are going to call 18 numbers
14 at this point in time. So we are going to create some
15 room so that you can spread out a little bit. I know
16 you don't want to feel like you are in an elevator any
17 longer.

18 We do not use names in a criminal case.
19 It has nothing to do with this case, we do not use
20 the names of jurors in any criminal case.

21 So on your juror identification badge,
22 there is a nine digit juror identification number.
23 We are going to only rely upon the last four digits of
24 that number. And I will give you the first initial of
25 your last name to help you out a little bit.

26
27 (Whereupon, voir dire of the prospective
28 jurors was commenced.)

1 THE COURT: All right. Ladies and gentlemen of
2 the jury, Tracy has wore her fingers to the bone, and
3 I need to stop a little bit early.

4 Normally, we would go until 4:00 o'clock.
5 So I'm not stopping that much earlier.

6 Alberta, how are we looking tomorrow?

7 THE CLERK: Better.

8 THE COURT: Better than today?

9 Is 10:30 all right?

10 MR. HANRAHAN: Yes.

11 MS. PENSANTI: Yes.

12 THE COURT: All right.

13 Ladies and gentlemen of the jury, what we
14 are going to do is we are going to stop now. We will
15 resume at 10:30 tomorrow morning.

16 Like I told you, we are going to make a
17 really good dent in this thing tomorrow. Okay?

18 So I apologize for having to bring you back
19 today, but you can see we have been working. We
20 haven't been sitting around.

21 Please make sure that you have the telephone
22 number to the courtroom. Again, it's (213) 974-5755.

23 PROSPECTIVE JUROR NO. 13: Would you repeat that
24 again?

25 THE COURT: (213) 974-5755.

26 Please keep in mind. (213) 974-5755. I
27 sound like a guy on the TV now. (213) -- call within
28 the next 10 minutes. (213) 974-5755. I cannot start

1 again until all of you are here. So I would ask you to
2 be respectful of your fellow jurors, the same as you
3 would like them to be respectful of you, and be here
4 right outside the door at 10:30 tomorrow morning.

5 We will invite you in when we are ready for
6 you. But I can assure you it will be right around
7 10:30 in the morning.

8 If something happens, call. The only reason
9 why I will like you to call is for you to tell me --
10 and I don't really like to do this, but the only reason
11 you should call is if you are dead. And if you are
12 dead, I will accept a collect call, because I'd like to
13 know if it's better there --

14
15 (Laughter.)

16
17 THE COURT: -- and if I'm pitching the second
18 game of the double header tomorrow.

19 All right. Remember, I cannot start until
20 all of you are here. You do not need to go back to the
21 jury assembly room today. You do not need to come
22 through the assembly room when you come tomorrow
23 morning. Okay? You will, however, need to go back
24 through the metal detectors and up the elevators.

25 You have now experienced them and know how
26 long it takes to do that, although the rush hour will
27 have ended by the time you need to be here at 10:30.

28

1 (Telephonic interruption.)

2
3 THE COURT: It's all right. I don't know that
4 song. I know that you put my phone number in your
5 phone, and that's why you turned it back on. That's
6 okay.

7 See, I do understand some things.

8 All right. So, again, 10:30 tomorrow
9 morning. I do need to tell you this every time we
10 separate.

11 First of all, for the 18 of you, I do need
12 you to take your seats that you are in right now and
13 come back. So look around. Make sure that you come
14 back to the same seats.

15 For the 37 of you, you can sit anywhere in
16 those block of rows that you would like.

17 It is your duty not to converse amongst
18 yourselves or with anyone else on any subject connected
19 with this trial; to form or express any opinion thereon
20 until the cause is finally submitted to you.

21 A couple of things I've already talked to
22 you about. The rest, I will talk to you about tomorrow
23 morning.

24 Have a good night. We will see everybody at
25 10:30 tomorrow morning.

26 Please, do not beat Deputy Alvarez to
27 death.

28 //

1 (The following proceedings were held
2 in open court outside the presence of
3 the prospective jurors:)

4
5 THE COURT: All right. The prospective jurors
6 have left the courtroom.

7 Ms. Pensanti, is there anything we need to
8 talk about?

9 MS. PENSANTI: No, thank you, your Honor.

10 THE COURT: Mr. Hanrahan?

11 MR. HANRAHAN: No, your Honor.

12 THE COURT: Just so you both are aware,
13 Ms. Pensanti, I will always ask you first whether
14 there's anything that we need to talk to about solely
15 because it's ladies first.

16 MS. PENSANTI: Thank you.

17 THE COURT: If I had two women, then I would have
18 to alternate back and forth.

19 Mr. Hanrahan, yes, chivalry is not dead.

20 See everybody tomorrow at 10:30.

21 MR. HANRAHAN: Thank you, your Honor.

22 THE COURT: All right. We are adjourned.

23

24 (At 3:45 p.m., the matter was continued
25 to Wednesday, June 29, 2011 at 10:30 a.m.
26 for further proceedings.)

27

28

1 SUPERIOR COURT OF THE STATE OF CALIFORNIA
2 FOR THE COUNTY OF LOS ANGELES
3 DEPARTMENT 120 HON. CRAIG RICHMAN, JUDGE
4

5 THE PEOPLE OF THE STATE OF CA)
6)
7 PLAINTIFF,) SUPERIOR COURT
8 VS.) NO. BA372623
9 ISRAEL SANCHEZ,)
10 DEFENDANT.) REPORTER'S
11) CERTIFICATE
12)
13)
14)
15)
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18)
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11 I, TRACY WILLIAMS, CSR, RPR, CRR #10139,
12 OFFICIAL COURT REPORTER OF THE SUPERIOR COURT OF THE
13 STATE OF CALIFORNIA, FOR THE COUNTY OF LOS ANGELES, DO
14 HEREBY CERTIFY THAT THE FOREGOING PAGES 1 THROUGH 19
15 INCLUSIVE, COMPRISE A FULL, TRUE, AND CORRECT
16 TRANSCRIPT OF THE TESTIMONY AND PROCEEDINGS HELD IN
17 THE ABOVE-ENTITLED MATTER ON JUNE 28, 2011.

18
19 DATED THIS 8TH DAY of DECEMBER, 2016.
20

21 
22 TRACY WILLIAMS, CSR, RPR, CRR #10139
23 OFFICIAL COURT REPORTER
24
25
26
27
28

1 SUPERIOR COURT OF THE STATE OF CALIFORNIA
2 FOR THE COUNTY OF LOS ANGELES
3 DEPARTMENT 120 HON. CRAIG RICHMAN, JUDGE
4

5 THE PEOPLE OF THE STATE OF CALIFORNIA,)
6 PLAINTIFF-RESPONDENT,)
7 VS.) SUPERIOR
8) COURT
9 01) ISRAEL JAMMIR SANCHEZ,) NO. BA372623-01
10 DEFENDANT-APPELLANT.) AFFIDAVIT OF NO
11) FURTHER NOTES
12)

12 I, TRACY WILLIAMS, CSR, RPR, CRR #10139,
13 PREVIOUS OFFICIAL COURT REPORTER FOR THE SUPERIOR COURT
14 OF THE STATE OF CALIFORNIA, FOR THE COUNTY OF LOS
15 ANGELES, DO HEREBY CERTIFY AS FOLLOWS:

16 THAT I, TRACY WILLIAMS, WAS LISTED ON THE
17 NOTICE TO REPORTER TO PREPARE TRANSCRIPT IN THE
18 ABOVE-ENTITLED CASE FOR THE DATE OF JUNE 28, 2011.

19 THAT ON JUNE 28, 2011, I STENOGRAPHICALLY
20 REPORTED THE PROCEEDINGS IN THE CASE OF PEOPLE VS.
21 ISRAEL JAMMIR SANCHEZ IN DEPARTMENT 120 BEFORE JUDGE
22 CRAIG RICHMAN. THAT THERE ARE NO FURTHER NOTES/RECORD
23 TO BE TRANSCRIBED, OTHER THAN THE NOTES AND RECORD OF
24 THE PROCEEDINGS HERETOFORE PRODUCED.

25 DATED THIS 8TH DAY OF DECEMBER, 2016.

26 
27 TRACY WILLIAMS, CSR, RPR, CRR #10139

28 OFFICIAL COURT REPORTER

COURT OF APPEAL OF THE STATE OF CALIFORNIA
SECOND APPELLATE DISTRICT

THE PEOPLE OF THE STATE OF CALIFORNIA,)
PLAINTIFF-RESPONDENT,)
VS.)
01) ISRAEL JAMMIR SANCHEZ,)
DEFENDANT-APPELLANT.)

SUPERIOR
COURT

NO. BA372623-01

VOLUME 2

MAR 22 2012

APPEAL FROM THE SUPERIOR COURT OF LOS ANGELES COUNTY
HONORABLE CRAIG RICHMAN, JUDGE PRESIDING
REPORTER'S TRANSCRIPT ON APPEAL
JUNE 28, 2011; JUNE 29, 2011; JUNE 30, 2011

APPEARANCES:

PLAINTIFF-RESPONDENT: KAMALA HARRIS
STATE ATTORNEY GENERAL
300 SOUTH SPRING STREET
NORTH TOWER
SUITE 1701
LOS ANGELES, CALIFORNIA 90013

DEFENDANT-APPELLANT: IN PROPRIA PERSONA

VOLUME 2 OF 8 VOLUMES
PAGES 1 THROUGH 19;
PAGES 20 THROUGH 35; AND
PAGES 36 THROUGH 61, INCL.

COF 7

REPORTED BY: TRACY M. WILLIAMS, CSR, RPR, CRR #10139
OFFICIAL COURT REPORTER

1 CASE NUMBER: BA372623-01
2 CASE NAME: PEOPLE OF THE STATE OF
3 CALIFORNIA
4 VS.
5 ISRAEL JAMMIR SANCHEZ
6 LOS ANGELES, CALIFORNIA TUESDAY, JUNE 28, 2011
7 DEPARTMENT 120 HON. CRAIG RICHMAN, JUDGE
8 REPORTER: TRACY WILLIAMS, CSR #10139
9 TIME: 2:10 P.M.

10
11 APPEARANCES:

12 THE DEFENDANT, ISRAEL JAMMIR SANCHEZ, NOT
13 PRESENT IN COURT; REPRESENTED BY COUNSEL,
14 LOUISA PENSANTI, PRIVATELY RETAINED COUNSEL;
15 THE PEOPLE REPRESENTED BY EUGENE HANRAHAN,
16 DEPUTY DISTRICT ATTORNEY, THE FOLLOWING
17 PROCEEDINGS WERE HELD IN OPEN COURT OUTSIDE
18 THE PRESENCE OF THE PROSPECTIVE JURY:

19
20 -OOO-

21
22 THE COURT: PEOPLE VS. ISRAEL SANCHEZ, BA372623.
23 MR. SANCHEZ IS NOT PRESENT IN COURT, ALTHOUGH HIS
24 ATTORNEY, MS. PENSANTI, IS. MR. HANRAHAN IS HERE FOR
25 THE PEOPLE.

26 WE HAVE CALLED UP A PANEL, AND THEY ARE
27 OUTSIDE.

28 WHAT I'D LIKE TO DO IS ORDER THAT YESSICA,

1 TRIAL, ALTHOUGH THEY ARE NOT HERE ON FRIDAYS.

2 DID I GET THE NAME RIGHT? TAHMASSEBI?

3 MS. TAHMASSEBI: YES.

4 THE COURT: OKAY. AND YOU SAID NO ONE EVER SAID
5 IT RIGHT.

6 DIDN'T SHE SAY THAT?

7 MS. TAHMASSEBI: THE FIRST TIME.

8 THE COURT: THIS IS THE FIRST TIME I SAID IT,
9 BECAUSE YOU JUMPED ALL OVER ME LAST NAME.

10 MS. TAHMASSEBI: THAT'S CORRECT.

11 THANK YOU.

12 THE COURT: ARE WE READY?

13 HOW IS MR. SANCHEZ DOING? ALL CHANGED OUT?

14 THE BAILIFF: HE'S READY.

15 THE COURT: OKAY.

16

17 (THE FOLLOWING PROCEEDINGS WERE HELD
18 IN OPEN COURT IN THE PRESENCE OF THE
19 DEFENDANT ISRAEL SANCHEZ, OUTSIDE THE
20 PRESENCE OF THE PROSPECTIVE JURORS:)

21

22 THE COURT: ALL RIGHT. MR. SANCHEZ HAS NOW
23 ENTERED THE COURTROOM.

24 GOOD AFTERNOON, MR. SANCHEZ.

25 THE DEFENDANT: GOOD AFTERNOON, YOUR HONOR.

26 THE COURT: SO WE ARE GOING TO BEGIN JURY

27 SELECTION AT THIS TIME.

28 I HAVE HAD OUR MANDATORY PRETRIAL DISCUSSION

1 WITH COUNSEL. WE HAVE DISCUSSED HOW WE ARE GOING TO
2 SELECT THE JURY AND HOW WE ARE GOING TO PROCEED.

3 I WILL, BY THE WAY, SELECT TWO ALTERNATES.
4 JUST SO WE ARE CLEAR, YOU WOULD HAVE TWO PEREMPTORY
5 CHALLENGES FOR THE ALTERNATES. ALTERNATE NO. 1 WOULD
6 NOT NECESSARILY BE THE FIRST ALTERNATE WHO REPLACES A
7 JUROR, IF NECESSARY. THEY WOULD RANDOMLY BE SELECTED,
8 JUST SO WE ARE ALL ON THE SAME PAGE.

9 ANYTHING WE NEED TO TALK ABOUT BEFORE WE
10 BRING IN THE JURY, MS. PENSANTI?

11 MS. PENSANTI: NOTHING.

12 THANK YOU, YOUR HONOR.

13 THE COURT: MR. HANRAHAN.

14 MR. HANRAHAN: NO, YOUR HONOR.

15 THE COURT: ALL RIGHT.

16 LET'S BRING THEM IN.

17
18 (THE FOLLOWING PROCEEDINGS WERE HELD
19 IN OPEN COURT IN THE PRESENCE OF THE
20 PROSPECTIVE JURORS:)

21
22 THE COURT: IF YOU GUYS CAN SCOOT OVER AND MAKE
23 SOME ROOM. WE WILL CREATE ROOM FOR ABOUT 18 PEOPLE IN
24 JUST A COUPLE OF MINUTES.

25 THE PROSPECTIVE JURORS: (COMPLY.)

26
27 (A BRIEF PAUSE IN THE PROCEEDINGS.)
28

1 CASE NUMBER: BA372623-01
2 CASE NAME: PEOPLE OF THE STATE OF
3 CALIFORNIA
4 VS.
5 ISRAEL JAMMIR SANCHEZ
6 LOS ANGELES, CALIFORNIA WEDNESDAY, JUNE 29, 2011
7 DEPARTMENT 120 HON. CRAIG RICHMAN, JUDGE
8 REPORTER: TRACY WILLIAMS, CSR #10139
9 TIME: 10:47 A.M.

10
11 APPEARANCES:

12 THE DEFENDANT, ISRAEL JAMMIR SANCHEZ,
13 PRESENT IN COURT REPRESENTED BY COUNSEL,
14 LOUISA PENSANTI, PRIVATELY RETAINED COUNSEL;
15 THE PEOPLE REPRESENTED BY EUGENE HANRAHAN,
16 DEPUTY DISTRICT ATTORNEY, THE FOLLOWING
17 PROCEEDINGS WERE HELD IN OPEN COURT OUTSIDE
18 THE PRESENCE OF THE PROSPECTIVE JURY:

19
20 -OOO-

21
22 THE COURT: ALL RIGHT. WE ARE BACK ON THE RECORD
23 IN THE SANCHEZ MATTER, BA372623. MR. SANCHEZ IS HERE
24 WITH MS. PENSANTI. THE PEOPLE ARE REPRESENTED. THE
25 PROSPECTIVE JURORS ARE NOT PRESENT.

26 ANYTHING WE NEED TO TALK ABOUT BEFORE WE
27 BRING IN THE PROSPECTIVE JURORS?

28 MS. PENSANTI?

1 (THE FOLLOWING PROCEEDINGS WERE HELD
2 IN OPEN COURT OUTSIDE THE PRESENCE OF
3 THE PROSPECTIVE JURORS:)

4
5 MR. HANRAHAN: YOUR HONOR, IT'S KIND OF AN
6 AUDIOVISUAL ISSUE.

7 WOULD THE COURT MIND JUST VERY QUICKLY --
8 THE COURT: GO AHEAD.

9 MR. HANRAHAN: WOULD THE COURT MIND IF I
10 REDECORATED A BIT AND PUT THE SCREEN SO IT'S OVER HERE
11 CLOSER TO THE JURORS AND PROJECTED THAT WAY?

12 AND THE REASON THAT I ASK IS THAT THERE'S
13 ONE SURVEILLANCE VIDEO THAT SHOWS THE DEFENDANT
14 SHOOTING THE VICTIM, AND THE IMAGES OF THE DEFENDANT
15 AND THE VICTIM ARE IN THE BACKGROUND OF THE VIDEO.
16 SO THEY ARE VERY SMALL LITTLE FIGURES GOING ACROSS THIS
17 TOP OF THE SCREEN AND THE SIDEWALK. AND I REALLY --
18 EVEN FROM THAT DISTANCE, I DON'T -- I DON'T THINK THAT
19 I WILL BE ABLE TO SEE IT.

20 THE COURT: MS. PENSANTI, WHAT'S YOUR POSITION ON
21 THAT?

22 MS. PENSANTI: I -- I HAVEN'T SEEN IT. BUT I
23 WOULD THINK THAT THE JURY'S VISION LOOKING STRAIGHT ON
24 WOULD BE BETTER THAN SLANTED SIDEWAYS, JUST ON INITIAL
25 IMPRESSION.

26 THE COURT: ALL RIGHT.

27 HERE'S MY PROBLEM, MR. HANRAHAN.
28 MR. SANCHEZ HAS THE RIGHT TO SEE THE VIDEOTAPE AS WELL

1 CASE NUMBER: BA372623-01
2 CASE NAME: PEOPLE OF THE STATE OF
3 CALIFORNIA
4 VS.
5 ISRAEL JAMMIR SANCHEZ
6 LOS ANGELES, CALIFORNIA THURSDAY, JUNE 30, 2011
7 DEPARTMENT 120 HON. CRAIG RICHMAN, JUDGE
8 REPORTER: TRACY WILLIAMS, CSR #10139
9 TIME: 11:12 A.M.

10
11 APPEARANCES:

12 THE DEFENDANT, ISRAEL JAMMIR SANCHEZ,
13 PRESENT IN COURT REPRESENTED BY COUNSEL,
14 LOUISA PENSANTI, PRIVATELY RETAINED COUNSEL;
15 THE PEOPLE REPRESENTED BY EUGENE HANRAHAN,
16 DEPUTY DISTRICT ATTORNEY, THE FOLLOWING
17 PROCEEDINGS WERE HELD IN OPEN COURT OUTSIDE
18 THE PRESENCE OF THE PROSPECTIVE JURY:

19
20 -000-
21

22 THE COURT: ALL RIGHT. WE ARE BACK ON THE RECORD
23 IN THE SANCHEZ MATTER, BA372623. MR. SANCHEZ IS HERE
24 WITH MS. PENSANTI. THE PEOPLE ARE REPRESENTED BY
25 MR. HANRAHAN. WE HAVE BEEN JOINED BY DETECTIVE STACK
26 THIS MORNING. THE PROSPECTIVE JUROR ARE NOT PRESENT.

27 I HAVE HAD THE OPPORTUNITY TO VIEW THE
28 INTERVIEW OF MR. SANCHEZ, AS WELL AS READ THE

1 TRANSCRIPT. I DON'T WANT TO DELAY THIS JURY ANY
2 FURTHER RIGHT NOW. SO WE WILL FIGURE OUT WHEN WE ARE
3 GOING TO LITIGATE THIS ISSUE, BUT I WANT TO GET THE
4 JURY IN AND GOING. OKAY?

5 SO I APOLOGIZE ABOUT THAT, BUT THEY ARE
6 HERE, AND WE ARE JUST GOING TO BRING THEM IN, UNLESS
7 THERE'S SOMETHING ELSE WE NEED TO TALK ABOUT.

8 MS. PENSANTI?

9 MS. PENSANTI: NO, THANK YOU, YOUR HONOR.

10 THE COURT: MR. HANRAHAN?

11 MR. HANRAHAN: NO, YOUR HONOR.

12 THE COURT: ALL RIGHT.

13 MS. PENSANTI, JUST SO YOU ARE AWARE, I
14 DID RECEIVE TWO DIFFERENT TELEPHONE CALLS FROM
15 JUDGE O'CONNELL IN SAN FERNANDO THIS MORNING.

16 MS. PENSANTI: YES.

17 THE COURT: SHE'S NOT HAPPY WITH YOU. SO WHEN
18 YOU ARE DONE HERE, YOU WILL GO DIRECTLY TO SAN FERNANDO
19 WITH NO OTHER COURTS IN BETWEEN.

20 MS. PENSANTI: WELL --

21 THE COURT: BUT THAT'S AN ISSUE THAT YOU CAN --

22 MS. PENSANTI: IT IS AN ISSUE THAT, UH --

23 THE COURT: -- THAT YOU CAN HAVE WITH
24 JUDGE O'CONNELL.

25 MS. PENSANTI: ACTUALLY, I'LL TALK TO JUDGE
26 SCHNEGG.

27 THE COURT: I'M JUST THE DELIVERY PERSON.

28 MS. PENSANTI: I KNOW. I KNOW. SHE'S JUST

1 UNAWARE OF THE ARRANGEMENT WITH JUDGE SCHNEGG

2 THE COURT: OKAY. WELL, JUDGE SCHNEGG TRUMPS
3 JUDGE O'CONNELL.

4 MS. PENSANTI: EXACTLY.

5 BUT --

6 MR. HANRAHAN: AND I JUST WANTED TO CHECK TO SEE
7 IF THE COURT HAD RECEIVED THE PEOPLE'S BRIEFING ON THE
8 CONFESSION ISSUE.

9 THE COURT: DO YOU KNOW WHAT? I DON'T KNOW
10 WHETHER I HAVE OR NOT. I CERTAINLY HAVEN'T SEEN IT,
11 MR. HANRAHAN. SO I'LL JUST BE HONEST WITH YOU.
12 IT MAY BE SOMEWHERE IN ALL OF THIS STUFF --

13 MR. HANRAHAN: OKAY.

14 THE COURT: -- BUT I HAVEN'T SEEN IT.

15 MR. HANRAHAN: OKAY. I JUST WANT TO LET YOU KNOW
16 WE DID FILE --

17 THE COURT: OKAY. I'M VERY WELL AWARE OF THE
18 ISSUES THAT WERE PRESENTED JUST UPON READING OF THE --

19 IT'S ALL RIGHT, ALBERTA. GO AHEAD AND BRING
20 THEM IN.

21 THE CLERK: (COMPLIES.)

22 THE COURT: -- READING AND VIEWING. ALTHOUGH AS
23 AN EDITORIAL, I DON'T KNOW HOW NECESSARY THE STATEMENTS
24 WERE.

25

26 (THE FOLLOWING PROCEEDINGS WERE HELD

27 IN OPEN COURT IN THE PRESENCE OF THE

28 PROSPECTIVE JURORS:)

1 CASE NUMBER: BA372623-01
2 CASE NAME: PEOPLE OF THE STATE OF
3 CALIFORNIA
4 VS.
5 ISRAEL JAMMIR SANCHEZ
6 LOS ANGELES, CALIFORNIA THURSDAY, JUNE 30, 2011
7 DEPARTMENT 120 HON. CRAIG RICHMAN, JUDGE
8 REPORTER: TRACY WILLIAMS, CSR #10139
9 TIME: 1:55 P.M.

10
11 APPEARANCES:

12 THE DEFENDANT, ISRAEL JAMMIR SANCHEZ,
13 PRESENT IN COURT REPRESENTED BY COUNSEL,
14 LOUISA PENSANTI, PRIVATELY RETAINED COUNSEL;
15 THE PEOPLE REPRESENTED BY EUGENE HANRAHAN,
16 DEPUTY DISTRICT ATTORNEY, THE FOLLOWING
17 PROCEEDINGS WERE HELD IN OPEN COURT OUTSIDE
18 THE PRESENCE OF THE PROSPECTIVE JURY:

19
20 -000-
21

22 THE COURT: ALL RIGHT. WE ARE BACK ON THE RECORD
23 IN THE SANCHEZ MATTER, BA372623. MR. SANCHEZ IS HERE
24 WITH MS. PENSANTI. THE PEOPLE ARE REPRESENTED BY
25 MR. HANRAHAN. THE PROSPECTIVE JURORS ARE NOT PRESENT.

26 ANYTHING THAT WE NEED TO TALK ABOUT BEFORE
27 WE CONTINUE WITH JURY SELECTION?

28 MS. PENSANTI: NO, THANK YOU, YOUR HONOR.

1 THANK YOU.

2 THE COURT: WE ARE IN RECESS UNTIL 2:50.

3
4 (AT 2:43 P.M., A RECESS WAS TAKEN
5 UNTIL 2:52 P.M. OF THE SAME DAY.)
6

7 THE COURT: ALL RIGHT. BACK ON THE RECORD IN THE
8 SANCHEZ MATTER, BA372623.

9 MR. SANCHEZ IS HERE WITH MS. PENSANTI.
10 THE PEOPLE ARE REPRESENTED BY MR. HANRAHAN. THE
11 PROSPECTIVE JURORS ARE NOT PRESENT.

12 JUST TO CLARIFY, IT IS WILLIAMS. THAT IS
13 AT 49 CAL.4TH, 405. CARRINGTON IS AT 47 CAL.4TH, 145.

14 AND THEN THERE'S ANOTHER CASE THAT I'D LIKE
15 COUNSEL TO BE PREPARED TO ADDRESS. THAT IS PEOPLE V.
16 BARKER, B-A-R-K-E-R, AT 182 CAL.APP 3RD, 921.

17 BUT THERE ARE OTHER CASES, BUT THOSE CASES,
18 I THINK, CONTROL MOST OF THE ISSUES THAT ARE PRESENTED
19 THUS FAR BY THE STATEMENT.

20 ANYTHING ELSE WE NEED TO TALK ABOUT,
21 MS. PENSANTI?

22 MS. PENSANTI: NOTHING.

23 THANK YOU, YOUR HONOR.

24 THE COURT: MR. HANRAHAN?

25 MR. HANRAHAN: NO, YOUR HONOR.

26 THE COURT: ALL RIGHT.

27 CAN WE HAVE THE PROSPECTIVE JURORS, PLEASE?

28 THE CLERK: (COMPLIES.)

1 (THE FOLLOWING PROCEEDINGS WERE HELD
2 IN OPEN COURT IN THE PRESENCE OF THE
3 PROSPECTIVE JURORS:)

4
5 THE COURT: ALL RIGHT. THE PROSPECTIVE JURORS
6 HAVE NOW REENTERED THE COURTROOM.

7 YOU GUYS WANT TO START HUDDLING TOGETHER, OR
8 ANYTHING LIKE THAT? THERE ARE 13 OF YOU LEFT. SO
9 BASICALLY RIGHT NOW YOU HAVE A 50/50 CHANCE OF BEING
10 CALLED INTO THE NEXT SIX.

11 UNLESS ANYONE WANTS TO VOLUNTEER.

12
13 (NO AUDIBLE RESPONSE BY THE
14 PROSPECTIVE JURORS.)

15
16 THE COURT: I DIDN'T THINK SO.

17 THE NEXT JUROR NO. 13 WOULD BE 4138, FIRST
18 INITIAL LAST NAME IS "S."

19
20 (WHEREUPON, JURY VOIR DIRE OF THE
21 PROSPECTIVE JURORS WAS RESUMED.)

22
23 THE COURT: THE NEXT PEREMPTORY CHALLENGE IS WITH
24 THE DEFENDANT, MS. PENSANTI.

25 MS. PENSANTI: THE DEFENSE ACCEPTS THE PANEL AS
26 PRESENTLY CONSTITUTED.

27 THE COURT: MR. HANRAHAN?

28 MR. HANRAHAN: PEOPLE ACCEPT THE PANEL.

1 THE COURT: MADAM CLERK.

2 THE CLERK: ALL RISE.

3

4 (WHEREUPON, THE JURORS COMPLY.)

5

6 THE CLERK: DO YOU, AND EACH OF YOU, UNDERSTAND
7 AND AGREE THAT YOU WILL WELL AND TRULY TRY THE CAUSE
8 NOW PENDING BEFORE THIS COURT, AND A TRUE VERDICT
9 RENDER ACCORDING ONLY TO THE EVIDENCE PRESENTED TO YOU
10 AND TO THE INSTRUCTIONS OF THE COURT.

11 IF YOU SO AGREE, PLEASE RESPOND BY SAYING,
12 "I DO."

13

14 (THE JURORS RESPONDS IN THE AFFIRMATIVE.)

15

16 THE COURT: THANK YOU.

17 ALL RIGHT. PLEASE HAVE A SEAT.

18

19 (WHEREUPON, THE JURORS COMPLY.)

20

21 THE COURT: WE ARE NOW GOING TO SELECT TWO
22 ALTERNATES.

23

24 (WHEREUPON, JURY VOIR DIRE OF THE
25 PROSPECTIVE ALTERNATE JURORS WAS
26 COMMENCED.)

27 //

28 //

1 (THE FOLLOWING PROCEEDINGS WERE HELD
2 AT SIDEBAR:)

3
4 THE COURT: ALL RIGHT. SO 13 AND 14 WILL BE THE
5 ALTERNATES?

6 MR. HANRAHAN: YES.

7 MS. PENSANTI: YES.

8 THE COURT: OKAY. ALL RIGHT. WHAT I'M GOING TO
9 DO IS ASK THE TWO OF YOU TO STAND UP AND RAISE YOUR
10 RIGHT HANDS.

11 ALBERTA, PLEASE.

12 THE CLERK: DO YOU, AND EACH OF YOU, UNDERSTAND
13 AND AGREE THAT YOU WILL WELL AND TRULY TRY THE CAUSE
14 NOW PENDING BEFORE THIS COURT, AND A TRUE VERDICT
15 RENDER ACCORDING ONLY TO THE EVIDENCE PRESENTED TO YOU
16 AND TO THE INSTRUCTIONS OF THE COURT.

17 IF YOU SO AGREE, PLEASE RESPOND BY SAYING,
18 "I DO."

19
20 (WHEREUPON, THE ALTERNATE JURORS RESPOND
21 IN THE AFFIRMATIVE.)

22
23 THE CLERK: THANK YOU.

24 THE COURT: HAVE A SEAT.

25
26 (THE ALTERNATE JURORS COMPLY.)

27
28 THE COURT: THE FOUR OF YOU ARE ALSO EXCUSED.

COURT OF APPEAL OF THE STATE OF CALIFORNIA
SECOND APPELLATE DISTRICT

MAR 22 2012

THE PEOPLE OF THE STATE OF CALIFORNIA,)
PLAINTIFF-RESPONDENT,)
VS.) SUPERIOR
01) ISRAEL JAMMIR SANCHEZ,) COURT
DEFENDANT-APPELLANT.) NO. BA372623-01
VOLUME 5

APPEAL FROM THE SUPERIOR COURT OF LOS ANGELES COUNTY
HONORABLE CRAIG RICHMAN, JUDGE PRESIDING
REPORTER'S TRANSCRIPT ON APPEAL

JULY 7, 2011

APPEARANCES:

PLAINTIFF-RESPONDENT: KAMALA HARRIS
STATE ATTORNEY GENERAL
300 SOUTH SPRING STREET
NORTH TOWER
SUITE 1701
LOS ANGELES, CALIFORNIA 90013

DEFENDANT-APPELLANT: IN PROPRIA PERSONA

VOLUME 5 OF 8 VOLUMES
PAGES 328 THROUGH 495, INCL.

COPY

REPORTED BY: TRACY M. WILLIAMS, CSR, RPR, CRR #10139
OFFICIAL COURT REPORTER

1 CASE NUMBER: BA372623-01
2 CASE NAME: PEOPLE OF THE STATE OF
3 CALIFORNIA
4 VS.
5 ISRAEL JAMMIR SANCHEZ
6 LOS ANGELES, CALIFORNIA THURSDAY, JULY 7, 2011
7 DEPARTMENT 120 HON. CRAIG RICHMAN, JUDGE
8 REPORTER: TRACY WILLIAMS, CSR #10139
9 TIME: 10:50 A.M.

10
11 APPEARANCES:

12 THE DEFENDANT, ISRAEL JAMMIR SANCHEZ,
13 PRESENT IN COURT REPRESENTED BY COUNSEL,
14 LOUISA PENSANTI, PRIVATELY RETAINED COUNSEL;
15 THE PEOPLE REPRESENTED BY EUGENE HANRAHAN,
16 DEPUTY DISTRICT ATTORNEY, THE FOLLOWING
17 PROCEEDINGS WERE HELD IN OPEN COURT OUTSIDE
18 THE PRESENCE OF THE JURY:

19
20 -000-
21

22 THE COURT: BACK ON THE RECORD IN THE SANCHEZ
23 MATTER, BA372623. MR. SANCHEZ IS HERE WITH
24 MS. PENSANTI. THE PEOPLE ARE REPRESENTED BY
25 MR. HANRAHAN. THE JURY AND ALTERNATE ARE NOT PRESENT.

26 FIRST OF ALL, I NEED TO ASK COUNSEL: WERE
27 EITHER OF YOU ABLE TO GET A HOLD OF MS. LUCERO OR
28 MS. SANCHEZ CONCERNING THE CONVERSATION WE HAD

1 YESTERDAY?

2 MS. PENSANTI: NO.

3 THE COURT: MR. HANRAHAN, DID YOU TRY?

4 MR. HANRAHAN: MS. LUCERO ABOUT NOT BRINGING AN
5 INFANT TO THE COURTROOM?

6 THE COURT: YES.

7 MR. HANRAHAN: I DID NOT, BUT I -- SHE'S HERE,
8 AND I NOTICE SHE DID BRING THE INFANT WITH HER.

9 THE COURT: ALL RIGHT. WELL, THE BABY ISN'T HERE
10 TODAY.

11 MS. PENSANTI: NO.

12 THE COURT: ALL RIGHT.

13 MS. PENSANTI: AND THE BAILIFF WAS SPEAKING TO
14 ISRAEL'S MOTHER AS I CAME IN. SO --

15 THE COURT: ALL RIGHT.

16 MS. PENSANTI: -- SHE'S INFORMED.

17 THE COURT: ALL RIGHT.

18 WELL, BECAUSE NO ONE WAS ABLE TO RELAY THE
19 INFORMATION, I WILL ALLOW THE CHILDREN TO REMAIN TODAY.

20 LADIES, AFTER TODAY, NO CHILDREN WILL BE
21 ALLOWED IN THE COURTROOM. ALL RIGHT? SO EITHER OTHER
22 ARRANGEMENTS ARE GOING TO HAVE TO BE MADE FOR THE
23 CHILDREN OR, UNFORTUNATELY, YOU ARE NOT GOING TO BE
24 ABLE TO COME. THIS IS A COURTROOM, NOT A DAY-CARE
25 CENTER.

26 BESIDES THAT, IS THERE ANYTHING ELSE THAT WE
27 NEED TO TALK ABOUT RIGHT NOW?

28 MS. PENSANTI?

1 MS. PENSANTI: NO, THANK YOU, YOUR HONOR.

2 THE COURT: BY THE WAY, MS. PENSANTI, YOU HAVE TO
3 BE THE MOST POPULAR LAWYER IN ALL OF LOS ANGELES.
4 I'M GOING TO START CHARGING YOU FOR THE MESSAGES THAT I
5 HAVE TO ADDRESS.

6 JUDGE KLEIN HAS CONTACTED ME BY E-MAIL. I
7 WAS CONTACTED BY LONG BEACH THIS MORNING. THAT WAS IN
8 ADDITION TO JUDGE O'CONNELL OUT IN SAN FERNANDO. SO
9 YOUR DANCE CARD SEEMS TO BE PRETTY FULL, AND THE PEOPLE
10 ARE CLAMORING TO KNOW WHEN YOU ARE GOING TO BE
11 AVAILABLE.

12 MS. PENSANTI: YES. AND I AM WORKING ON MY
13 SCHEDULE WITH SUPERVISING CRIMINAL JUDGE SCHNEGG.

14 THE COURT: ALL RIGHT.

15 MS. PENSANTI: SO --

16 THE COURT: AS THEY SAY, POSSESSION IS
17 NINE-TENTHS OF THE LAW. SO I COULD REALLY CARE LESS
18 WHAT YOU DO WHEN YOU ARE DONE HERE, I'M JUST RELAYING
19 THE MESSAGES.

20 MS. PENSANTI: I THANK YOU. BECAUSE THEN I CAN
21 REFER THEM TO JUDGE SCHNEGG.

22 THE COURT: ALL RIGHT. I'LL ACTUALLY WALK OVER
23 AND SPEAK WITH JUDGE SCHNEGG AT A POINT IN TIME TO LET
24 HER KNOW WHAT'S GOING ON SO SHE CAN DECIDE WHAT SHE
25 WANTS TO DO. BUT I HAVE NO HORSE IN THIS RACE.

26 MS. PENSANTI: THANK YOU.

27 THE COURT: ANYTHING ELSE WE NEED TO TALK ABOUT,
28 MS. PENSANTI?

1 MS. PENSANTI: NOTHING ELSE.

2 THE COURT: MR. HANRAHAN?

3 MR. HANRAHAN: JUST BRIEFLY.

4 WITH RESPECT TO THE NEXT WITNESS, THE NEXT
5 CIVILIAN WITNESS AFTER MARGARITA LOPEZ.

6 THE COURT: IS SHE HERE, BY THE WAY?

7 MR. HANRAHAN: SHE IS NOT HERE YET.

8 I DID SPEAK WITH HER ON THE PHONE, AND SHE
9 TOLD ME SHE WAS -- I CONFIRMED -- I ACTUALLY TOLD HER
10 TO BE HERE BY 10:30. SO I DID SPEAK WITH HER THIS
11 MORNING.

12 THE COURT: DO -- I NEED TO ASK COUNSEL --

13 AND I APOLOGIZE FOR INTERRUPTING,

14 MR. HANRAHAN.

15 ARE EACH OF YOU AWARE THAT MS. LOPEZ IS A
16 WITNESS ON ANOTHER CASE?

17 MS. PENSANTI: YES.

18 MR. HANRAHAN: YES.

19 THE COURT: ALL RIGHT. I JUST WANTED TO MAKE
20 SURE. BECAUSE THAT CAME TO MY ATTENTION, AND I WANTED
21 TO MAKE SURE THAT EACH OF YOU WERE AWARE OF THAT.

22 MS. PENSANTI: YES.

23 THE COURT: I HAVE NO IDEA WHAT THE OTHER CASE IS
24 ABOUT, ALTHOUGH I UNDERSTAND IT ALSO IS AN ATTEMPTED
25 MURDER. THAT'S THE EXTENT OF MY KNOWLEDGE.

26 MS. PENSANTI: I WILL --

27 THE COURT: SO THAT'S GOING TO COME OUT IN
28 DISCUSSION TODAY.

1 CASE NUMBER: BA372623-01
2 CASE NAME: PEOPLE OF THE STATE OF
3 CALIFORNIA
4 VS.
5 ISRAEL JAMMIR SANCHEZ
6 LOS ANGELES, CALIFORNIA THURSDAY, JULY 7, 2011
7 DEPARTMENT 120 HON. CRAIG RICHMAN, JUDGE
8 REPORTER: TRACY WILLIAMS, CSR #10139
9 TIME: 1:38 P.M.

10
11 APPEARANCES:

12 THE DEFENDANT, ISRAEL JAMMIR SANCHEZ,
13 PRESENT IN COURT REPRESENTED BY COUNSEL,
14 LOUISA PENSANTI, PRIVATELY RETAINED COUNSEL;
15 THE PEOPLE REPRESENTED BY EUGENE HANRAHAN,
16 DEPUTY DISTRICT ATTORNEY, THE FOLLOWING
17 PROCEEDINGS WERE HELD IN OPEN COURT OUTSIDE
18 THE PRESENCE OF THE JURY:

19
20 -000-

21
22 THE COURT: BACK ON THE RECORD IN THE SANCHEZ
23 MATTER, BA372623. MR. SANCHEZ IS HERE WITH
24 MS. PENSANTI. THE PEOPLE ARE REPRESENTED BY
25 MR. HANRAHAN. THE JURY AND ALTERNATE ARE NOT PRESENT.

26 ANYTHING WE NEED TO TALK ABOUT,
27 MS. PENSANTI?

28 MS. PENSANTI: NOTHING, YOUR HONOR. THANK YOU.

1 THE COURT: MR. HANRAHAN?

2 MR. HANRAHAN: NO, YOUR HONOR.

3 THE COURT: ALL RIGHT.

4 LET'S BRING IN THE JURY.

5

6 (THE FOLLOWING PROCEEDINGS WERE HELD
7 IN OPEN COURT IN THE PRESENCE OF THE
8 JURY:)

9

10 THE COURT: THE JURY AND ALTERNATES HAVE NOW
11 ENTERED THE COURTROOM.

12 GOOD AFTERNOON, EVERYBODY. WELCOME BACK.
13 SO WHO WENT TO THE FARMER'S MARKET TODAY?

14

15 (WHEREUPON, SEVERAL JURORS RESPOND
16 IN THE AFFIRMATIVE.)

17

18 THE COURT: ALL RIGHT.

19 IN TOTAL, DID EVERYONE GO TO THE FARMER'S
20 MARKET?

21

22 (WHEREUPON, A JUROR RESPONDS
23 IN THE NEGATIVE.)

24

25 THE COURT: IN THE TWO WEEKS THAT YOU HAVE BEEN
26 HERE, TWO DIDN'T GO?

27

ONE PERSON.

28

ALL RIGHT. YOU ARE THE FOREPERSON.

1 MR. HANRAHAN: THE PEOPLE CALL OFFICER PEREZ.

2 THE COURT: OFFICER PEREZ, PLEASE COME FORWARD.

3

4 IVAN PEREZ,

5 CALLED BY THE PEOPLE AS A WITNESS, WAS SWORN AND

6 TESTIFIED AS FOLLOWS:

7 THE CLERK: PLEASE RAISE YOUR RIGHT HAND.

8 YOU DO SOLEMNLY STATE THAT THE TESTIMONY

9 YOU MAY GIVE IN THE CAUSE NOW PENDING BEFORE THIS COURT

10 SHALL BE THE TRUTH, THE WHOLE TRUTH, AND NOTHING BUT

11 THE TRUTH, SO HELP YOU GOD.

12 THE WITNESS: I DO.

13 THE CLERK: PLEASE HAVE A SEAT ON THE WITNESS

14 STAND.

15 THE WITNESS: (COMPLIES.)

16 THE CLERK: PLEASE STATE AND SPELL YOUR FIRST AND

17 LAST NAME FOR THE RECORD.

18 THE WITNESS: IVAN PEREZ. I-V-A-N, P-E-R-E-Z.

19 THE COURT: MR. HANRAHAN.

20

21 DIRECT EXAMINATION

22 BY MR. HANRAHAN:

23 Q OFFICER PEREZ, WHAT IS YOUR OCCUPATION AND

24 ASSIGNMENT?

25 A I'M A POLICE OFFICER FOR THE CITY OF

26 LOS ANGELES CURRENTLY WORKING PATROL.

27 Q AND HOW LONG HAVE YOU BEEN A POLICE OFFICER?

28 A APPROXIMATELY FOUR YEARS AND TWO MONTHS.

1 Q AND WHERE DID YOU GO IN THAT BUILDING?

2 A I WENT INTO THE STAIRWAYS THAT LED UP INTO
3 THE -- YOU CALL IT THE LIVING ROOM AREA. AND RIGHT TO
4 YOUR LEFT WOULD BE THE BEDROOM, WHICH IS THAT WINDOW
5 RIGHT THERE FACING ON THE NORTHERN SIDE.

6 Q WHEN YOU SAY "THAT WINDOW," DO YOU MEAN THAT
7 ONE WINDOW THAT'S IN THE SORT OF CENTER OF THE SECOND
8 STORY TO THE RIGHT OF THAT LOOKS LIKE BLACK WROUGHT
9 IRON BALCONY TYPE?

10 A YES.

11 Q DID YOU GO INTO THE ROOM THAT'S BEHIND THAT
12 WINDOW?

13 A YES, I DID.

14 Q OKAY. SHOWING YOU WHAT'S BEEN MARKED AS
15 PEOPLE'S 22, WHICH IS A YELLOW EVIDENCE ENVELOPE AND A
16 PLASTIC BAGGY WITH AN EXPENDED BULLET IN IT.

17 DO YOU RECOGNIZE THOSE ITEMS OF EVIDENCE,
18 OFFICER PEREZ?

19 A YES, SIR.

20 Q WHAT ARE THOSE ITEMS OF EVIDENCE?

21 A IT'S A SPENT ROUND FROM A GUN.

22 Q ALL RIGHT. DID YOU FIND THAT ITEM OF
23 EVIDENCE?

24 A YES, I DID.

25 Q WHERE IN THAT BUILDING DID YOU FIND THAT
26 ITEM OF EVIDENCE?

27 A I FOUND THAT -- OR THIS BULLET, I FOUND IT
28 RIGHT BETWEEN THE STAIRWAY, WHICH IS DIRECTLY BEHIND

1 THE WINDOW. THAT WINDOW THERE THAT WE ALREADY MADE
2 NOTE OF IS THE -- IT'S A BEDROOM THAT IS RIGHT NEXT TO
3 THE STAIRWAY.

4 SO WHEN I RECOVERED THIS BULLET, IT WAS
5 ACTUALLY IN BETWEEN THE STAIRWAY AND THE BEDROOM ON
6 THE FLOOR.

7 Q HOW FAR FROM THAT WINDOW DID YOU FIND THE
8 BULLET?

9 A I WOULD SAY ABOUT 20, 25 FEET, GIVE OR TAKE.

10 Q OKAY. AND WHEN YOU FOUND THE BULLET, WHERE
11 SPECIFICALLY WAS IT IN THAT --

12 A PRETTY MUCH LAYING ON THE GROUND RIGHT ON
13 TOP OF THE STAIRS.

14 Q OKAY. AND DID IT ONLY GO THROUGH THE WINDOW
15 BEFORE IT LANDED?

16 A NO, IT DID NOT.

17 Q DID IT HAVE TO GO THROUGH ANYTHING ELSE?

18 MS. PENSANTI: OBJECTION. LEADING.

19 THE COURT: SUSTAINED.

20 BY MR. HANRAHAN:

21 Q DID YOU SEE WHETHER THE BULLET WENT THROUGH
22 ANYTHING ELSE OTHER THAN THE WINDOW?

23 A YES.

24 MS. PENSANTI: OBJECTION.

25 BY MR. HANRAHAN:

26 Q WHAT?

27 MS. PENSANTI: FOUNDATION.

28 THE COURT: LAY FURTHER FOUNDATION.

1 A 6/16.

2 Q IS THAT JUNE 17 --

3 A YES.

4 Q -- 2000 --

5 A JUNE 17, 2010.

6 MR. HANRAHAN: THANK YOU.

7 I HAVE NO FURTHER QUESTIONS.

8 THE COURT: MS. PENSANTI.

9 MS. PENSANTI: YES.

10

11 CROSS-EXAMINATION

12 BY MR. PENSANTI:

13 Q SO YOU WENT TO THE LOCATION, YOU SAID, LATER
14 ON?

15 A YES, MA'AM.

16 Q HOW MUCH LATER ON?

17 A THAT, I DO NOT RECOLLECT.

18 Q WAS IT NIGHT?

19 A YES, IT WAS. IT WAS DARK.

20 Q SO THAT TIME OF YEAR, WHICH WAS --

21 A JUNE.

22 Q JUNE.

23 DO YOU RECALL HOW DARK IT WAS?

24 A IT WAS -- IT WAS DARK. IT WAS --

25 Q SO WAS THIS AROUND 8:00 OR 9:00 O'CLOCK OR
26 MAYBE EVEN LATER?

27 A IT COULD HAVE BEEN.

28 Q SO 8:00 OR 9:00 O'CLOCK?

1 A COULD HAVE BEEN. I DON'T RECOLLECT THE TIME
2 THEY WENT. IT WAS --

3 Q SO WHEN YOU WENT TO THIS LOCATION, DID YOU
4 KNOCK ON THE DOOR?

5 A I ACTUALLY CALLED. IT WAS A STATION CALL.
6 IT WASN'T EVEN A RADIO CALL GENERATED. GENERALLY --
7 APPARENTLY A CITIZEN CALLED AND HAD THE CALL DISPATCHED
8 TO OUR STATION.

9 Q OH. SO THIS DISPATCH -- THE DISPATCH CALL
10 CAME IN AT WHAT TIME?

11 A THAT, I DO NOT RECOLLECT.

12 Q SO YOU WERE RESPONDING TO SOMETHING THAT
13 CAME IN, YOU DON'T KNOW WHAT TIME IT CAME IN?

14 A NO.

15 Q SO WHAT -- WERE YOU ALONE OR WITH SOMEBODY
16 ELSE?

17 A I WAS WORKING ALONE.

18 Q AND YOU SAID YOU WENT INSIDE AND WENT UP THE
19 STAIRS.

20 WERE YOU DIRECTED TO WHERE YOU SHOULD GO BY
21 ANY OF THE RESIDENTS?

22 A YES.

23 Q AND THEY TOOK YOU UP INTO THIS TOP STORY?

24 A YES.

25 Q DID YOU ASK ANY OF THE PEOPLE THAT WERE
26 THERE IF THEY HAD BEEN THERE AT THE TIME?

27 A THAT, I DO NOT RECOLLECT.

28 Q IN OTHER WORDS, YOU DIDN'T ASK THEM IF THEY

1 FOUND THE DAMAGE OR WHETHER THE DAMAGE OCCURRED WHILE
2 THEY WERE THERE?

3 A I'D HAVE TO REVIEW MY REPORT. AND I DON'T
4 HAVE IT WITH ME.

5 Q DON'T YOU THINK YOU WOULD REMEMBER WHETHER
6 SOMEBODY WAS THERE AT THE TIME A BULLET WENT THROUGH A
7 WINDOW?

8 THAT WOULD BE PRETTY SIGNIFICANT, WOULDN'T
9 IT?

10 A IT WOULD BE.

11 Q SO --

12 A BASED ON THE FACT --

13 Q THE FACT THAT YOU CAN'T REMEMBER, MAYBE
14 BECAUSE IT DIDN'T HAPPEN?

15 MR. HANRAHAN: ARGUMENTATIVE.

16 THE WITNESS: NO, IT DID HAPPEN.

17 THE COURT: IT IS ARGUMENTATIVE.

18 SUSTAINED.

19 BY MR. PENSANTI:

20 Q I'M SAYING THAT IT PROBABLY WASN'T THE FACT
21 THAT SOMEBODY WAS THERE AT THE TIME.

22 THE COURT: CAN WE APPROACH, PLEASE?

23

24 (THE FOLLOWING PROCEEDINGS WERE HELD
25 AT SIDEBAR:)

26

27 THE COURT: ALL RIGHT. WE ARE AT SIDEBAR.

28 THERE IS NO CHARGE INVOLVED HERE OF SHOOTING

1 INTO AN INHABITED BUILDING, OR ANYTHING LIKE THAT.
2 I'M NOT CERTAIN WHY IT WAS BROUGHT UP IN THE FIRST
3 PLACE. THERE WAS NO OBJECTION AT THE TIME.

4 LET'S MOVE ON.

5 MS. PENSANTI: OKAY.

6 THE COURT: THIS HAS NOTHING TO DO WITH THIS
7 CASE.

8 MS. PENSANTI: OKAY.

9 THE COURT: THANK YOU.

10

11 (THE FOLLOWING PROCEEDINGS WERE HELD
12 IN OPEN COURT IN THE PRESENCE OF THE
13 JURY:)

14

15 BY MR. PENSANTI:

16 Q SO YOU FOUND THE BULLET?

17 A AS I WAS GOING UP THE STAIRS, YES, I DID
18 OBSERVE IT.

19 Q AND AT THAT TIME, YOU USED POLICE PRACTICES
20 TO --

21 A RECOVER IT, YES.

22 Q -- RECOVER IT USING GLOVED HANDS, OR --

23 A I USED A BAG. I USED MY PEN TO NOT TOUCH
24 IT.

25 Q OKAY. AND YOU PROPERLY BOOKED IT INTO
26 EVIDENCE AND KEPT THE CHAIN OF EVIDENCE PROPERLY?

27 A YES.

28 MS. PENSANTI: THANK YOU.

1 CROSS-EXAMINATION (UNDER 402 OF THE EVIDENCE CODE)

2 BY MR. PENSANTI:

3 Q DO YOU RECALL GIVING THE MIRANDA RIGHTS TO
4 MR. SANCHEZ?

5 A I DO.

6 Q AND DO YOU REMEMBER GIVING ALL OF THOSE
7 RIGHTS?

8 A YES.

9 Q AND DID YOU ASK HIM IF HE WANTED TO WAIVE
10 THOSE RIGHTS?

11 A NO, I DID NOT.

12 Q AND WHY WAS THAT?

13 A IT'S NOT REQUIRED.

14 MR. HANRAHAN: RELEVANCE.

15 THE COURT: MS. PENSANTI, I'M A LITTLE CONFUSED,
16 SO I WANT TO CLARIFY AT THIS POINT IN TIME.

17 ARE YOU, UH -- IS THIS HEARING TO DETERMINE
18 WHETHER THERE WAS A VIOLATION OF MR. SANCHEZ'S MIRANDA
19 RIGHTS? WHETHER THE STATEMENT WAS INVOLUNTARY, OR
20 BOTH?

21 MS. PENSANTI: BOTH.

22 THE COURT: ALL RIGHT. SO --

23 MS. PENSANTI: ALL OF IT.

24 THE COURT: MR. HANRAHAN, WITH THAT
25 CLARIFICATION, DO YOU WISH TO ASK DETECTIVE STACK ANY
26 ADDITIONAL QUESTIONS? I GOT THE IMPRESSION THAT WE
27 WERE ONLY FOCUSING ON VOLUNTARINESS; THAT THE MIRANDA
28 WAS NOT AN ISSUE.

1 I WILL CITE AUTHORITY ON THAT SHORTLY.

2 MR. HANRAHAN: WELL, I DIDN'T BRIEF THAT ISSUE.

3 THE COURT: I CAN ASSURE YOU, AS I DID ON THE
4 VOLUNTARINESS ISSUE, THAT I'M QUITE VERSED ON THIS
5 SUBJECT.

6 MR. HANRAHAN: I DON'T HAVE ANY FURTHER QUESTIONS
7 REGARDING --

8 THE COURT: ALL RIGHT.

9 MR. HANRAHAN: YOU KNOW, I THINK THE TRANSCRIPT
10 AND THE VIDEOTAPE SPEAKS FOR ITSELF.

11 THE COURT: IT DOES. ALL RIGHT. SO GO AHEAD,
12 MS. PENSANTI, ON BOTH SUBJECTS --

13 MS. PENSANTI: THANK YOU.

14 THE COURT: -- MIRANDA AND VOLUNTARINESS.

15 MS. PENSANTI: THANK YOU.

16 Q AND SO YOU DIDN'T -- YOU DIDN'T PURSUE THE
17 TRADITIONAL MIRANDA WARNINGS AND WAIVERS?

18 MR. HANRAHAN: VAGUE AS TO "TRADITIONAL."

19 THE COURT: YOU DIDN'T SPECIFICALLY ASK HIM
20 WHETHER HE WANTED TO GIVE UP HIS RIGHT TO REMAIN SILENT
21 AND SPEAK TO YOU, DID YOU?

22 THE WITNESS: I DID NOT.

23 THE COURT: ALL RIGHT.

24 NEXT QUESTION, PLEASE.

25 BY MR. PENSANTI:

26 Q OR ANY OF THE OTHER RIGHTS?

27 THE COURT: HE DID --

28 MS. PENSANTI: THE RIGHT TO AN ATTORNEY.

1 MS. PENSANTI: OKAY.

2 THANK YOU.

3 THE COURT: ANYTHING ELSE, MS. PENSANTI?

4 MS. PENSANTI: NO.

5 THE COURT: ALL RIGHT.

6 MR. HANRAHAN, ANYTHING ON REDIRECT?

7 MR. HANRAHAN: NO, YOUR HONOR.

8 THE COURT: ALL RIGHT.

9 DETECTIVE, GO AHEAD AND TAKE YOUR SEAT BACK
10 AT COUNSEL TABLE.

11 THE WITNESS: YES, YOUR HONOR.

12 THE COURT: PEOPLE WISH TO PRESENT ANY OTHER
13 EVIDENCE?

14 MR. HANRAHAN: I WOULD JUST OFFER INTO EVIDENCE
15 PEOPLE'S 1 THROUGH 5.

16 THE COURT: ANY OBJECTION, MS. PENSANTI?

17 MS. PENSANTI: I'M SORRY.

18 THIS IS COURT'S --

19 THE COURT: COURT'S EXHIBIT 5.

20 MS. PENSANTI: NO OBJECTION.

21 THE COURT: ALL RIGHT. COURT'S 1 THROUGH 5 ARE
22 ADMITTED INTO EVIDENCE FOR PURPOSES OF THIS HEARING
23 ONLY.

24
25 (RECEIVED INTO EVIDENCE COURT'S
26 EXHIBITS 1 THROUGH 5.)

27
28 THE COURT: REST, MR. HANRAHAN?

1 MR. HANRAHAN: YES, YOUR HONOR.

2 THE COURT: ANY EVIDENCE GOING TO BE PRESENTED
3 BY THE DEFENSE, MS. PENSANTI?

4 MS. PENSANTI: NO, THANK YOU.

5 THE COURT: ALL RIGHT.

6 WE HAVE TWO ISSUES THAT NEED TO BE
7 ADDRESSED: THE MIRANDA ISSUE, AND THE VOLUNTARINESS
8 ISSUE.

9 AS FAR AS MIRANDA, I'M GOING TO CITE THE
10 CASE OF *PEOPLE V. WHITSON*, W-H-I-T-S-O-N, 17 CAL.4TH,
11 229 ET 247 THROUGH 250. WAIVER IS IMPLIED WHERE THE
12 DEFENDANT WAS ADMONISHED, ACKNOWLEDGED UNDERSTANDING.

13 AS A FORM, HE DID NOT HAVE THE RIGHT TO
14 TALK AND THEN WAS INTERVIEWED BY THE OFFICER WHO DID
15 NOT USE PRESSURE AND WHERE THE DEFENDANT DID NOT
16 INDICATE A DESIRE TO HAVE COUNSEL OR FOR QUESTIONING.

17 SO I'M FINDING THAT THIS WAS A VOLUNTARY
18 WAIVER OF MIRANDA PURSUANT TO WHITSON.

19 NOW, AS FAR AS THE VOLUNTARINESS OF THE
20 STATEMENT, WE WILL ADDRESS THAT ISSUE TOMORROW. I
21 HAVE AN APPOINTMENT.

22 MS. PENSANTI, YOU HAVE TO BE IN LONG BEACH.

23 MS. PENSANTI: I WAS GOING TO ASK YOU THAT.

24 THE COURT: THAT'S WHAT I WAS TOLD.

25 MS. PENSANTI: SO AM I GOING TO BE BACK HERE BY
26 10:00?

27 I GUESS I WILL.

28 THE COURT: YEAH. I -- I'D LIKE YOU HERE BEFORE

1 10:00 --

2 MS. PENSANTI: I KNOW.

3 THE COURT: -- SO WE CAN FINISH THIS ISSUE.

4 MS. PENSANTI: I KNOW.

5 THE COURT: BUT I'M GOING TO HAVE TO ASK YOU TO
6 BE HERE AS SOON AS YOU CAN.

7 MS. PENSANTI: OKAY.

8 THE COURT: BECAUSE I GUESS THAT YOU WERE ORDERED
9 TO BE SOMEWHERE ELSE.

10 MS. PENSANTI: THANK YOU. I APPRECIATE THAT.
11 YOU KNOW THAT I HAVE BEEN -- I WILL DO --

12 THE COURT: I WAS TOLD. I'VE BEEN TOLD.

13 MS. PENSANTI: OKAY.

14 THE COURT: ALL RIGHT. SO WE ARE IN RECESS.

15 MR. HANRAHAN, IF YOU WOULD DO ME A FAVOR:
16 TRY TO BE HERE AROUND 20 TO 10:00 OR SO, AND HOPEFULLY
17 WE CAN HAVE A PENSANTI SIGHTING SOMEWHERE AROUND THERE.

18 MR. HANRAHAN: IS IT POSSIBLE TO GET A TENTATIVE
19 RULING FROM THE COURT? IT WILL ASSIST ME IN SCHEDULING
20 WITNESSES FOR TOMORROW.

21 BECAUSE IF THE COURT RULES THAT THE
22 STATEMENT IS ADMISSIBLE, THEN I'LL JUST CALL DETECTIVE
23 STACK TO LAY A BRIEF FOUNDATION AND PLAY THE TAPE.

24 THE TAPE IS APPROXIMATELY AN HOUR LONG,
25 WHICH WOULD TAKE UP THE LION'S SHARE OF THE MORNING.

26 IF NOT, I WILL HAVE OFFICER CASTANEDA. AND
27 I WAS PLANNING ON CALLING OFFICER CASTANEDA, THE GANG
28 EXPERT, IN THE AFTERNOON.

1 THE COURT: ALL RIGHT. I AM NOT INCLINED BEFORE
2 HEARING ARGUMENT TO GIVE AN INDICATED STATEMENT. SO I
3 WOULD ASK YOU -- AND I'M SORRY FOR ANY INCONVENIENCE --
4 TO BE PREPARED TO GO FORWARD EITHER WAY.

5 MR. HANRAHAN: OKAY.

6 THE COURT: ALL RIGHT. WE ARE, OTHERWISE, IN
7 RECESS FOR THE EVENING.

8 IS THERE ANYTHING ELSE WE NEED TO TALK
9 ABOUT?

10 MS. PENSANTI: NOTHING FOR ME.

11 MR. HANRAHAN: SCHEDULING-WISE, JUST SO I'M
12 CLEAR, THE -- THE COURT INTENDS TO SIT DOWN WITH US
13 TOMORROW OR FRIDAY AFTERNOON AND FINALIZE JURY
14 INSTRUCTIONS AT THAT POINT?

15 THE COURT: IF -- IF THERE'S NO DEFENSE AND
16 YOU'VE RESTED, THAT'S WHAT WE WILL DO.

17 MR. HANRAHAN: OKAY.

18 THE COURT: I'LL HAVE A WORKING SET OF
19 INSTRUCTIONS READY TO DISCUSS TOMORROW AFTERNOON.

20 MR. HANRAHAN: OKAY.

21 THE COURT: ALL RIGHT?

22 AND THEN MS. PENSANTI, DEPENDING UPON HOW
23 YOU WANT TO PROCEED -- I'M NOT ASKING NOW WHETHER YOU
24 ARE ASKING -- WHETHER YOU ARE GOING TO ASK FOR ANY
25 LESSERS. WE CAN ADDRESS THAT ISSUE LATER. ALL RIGHT?
26 BUT IF WE HAVE CONCLUDED EVIDENCE IN THE EARLY
27 AFTERNOON, WE WILL DISCUSS INSTRUCTIONS TOMORROW
28 AFTERNOON.

1 MR. HANRAHAN: OKAY.

2 THE COURT: IN NO CASE WILL THERE BE ARGUMENT
3 TOMORROW. I WILL TELL YOU THAT WE WILL ARGUE IN A
4 SINGLE BLOCK.

5 SO ASSUMING THAT THE CASE IS CONCLUDED
6 TOMORROW, I WILL PRE-INSTRUCT IN THE MORNING ON MONDAY,
7 AND THEN WE WILL HAVE ARGUMENT IN THE AFTERNOON.
8 SO IT'S GOING TO BE ONE SHOT. SO NO ONE HAS AN
9 ADVANTAGE OVER THE OTHER. ALL RIGHT? BUT WE WILL
10 FINE-TUNE THAT AS WE PROGRESS.

11 I WILL FLEX ARGUMENT -- I MEAN, I'M SORRY --
12 INSTRUCTIONS ONE WAY OR ANOTHER JUST TO FACILITATE
13 ARGUING IN A SINGLE BLOCK OF TIME. ALL RIGHT?

14 MS. PENSANTI: THANK YOU. YES.

15 THE COURT: ALL RIGHT.

16 SEE EVERYBODY TOMORROW.

17 MS. PENSANTI, AS SOON AS YOU CAN.

18 MR. HANRAHAN, HOPEFULLY ABOUT 20 TO 10:00.

19 MR. SANCHEZ IS ORDERED HERE AT 8:30.

20 LADIES, NO MORE BABIES. ALL RIGHT? YOU ARE
21 WELCOME TO BE HERE, BUT NOT THE CHILDREN. I'M SORRY.

22 ALL RIGHT. THANK YOU. WE ARE ADJOURNED.

23
24 (AT 4:23 P.M., THE MATTER WAS CONTINUED
25 TO FRIDAY, JULY 8, 2011 AT 10:00 A.M.
26 FOR FURTHER PROCEEDINGS.)

27
28 (THE NEXT PAGE NUMBER IS 496.)

COURT OF APPEAL OF THE STATE OF CALIFORNIA
SECOND APPELLATE DISTRICT

THE PEOPLE OF THE STATE OF CALIFORNIA,)
PLAINTIFF-RESPONDENT,)

VS.)

01) ISRAEL JAMMIR SANCHEZ,)
DEFENDANT-APPELLANT.)

MAR 22 2012

SUPERIOR
COURT

NO. BA372623-01

VOLUME 6

APPEAL FROM THE SUPERIOR COURT OF LOS ANGELES COUNTY
HONORABLE CRAIG RICHMAN, JUDGE PRESIDING
REPORTER'S TRANSCRIPT ON APPEAL

JULY 8, 2011

APPEARANCES:

PLAINTIFF-RESPONDENT: KAMALA HARRIS
STATE ATTORNEY GENERAL
300 SOUTH SPRING STREET
NORTH TOWER
SUITE 1701
LOS ANGELES, CALIFORNIA 90013

DEFENDANT-APPELLANT: IN PROPRIA PERSONA

VOLUME 6 OF 8 VOLUMES
PAGES 496 THROUGH 602, INCL.

COPY

REPORTED BY: TRACY M. WILLIAMS, CSR, RPR, CRR #10139
OFFICIAL COURT REPORTER

1 CASE NUMBER: BA372623-01
2 CASE NAME: PEOPLE OF THE STATE OF
3 CALIFORNIA
4 VS.
5 ISRAEL JAMMIR SANCHEZ
6 LOS ANGELES, CALIFORNIA FRIDAY, JULY 8, 2011
7 DEPARTMENT 120 HON. CRAIG RICHMAN, JUDGE
8 REPORTER: TRACY WILLIAMS, CSR #10139
9 TIME: 10:52 A.M.

10
11 APPEARANCES:

12 THE DEFENDANT, ISRAEL JAMMIR SANCHEZ,
13 PRESENT IN COURT REPRESENTED BY COUNSEL,
14 LOUISA PENSANTI, PRIVATELY RETAINED COUNSEL;
15 THE PEOPLE REPRESENTED BY EUGENE HANRAHAN,
16 DEPUTY DISTRICT ATTORNEY, THE FOLLOWING
17 PROCEEDINGS WERE HELD IN OPEN COURT OUTSIDE
18 THE PRESENCE OF THE JURY:

19
20 -000-

21
22 THE COURT: PEOPLE VS. SANCHEZ, BA372623.
23 MR. SANCHEZ IS PRESENT IN COURT.

24 GOOD MORNING, MR. SANCHEZ.

25 THE DEFENDANT: GOOD MORNING.

26 THE COURT: MS. PENSANTI IS HERE WITH HIM. AND
27 THE PEOPLE ARE REPRESENTED BY MR. HANRAHAN. THE JURY
28 AND ALTERNATE ARE NOT PRESENT.

1 THE DISCUSSION REGARDING 25 TO LIFE, THE
2 WILLIAMS CASE I CITED TO COUNSEL ORIGINALLY AT
3 49 CAL.4TH, 405, IT TALKS ABOUT THE DEATH PENALTY.
4 WE ARE WAY BELOW THAT. AGAIN, NO PROMISES WERE MADE BY
5 THE DETECTIVES. THEY MERELY SAID THAT HIS COOPERATION
6 MAY BE CONSIDERED BY THE COURT AND THE JURY -- AND,
7 AGAIN, THE CASES CITED IN WILLIAMS REFLECT THAT THERE
8 IS NOTHING WRONG WITH THAT.

9 I DO BELIEVE THAT THE STATEMENT WAS
10 VOLUNTARY. I ALREADY RULED THAT THERE WAS NO
11 VIOLATION OF MIRANDA. THE STATEMENT IS ADMISSIBLE.

12 IS THERE ANYTHING ELSE THAT WE NEED TO
13 DISCUSS BEFORE I BRING THE JURY IN, MS. PENSANTI?

14 MS. PENSANTI: NOTHING ELSE.

15 THANK YOU.

16 THE COURT: MR. HANRAHAN?

17 MR. HANRAHAN: JUST YOUR SCHEDULING.

18 THE COURT: WE ARE GOING TO GO THROUGH THE
19 PLAYING OF THE TAPE THIS MORNING. I UNDERSTAND
20 DETECTIVE STACK, FROM OVERHEARING A CONVERSATION, HAS
21 A MILITARY OBLIGATION AT 2:30.

22 IS THAT WHAT YOU ARE CONCERNED ABOUT.

23 MR. HANRAHAN: HE HAS TO LEAVE BY 1:00 FOR -- AND
24 IT'S BASICALLY A COMBAT MILITARY OBLIGATION.

25 THE COURT: WE WILL PROCEED UNTIL WE COMPLETE
26 THE TESTIMONY OF DETECTIVE STACK.

27 MR. HANRAHAN: OKAY.

28 THE COURT: AND THEN WE WILL TAKE OUR LUNCH

1 MR. SANCHEZ IS HERE WITH MS. PENSANTI. THE
2 PEOPLE ARE REPRESENTED. THE JURY AND ALTERNATE ARE NOT
3 PRESENT.

4 MS. PENSANTI, HAVE YOU AND MR. SANCHEZ
5 DISCUSSED HOW THE DEFENSE IS GOING TO PROCEED IN THIS
6 CASE?

7 MS. PENSANTI: THE DEFENSE IS GOING TO REST.

8 THE COURT: ALL RIGHT.

9 SO MR. SANCHEZ, YOU NEED TO UNDERSTAND, SIR,
10 THAT YOU DO HAVE THE RIGHT TO TESTIFY, IF YOU WANT TO.
11 YOU ALSO HAVE THE RIGHT TO REMAIN SILENT.

12 DO YOU WANT TO REMAIN SILENT?

13 THE DEFENDANT: YES, YOUR HONOR.

14 THE COURT: COUNSEL, ARE YOU JOINING ON THAT?

15 MS. PENSANTI: I JOIN.

16 THE COURT: ALL RIGHT.

17 ARE YOU ASKING THAT DEFENSE A, B, AND C BE
18 RECEIVED INTO EVIDENCE?

19 MS. PENSANTI: YES.

20 THE COURT: ANY OBJECTION, MR. HANRAHAN?

21 MR. HANRAHAN: NO, YOUR HONOR.

22 THE COURT: DEFENSE A IS RECEIVED INTO EVIDENCE.

23
24 (RECEIVED INTO EVIDENCE DEFENSE
25 EXHIBIT A.)
26

27 THE COURT: ALL RIGHT. IT DOESN'T REALLY CHANGE
28 THE STATUS OF THE 1118.1.

1 DID YOU WANT TO MAKE AN 1118.1 MOTION AGAIN?

2 MS. PENSANTI: OH, YES. I WOULD LIKE TO MAKE AN
3 1118.1 MOTION ONCE AGAIN.

4 THE COURT: ALL RIGHT. SAME RULING.

5 SO I'M GOING TO BRING IN THE JURY.

6 MR. HANRAHAN, I HAVE -- I WOULD ASK THAT YOU
7 AGAIN ASK THAT PEOPLE'S 1 THROUGH 37 BE RECEIVED INTO
8 EVIDENCE. I WILL GIVE THAT CAUTIONARY NOTE THAT WE
9 DISCUSSED ON THE TWO TRANSCRIPTS, AND THEN REST IN
10 FRONT OF THE JURY.

11 MS. PENSANTI, I'LL ASK YOU WHETHER YOU ARE
12 GOING TO PRESENT ANY OTHER WITNESSES. YOU SAY "NO.
13 I'LL ASK DEFENSE A BE RECEIVED." IT WILL BE RECEIVED.
14 AND YOU REST, AS WELL. AND THAT WILL BE THE CONCLUSION
15 OF THE EVIDENCE IN THIS CASE.

16 I DO HAVE A ROUGH SET OF INSTRUCTIONS.
17 THAT'S WHAT I'VE BEEN WORKING ON WHILE THIS HAS BEEN
18 GOING ON. IT HASN'T BEEN TOTALLY EDITED.

19 IT'S 3:15 IN THE AFTERNOON. WE WOULD
20 ADJOURN FOR THE EVENING AT THIS POINT IN TIME. I WILL
21 BRING THE JURY BACK ON MONDAY AT 11:00 O'CLOCK. AND
22 COUNSEL CAN COME BACK AT 10:15 SO WE CAN DISCUSS ANY
23 INSTRUCTIONS.

24 MS. PENSANTI, I DID ASK YOU WHETHER YOU WERE
25 GOING TO ASK FOR ANY LESSERS.

26 ARE YOU ASKING FOR ANY LESSERS?

27 MS. PENSANTI: OH. YES.

28 THE COURT: WHAT LESSERS ARE YOU GOING TO ASK

1 FOR?

2 MS. PENSANTI: ALL OF THE LESSERS THAT I CAN.
3 BUT I -- I -- ASSAULT WITH A DEADLY WEAPON.

4 THE COURT: ALL RIGHT. ASSAULT WITH A DEADLY
5 WEAPON IS NOT A LESSER INCLUDED OF ATTEMPTED MURDER.

6 MS. PENSANTI: OKAY. THEN IT WOULD BE ATTEMPTED
7 MANSLAUGHTER.

8 THE COURT: ATTEMPTED VOLUNTARY MANSLAUGHTER
9 WOULD BE A LESSER AND INCLUDED OF ATTEMPTED MURDER.

10 HOWEVER, ACCORDING TO THE CASE OF *PEOPLE V.*
11 *BREVERMAN*, B-R-E-V-E-R-M-A-N, THERE HAS TO BE
12 SUBSTANTIAL EVIDENCE THAT THE KILLING WAS DONE IN THE
13 HEAT OF PASSION OR AS AN IMPERFECT SELF-DEFENSE.

14 WHAT EVIDENCE DO I HAVE HERE OF EITHER?

15 MS. PENSANTI: YOU HAVE THE TESTIMONY -- OR NOT
16 TESTIMONY, BUT THE STATEMENTS OF MY CLIENT THAT
17 SOMETHING SPARKED IN HIM, WHICH IS EVIDENCE OF HEAT OF
18 PASSION. AND THAT HE WAS ANGRY, IMMEDIATELY ANGRY,
19 WHICH IS ALSO EVIDENCE OF HEAT OF PASSION. AND I'M
20 SORRY. I DIDN'T HAVE IT PREPARED.

21 THE COURT: ALL RIGHT. WELL, WE CAN ADDRESS THAT
22 ON MONDAY THEN, ANYWAY.

23 AND I WANT YOU TO FOCUS ON THAT PARTICULAR
24 ISSUE.

25 MS. PENSANTI: OKAY.

26 THE COURT: THE ONLY WAY THAT I WOULD GIVE THE
27 INSTRUCTIONS ON ATTEMPTED VOLUNTARY MANSLAUGHTER --

28 MR. HANRAHAN, I WOULD ASK YOU TO BE PREPARED

1 TO ADDRESS THE ISSUE, AS WELL --

2 IS IF THERE IS, ACCORDING TO BREVERMAN --
3 GIVE ME A SECOND. AND I'LL GIVE YOU THE SITE ON THAT.

4
5 (A BRIEF PAUSE IN THE PROCEEDINGS.)

6
7 THE COURT: B-R-A-V-E-R-M-A-N, 19 CAL.4TH, 152
8 DEALS WITH ATTEMPTED MURDER. AND THERE DOES HAVE TO
9 BE EVIDENCE THAT IT'S EITHER AN IMPERFECT SELF-DEFENSE
10 OR IN THE HEAT OF PASSION.

11 SO LET'S FOCUS ON THAT ISSUE.

12 ANY OTHER LESSER THAT YOU ARE ASKING FOR?
13 BECAUSE I CAN TELL YOU THERE AREN'T ANY OTHER LESSERS
14 OF ATTEMPTED MURDER.

15 MS. PENSANTI: IF YOU SAY SO, YOUR HONOR.

16 THE COURT: OKAY. TRUST ME ON THAT. BUT IF YOU
17 WANT TO RESEARCH THAT OVER THE WEEKEND --

18 MS. PENSANTI: I WILL.

19 THE COURT: -- YOU ARE WELCOME TO DO SO. ALL
20 RIGHT.

21 MS. PENSANTI: IN AN ABUNDANCE OF CAUTION.

22 THE COURT: OKAY.

23 MS. PENSANTI: AND I WILL --

24 THE COURT: I WILL TELL YOU THAT EACH OF THE
25 JURORS IS GOING TO GET A SET OF INSTRUCTIONS. THEY
26 WILL NOT BE ON A COMPUTER SCREEN, BECAUSE I DON'T KNOW
27 HOW TO DO THAT. SO IT WILL BE IN BOOKLET FORM. SO THE
28 INSTRUCTIONS ARE GOING TO HAVE TO GO TO PRINT PROBABLY

1 SOMEWHERE AROUND A QUARTER TO 11:00, IF I'M GOING TO
2 BRING THE JURORS IN AT 11:00 O'CLOCK. SO WE NEED TO
3 HAVE DISCUSSED ALL OF THE INSTRUCTIONS AND HAVE ALL OF
4 THE DETAILS WORKED OUT AND SEND THESE FOR COPYING IN
5 THE HALF AN HOUR THAT WE HAVE AVAILABLE TO US.

6 IS THAT GOING TO BE ENOUGH TIME? YOU WANT
7 TO COME BACK AT 10:00?

8 MS. PENSANTI: I THINK 10:00 WOULD BE --

9 THE COURT: ALL RIGHT.

10 MS. PENSANTI: YES, GOOD.

11 THE COURT: WE WILL COME BACK AT 10:00. I WANT
12 TO GET THIS JURY OUT OF HERE.

13 ANYTHING ELSE WE NEED TO TALK ABOUT NOW?

14 MS. PENSANTI: NOTHING ELSE.

15 MR. HANRAHAN: NO, YOUR HONOR.

16 THE COURT: SO, GABY, CAN BRING THE JURY IN,
17 PLEASE?

18
19 (THE FOLLOWING PROCEEDINGS WERE HELD
20 IN OPEN COURT IN THE PRESENCE OF THE
21 JURY:)

22
23 THE COURT: WE ARE MISSING ONE.

24 THE CLERK: ALL RIGHT, YOUR HONOR.

25
26 (A BRIEF PAUSE IN THE PROCEEDINGS.)

27
28 THE COURT: ALL RIGHT. THE JURY AND ALTERNATE

1 HAVE NOW RETURNED TO THE COURTROOM.

2 WELCOME BACK, LADIES AND GENTLEMEN. I
3 APOLOGIZE FOR THE DELAY AGAIN, BUT WE HAVE BEEN
4 HAMMERING OUT A LOT OF THE DETAILS IN THE MEANTIME.

5 SO MR. HANRAHAN HAD ALREADY INDICATED THAT
6 HE DOESN'T HAVE ANY OTHER WITNESSES.

7 MR. HANRAHAN, YOU DID HAVE 15 PAGES OF
8 MEDICAL RECORDS THAT, WHILE THE JURY WAS AWAY, I MARKED
9 PEOPLE'S 37 FOR IDENTIFICATION.

10 MR. HANRAHAN, AT THIS POINT IN TIME YOU ARE
11 ASKING THAT PEOPLE'S 1 THROUGH 37 BE RECEIVED INTO
12 EVIDENCE?

13 MR. HANRAHAN: YES, YOUR HONOR.

14 THE COURT: ALL RIGHT.

15 PEOPLE'S 1 THROUGH 37 ARE RECEIVED INTO
16 EVIDENCE WITH A CAUTIONARY NOTE.

17 WE HAVE THE TWO TRANSCRIPTS THAT WERE
18 PROVIDED TO YOU, BUT THEY WERE ACTUALLY UP TO THE
19 COMPUTER SCREEN. BUT THERE IS A PHYSICAL TRANSCRIPT
20 THAT WAS MARKED AND WILL BE GIVEN TO YOU AS EVIDENCE IN
21 THE JURY DELIBERATION ROOM. THOSE TRANSCRIPTS ARE JUST
22 A GUIDE OF WHAT WAS SAID DURING THE INTERVIEWS TO HELP
23 ASSIST YOU IN WHAT WAS SAID.

24 OBVIOUSLY THEY ARE, TO AN EXTENT, SUBJECT TO
25 INTERPRETATION AS TO WHAT WAS SAID. SO IT IS MERELY
26 JUST A GUIDE.

27 IF YOU LISTEN TO THOSE INTERVIEWS AND HEAR
28 SOMETHING DIFFERENT THAN WHAT THE TRANSCRIPT SAYS, YOU

1 ARE OBVIOUSLY SUPPOSED TO RELY ON WHAT YOU HEAR RATHER
2 THAN WHAT THE TRANSCRIPT SAYS. THE TRANSCRIPT IS NOT
3 THE ABSOLUTE INTERPRETATION OF THE STATEMENTS. WHAT
4 YOU HEAR IS THE ABSOLUTE INTERPRETATION OF THE
5 STATEMENTS.

6 WITH THAT UNDERSTANDING, PEOPLE'S 1 THROUGH
7 37 ARE RECEIVED INTO EVIDENCE.

8
9 (RECEIVED INTO EVIDENCE PEOPLE'S
10 EXHIBITS 1 THROUGH 37.)
11

12 THE COURT: MR. HANRAHAN.

13 MR. HANRAHAN: YOUR HONOR, THE PEOPLE REST.

14 THE COURT: ALL RIGHT.

15 IS THERE GOING TO BE ANY DEFENSE WITNESSES
16 CALLED, MS. PENSANTI?

17 MS. PENSANTI: NO, YOUR HONOR. THE DEFENSE
18 RESTS.

19 THE COURT: SUBJECT TO DEFENSE A BEING RECEIVED
20 INTO EVIDENCE?

21 MS. PENSANTI: SUBJECT TO DEFENSE A BEING
22 RECEIVED INTO EVIDENCE.

23 THE COURT: AND DEFENSE A IS RECEIVED INTO
24 EVIDENCE.

25
26 (RECEIVED INTO EVIDENCE DEFENSE
27 EXHIBIT A.)
28 //

1 POSSIBLY CAN. WE WILL SEE YOU ON MONDAY.

2 MR. HANRAHAN, MS. PENSANTI, LIKEWISE, HAVE
3 AS GOOD A WEEKEND AS YOU POSSIBLY CAN. I DO REMEMBER
4 WHAT IT WAS LIKE TO BE IN TRIAL AND TO HAVE TO ARGUE ON
5 MONDAY.

6 MS. PENSANTI: THANK YOU.

7
8 (AT 3:52 P.M., THE MATTER WAS CONTINUED
9 TO MONDAY, JULY 11, 2011 AT 11:00 A.M.
10 FOR FURTHER PROCEEDINGS.)

11
12 (THE NEXT PAGE NUMBER IS 603.)
13
14
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28

COURT OF APPEAL OF THE STATE OF CALIFORNIA
SECOND APPELLATE DISTRICT

THE PEOPLE OF THE STATE OF CALIFORNIA,)
PLAINTIFF-RESPONDENT,)

VS.)

01) ISRAEL JAMMIR SANCHEZ,)
DEFENDANT-APPELLANT.)

MAR 23 2012
SUPERIOR
COURT

NO. BA372623-01

VOLUME 7

APPEAL FROM THE SUPERIOR COURT OF LOS ANGELES COUNTY
HONORABLE CRAIG RICHMAN, JUDGE PRESIDING
REPORTER'S TRANSCRIPT ON APPEAL

JULY 11, 2011
JULY 12, 2011

APPEARANCES:

PLAINTIFF-RESPONDENT: KAMALA HARRIS
STATE ATTORNEY GENERAL
300 SOUTH SPRING STREET
NORTH TOWER
SUITE 1701
LOS ANGELES, CALIFORNIA 90013

DEFENDANT-APPELLANT: IN PROPRIA PERSONA

VOLUME 7 OF 8 VOLUMES
PAGES 603 THROUGH 700; AND
PAGES 701 THROUGH 716, INCL.

COPY

REPORTED BY: TRACY M. WILLIAMS, CSR, RPR, CRR #10139
OFFICIAL COURT REPORTER

1 CASE NUMBER: BA372623-01
2 CASE NAME: PEOPLE OF THE STATE OF
3 CALIFORNIA
4 VS.
5 ISRAEL JAMMIR SANCHEZ
6 LOS ANGELES, CALIFORNIA MONDAY, JULY 11, 2011
7 DEPARTMENT 120 HON. CRAIG RICHMAN, JUDGE
8 REPORTER: TRACY WILLIAMS, CSR #10139
9 TIME: 10:46 A.M.

10
11 APPEARANCES:

12 THE DEFENDANT, ISRAEL JAMMIR SANCHEZ,
13 PRESENT IN COURT REPRESENTED BY COUNSEL,
14 LOUISA PENSANTI, PRIVATELY RETAINED COUNSEL;
15 THE PEOPLE REPRESENTED BY EUGENE HANRAHAN,
16 DEPUTY DISTRICT ATTORNEY, THE FOLLOWING
17 PROCEEDINGS WERE HELD IN OPEN COURT OUTSIDE
18 THE PRESENCE OF THE JURY:

19
20 -000-

21
22 THE COURT: ALL RIGHT. WE ARE BACK ON THE RECORD
23 IN THE SANCHEZ MATTER, BA372623. MR. SANCHEZ IS HERE
24 WITH MS. PENSANTI.

25 GOOD MORNING, MR. SANCHEZ.

26 THE DEFENDANT: GOOD MORNING.

27 THE COURT: GOOD MORNING, MS. PENSANTI.

28 MR. PENSANTI: GOOD MORNING.

1 THE COURT: THE PEOPLE ARE REPRESENTED BY
2 MR. HANRAHAN. THE JURY AND ALTERNATE ARE NOT PRESENT.

3 WE NEED TO TALK ABOUT INSTRUCTIONS
4 REASONABLY QUICKLY. I APOLOGIZE FOR THE DELAY. MY
5 COMPUTER FROZE THIS MORNING, AND FORTUNATELY THE
6 COMPUTER PEOPLE WERE ABLE TO SAVE THE DATA, OR WE WOULD
7 HAVE BEEN DELAYED A LOT LONGER THAN WE ACTUALLY ARE.

8 EACH OF YOU NOW HAS A NEW AND IMPROVED SET
9 OF INSTRUCTIONS, WHICH IS NOT SIGNIFICANTLY DIFFERENT
10 THAN THE ONE THAT I GAVE EACH OF YOU ON FRIDAY.

11 IT DOES HAVE SOME OF THE DETAILED
12 INFORMATION THAT WAS NOT IN FRIDAY'S, PARTICULARLY, THE
13 GANG INSTRUCTION, WHICH IS 1401, AND THE LIKE.

14 MS. PENSANTI, WE DID TALK ON FRIDAY ABOUT A
15 LESSER OF ATTEMPTED VOLUNTARY MANSLAUGHTER. I DID CITE
16 THE BREVERMAN CASE ON FRIDAY. I WAS GOING TO GIVE YOU
17 THE OPPORTUNITY TO BE HEARD FURTHER ON THAT.

18 DO YOU WISH TO BE HEARD FURTHER?

19 MR. PENSANTI: YES.

20 THE COURT: ALL RIGHT.

21 GO AHEAD, PLEASE.

22 MR. PENSANTI: I WOULD URGE THE COURT TO HAVE THE
23 ATTEMPT VOLUNTARY MANSLAUGHTER JURY INSTRUCTION 603,
24 WHICH INVOLVES HEAT OF PASSION. THE REASON FOR THIS IS
25 MANY, BUT SPECIFICALLY FROM THE WORDS SPOKEN BY
26 MR. SANCHEZ HIMSELF DURING HIS INTERVIEW WHERE HE TALKS
27 ABOUT UPON SEEING MR. -- I FORGOT HIS NAME. SORRY.

28 THE COURT: THOMAS.

1 MR. PENSANTI: -- MR. THOMAS, THAT A SPARK
2 HAPPENED. AND I'M SORRY. I -- I DON'T HAVE THAT FOR
3 YOU. A SPARK. JUST SPARKED EVERYTHING UP. THAT'S
4 PAGE 17 OF THE TRANSCRIPT, LINE 8.

5 THE COURT: ALL RIGHT.

6 MR. PENSANTI: "SPARKED UP" ACTUALLY BRINGS UP A
7 HEAT OF PASSION. I MEAN, I THINK THAT WORD IS VERY
8 SPECIFIC. "SPARKED." HEAT.

9 ADDITIONALLY, HE TALKED ABOUT THE ANGER THAT
10 HE HAD. AND THAT IS --

11 ADDITIONALLY, THE -- THE MATTER THAT
12 OCCURRED DURING THE JUVENILE HALL INCARCERATION FOR
13 MR. SANCHEZ. IT WAS A PERSONAL BEEF BETWEEN THOSE TWO,
14 AND NOTHING TO DO WITH GANGS. SO WHEN HE SAW THIS
15 PERSON, HE IMMEDIATELY -- IT WELLED UP IN HIM. THE
16 HEAT OF PASSION. HE TALKS ABOUT THIS.

17 I THINK THERE'S SUFFICIENT EVIDENCE FOR THIS
18 COURT TO GIVE THAT INSTRUCTION.

19 IS THERE ANYTHING THAT I AM MISSING?

20 THE COURT: LET ME HEAR FROM MR. HANRAHAN.

21 MR. HANRAHAN.

22 MR. HANRAHAN: YOUR HONOR, AS MUCH AS I THINK THE
23 INSTRUCTION IS INAPPLICABLE AS A MATTER OF LAW, I AGREE
24 THAT THE DEFENDANT DID STATE THAT HE WAS ANGRY IN THE
25 VOLVO WHEN HE SAW THE DEFENDANT -- SAW THE VICTIM, AND
26 THAT SPARKED IN HIM SOME ANGER.

27 BUT I THINK STRICTLY AS A LEGAL ISSUE, THIS
28 WAS A LONG SIMMERING FEUD. THIS WAS NOT A QUARREL.

1 THERE WERE NO WORDS EXCHANGED OR CONVERSATION EXCHANGED
2 BETWEEN THE VICTIM AND THE DEFENDANT. THE ONLY
3 CONVERSATION WAS THE DEFENDANT SAYING "BARRIO GODS,"
4 AND FIRING HIS GUN THREE TIMES. AND THE ONLY THING
5 THAT THE VICTIM REPLIED WAS A SCREAM IN PAIN. THAT IS
6 NOT A SUDDEN QUARREL.

7 I DON'T THINK, AS A PRACTICAL MATTER OR AS A
8 LEGAL MATTER, THE DEFENDANT BEING ANGRY ABOUT THE FACT
9 THAT HIS ENEMY IS WALKING DOWN THE STREET AS HE'S ABOUT
10 TO AMBUSH HIM IS ENOUGH TO GET THE VOLUNTARY --
11 ATTEMPTED VOLUNTARY MANSLAUGHTER INSTRUCTION.

12 THAT SAID -- ALSO, AS A PRACTICAL MATTER,
13 THE COURTS HAVE BEEN VERY -- THE APPELLATE COURTS HAVE
14 BEEN VERY LIBERAL ABOUT ALLOWING -- OR I SHOULD SAY
15 SECOND GUESSING TRIAL COURTS WHEN THEY REFUSE TO GIVE
16 HEAT OF PASSION OR ATTEMPTED VOLUNTARY MANSLAUGHTER
17 INSTRUCTIONS TO A JURY WHEN THERE IS ANY EVEN POSSIBLE
18 COLORABLE ARGUMENT TO BE MADE.

19 AND -- AND SO -- AND THERE ARE NUMEROUS
20 CASES OUT OF MY UNIT IN WHICH THAT HAS OCCURRED. SO I
21 THINK -- I THINK THERE'S THE REALITY OF THE -- OR
22 THERE'S THE LEGAL ISSUE VERSUS THE REALITY OF THE
23 LIBERAL VIEW WITH WHICH THE COURTS HAVE -- WITH WHICH
24 APPELLATE COURTS HAVE APPROACHED THIS -- THIS ISSUE.

25 THAT SAID, I WOULD SUBMIT ON THE COURT'S
26 DISCRETION. I REALLY, UH -- I THINK -- I PERSONALLY
27 DO NOT THINK THERE'S ANY APPLICATION OF THAT
28 INSTRUCTION, BUT COUNSEL HAS STATED AT LEAST TWO

1 FACTOIDS THAT PROVIDE SOME FACTUAL BASIS TO ARGUE IT.

2 I CAN -- YOU KNOW, LEVELING WITH THE COURT
3 AND COUNSEL, IT KIND OF THROWS UP A STRAW MAN FOR THE
4 PEOPLE, WHICH IS SOMEWHAT BENEFICIAL AS A TACTICAL
5 MATTER, BUT --

6 SO I'LL SUBMIT ON THAT BASIS.

7 THE COURT: ANYTHING ELSE, MS. PENSANTI?

8 MR. PENSANTI: NO.

9 THE COURT: ALL RIGHT.

10 BREVERMAN, WHICH I CITED THE OTHER DAY, IS
11 STILL THE LAW IN THIS PARTICULAR ISSUE. IT DOES
12 INDICATE THAT THERE HAS TO BE EVIDENCE OF EVEN HEAT OF
13 PASSION OR PERFECT SELF-DEFENSE. IT HAS TO BE
14 SUBSTANTIAL ENOUGH TO MERIT CONSIDERATION.

15 THERE IS CLEARLY NO IMPERFECT SELF-DEFENSE
16 APPLICABLE IN THIS CASE. AND I ALSO DO NOT BELIEVE
17 THAT THERE IS ANY EVIDENCE WHATSOEVER OF HEAT OF
18 PASSION IN THIS CASE. IN FACT, BASED UPON MY ANALYSIS
19 OF THE EVIDENCE, THIS WAS A COLD, CALCULATED, TO USE
20 MR. HANRAHAN'S LANGUAGE, AMBUSH, IF THE JURY BELIEVES
21 THAT THIS TOOK PLACE, THAT WAS PUT INTO PLACE BY
22 MS. LUCERO GOATING MR. SANCHEZ TO ACT, CALLING HIM A
23 "BITCH," OR WHATEVER THE EXPRESSION WAS.

24 BUT THAT IS NOT A HEAT OF PASSION, AND I
25 WILL NOT GIVE ANY TYPE OF INVOLUNTARY MANSLAUGHTER
26 INSTRUCTION AS A LESSER INCLUDED OF ATTEMPTED MURDER.
27 THAT WOULD HAVE BEEN THE ONLY LESSER INCLUDED THAT
28 APPLIES BASED UPON THE CHARGES IN THIS CASE.

1 MS. PENSANTI, ARE YOU ASKING FOR ANY OTHER
2 INSTRUCTIONS THAT ARE NOT CONTAINED IN THE PACKAGE THAT
3 I PROVIDED TO COUNSEL?

4 MR. PENSANTI: YES.

5 THE COURT: WHICH ONE?

6 MR. PENSANTI: BUT I DON'T KNOW WHAT ELSE IS
7 AVAILABLE.

8 THE COURT: SO YOU DON'T HAVE ONE THAT YOU ARE
9 SPECIFICALLY -- THAT YOU SPECIFICALLY HAVE IN MIND?

10 MR. PENSANTI: WELL, I CAN'T HAVE ASSAULT WITH A
11 DEADLY WEAPON.

12 THE COURT: THAT'S THE ONLY LESSER. AND I'M NOT
13 GOING TO GIVE THAT, BUT I'M ASKING WHETHER THERE'S ANY
14 OTHER INSTRUCTION THAT'S CONTAINED IN CALCRIM THAT YOU
15 THINK IS APPLICABLE IN THIS CASE THAT WAS NOT INCLUDED
16 IN THE PACKAGE.

17 MR. PENSANTI: IS ASSAULT WITH A DEADLY WEAPON A
18 LESSER INCLUDED?

19 THE COURT: IT IS NOT.

20 MR. PENSANTI: IT IS NOT IN ANY CASE?

21 THE COURT: NOT IN -- NOT BASED UPON THE CHARGE.

22 YOU DO NOT NEED TO USE A FIREARM TO COMMIT
23 THE CRIME OF ATTEMPTED MURDER. SO IT IS NOT A LESSER
24 INCLUDED OF ATTEMPTED MURDER. YOU ARE NOT TO CONSIDER
25 ENHANCEMENTS IN DECIDING WHETHER THERE'S A LESSER
26 INCLUDED. SO THE FIREARM ALLEGATIONS DO NOT TRIGGER
27 ASSAULT WITH A FIREARM AS A LESSER INCLUDED,
28 UNFORTUNATELY.

1 MR. PENSANTI: AND THE COURT HAS DISALLOWED THE
2 ATTEMPTED VOLUNTARY MANSLAUGHTER?

3 THE COURT: YES, MA'AM.

4 MR. PENSANTI: HEAT OF PASSION.

5 SO I -- I GUESS I DON'T KNOW OF ANY OTHER.

6 THE COURT: ALL RIGHT.

7 MR. PENSANTI: THAT -- MAYBE I'M MISSING IT.

8 THE COURT: YOU ARE NOT, BECAUSE I WOULDN'T ALLOW
9 YOU TO MISS IT ANYWAY.

10 I'VE CLEARLY ANALYZED THIS SITUATION. MY
11 QUESTION IS, DO YOU THINK THAT, LIKE, 303 APPLIES,
12 WHICH WAS PART OF MR. HANRAHAN'S ORIGINAL REQUEST
13 PACKAGE AND IT'S NOT INCLUDED IN THE COURT'S
14 INSTRUCTIONS, OR ANYTHING LIKE THAT?

15 MR. PENSANTI: WHAT WAS 303 AGAIN, YOUR HONOR?
16 I'M SORRY.

17 THE COURT: THAT WAS JUST SOMETHING I RANDOMLY
18 SELECTED. BUT I THINK IT'S MULTIPLE DEFENDANTS, OR
19 SOMETHING LIKE THAT, WHICH HAD NO APPLICABILITY --

20 MR. PENSANTI: OH.

21 THE COURT: -- TO THIS CASE.

22 MR. PENSANTI: AND THAT WAS THE MATTER WHERE
23 YOUR HONOR PUT IN THE ACCOMPLICE?

24 THE COURT: I DID ADD THE ACCOMPLICE
25 INSTRUCTIONS. I DO THINK THAT THE JURY HAS TO HAVE THE
26 OPPORTUNITY TO EVALUATE WHETHER MS. LUCERO AND/OR
27 MS. LOPEZ WERE ACCOMPLICES TO THE CRIME, AND THEN, NEED
28 INSTRUCTION ON HOW TO YOU EVALUATE THEIR TESTIMONY IF

1 THEY FIND THAT THEY ARE ACCOMPLICES OR FIND THAT THEY
2 ARE NOT ACCOMPLICES.

3 SO I HAVE GIVEN THE INSTRUCTIONS TO -- FOR
4 THEM TO DETERMINE WHETHER THEY WERE ACCOMPLICES. I DO
5 NOT BELIEVE THAT THEY WERE ACCOMPLICES AS A MATTER OF
6 LAW, BUT THE JURY COULD FIND THAT THEY ARE ACCOMPLICES.
7 AND I'VE TOLD THE JURY HOW TO EVALUATE THEIR TESTIMONY
8 DEPENDING UPON WHAT THEY FIND.

9 ANYTHING ELSE?

10 MS. PENSANTI: NOTHING ELSE.

11 THE COURT: MR. HANRAHAN, DO YOU HAVE ANY
12 INSTRUCTIONS THAT YOU WOULD LIKE THAT ARE NOT INCLUDED
13 IN THE COURT'S SET?

14 MR. HANRAHAN: I WAS JUST GONNA SUGGEST TO THE
15 COURT BASED ON THE COURT'S -- I AGREE THAT 375, THE --
16 THE 1101(B) INSTRUCTION, SHOULD BE GIVEN.

17 THE COURT: RIGHT.

18 MR. HANRAHAN: BUT I THINK THAT INSTRUCTION ALSO
19 GOES TO IDENTITY IN ADDITION TO THE DEFENDANT'S STATE
20 OF MIND AND HIS MOTIVE.

21 THE COURT: ALL RIGHT.

22 MR. HANRAHAN: BECAUSE IT SHOWS THIS PRIOR
23 RELATIONSHIP AND HIS PRIOR ANIMUS BETWEEN THE TWO OF
24 THEM. THE ATTACK WAS IN A SIMILAR TYPE AMBUSH,
25 ALTHOUGH ONE WAS WITH FIST THE OTHER WAS WITH A GUN.
26 SO, UH --

27 THE COURT: WITHIN THE --

28 MR. HANRAHAN: AND IF --

1 THE COURT: CONSTRUCT OF 1101(B), IDENTITY, IS
2 THE MOST DIFFICULT OF ALL OF THE FACTORS INVOLVED.
3 IT DOES ALMOST REQUIRE WHAT HAS BEEN DESCRIBED IN THE
4 CASE LAW AS A SIGNATURE CRIME. THAT IT HAS TO BE A
5 CRIME THAT IS SO IDENTICAL IN THE MANNER IN WHICH IT IS
6 PERPETRATED THAT THE IDENTITY OF THE PERPETRATOR JUMPS
7 OUT.

8 THIS IS NOT THAT KIND OF SITUATION. SO I'M
9 GOING TO DECLINE TO GIVE IDENTITY AS ONE OF THE ITEMS
10 THAT CAN BE CONCLUDED FROM THE INCIDENT AT CENTRAL
11 JUVENILE HALL.

12 ANYTHING ELSE, MR. HANRAHAN?

13 MR. HANRAHAN: I MAY HAVE MISSED IT, BUT DID THE
14 COURT GIVE THE FLIGHT INSTRUCTION?

15 THE COURT: I DID NOT.

16 WOULD YOU LIKE THE FLIGHT INSTRUCTION?

17 MR. HANRAHAN: YES.

18 THE COURT: MS. PENSANTI, YOUR POSITION ON THE
19 FLIGHT INSTRUCTION?

20 MR. PENSANTI: THAT I WOULD OBJECT TO IT.

21 THE COURT: OKAY. IS THERE A BASIS FOR YOUR
22 OBJECTION BEYOND OBJECTING TO IT?

23 MR. PENSANTI: UH --

24 THE COURT: AND I -- LET ME COME BACK TO YOU,
25 MR. HANRAHAN.

26 WHAT EVIDENCE OF FLIGHT IS THERE IN THIS
27 CASE?

28 MR. HANRAHAN: WELL, RIGHT AFTER HE SHOT THE

1 VICTIM, HE FLED BACK TO THE VOLVO, AND THEN THEY FLED
2 TO MARGARITA LOPEZ'S HOUSE.

3 THE DEFENDANT USED THE EXPRESSION. HE SAID,
4 "WE FLEE'D ONCE HE ENTERED THE VOLVO."

5 SO USING HIS OWN, WELL, EXPRESSION --
6 THE COURT: ALL RIGHT.

7 MR. HANRAHAN: -- HE DIDN'T FLEE THE
8 JURISDICTION. HE DIDN'T REALLY HAVE TIME TO. BUT I
9 THINK HE DID FLEE THE SCENE.

10 THE COURT: AND I AGREE, NOW THAT YOU HAVE
11 MENTIONED THAT, THAT MS. LOPEZ WAS NOT ABLE TO ACTUALLY
12 SEE THE SHOOTING. BUT WHEN THE DEFENDANT RETURNED TO
13 THE VEHICLE, HE DID IMPLORE HER TO LEAVE THE AREA AS
14 QUICKLY AS POSSIBLE.

15 SO I WILL GIVE THE FLIGHT INSTRUCTION.

16 ANY OTHER INSTRUCTION, MR. HANRAHAN?

17 MR. HANRAHAN: LET ME JUST LOOK AT MY TRIAL LOG
18 REAL QUICK.

19 THE COURT: DO YOU HAPPEN TO KNOW THE NUMBER OF
20 THE FLIGHT INSTRUCTION?

21 MR. HANRAHAN: I DON'T OFF THE TOP OF MY HEAD.

22 THE COURT: ALL RIGHT. I'LL FIND IT.

23
24 (A BRIEF PAUSE IN THE PROCEEDINGS.)

25
26 MR. HANRAHAN: I WOULD ASK FOR 315, WHICH IS
27 EYEWITNESS EVIDENCE IDENTIFYING THE DEFENDANT.

28 THE COURT: YEAH.

1 MR. HANRAHAN: I MEAN --

2 THE COURT: I DIDN'T THINK THE 315 APPLIED TO
3 THIS CASE.

4 IN LIGHT OF THE FACT THAT THERE WAS NOT --
5 THE ONLY EYEWITNESS TO THIS CASE WOULD BE JESSICA
6 LUCERO, POTENTIALLY, MARGARITA LOPEZ TECHNICALLY WAS
7 NOT AN EYEWITNESS TO THE SHOOTING. BOTH OF THESE
8 INDIVIDUALS ARE QUITE FAMILIAR WITH THE DEFENDANT.

9 SO EYEWITNESS IDENTIFICATION, IN THE
10 COURT'S MIND, WAS NOT AN ISSUE, IT'S JUST WHETHER
11 MR. SANCHEZ ACTUALLY COMMITTED THE CRIME OR NOT.

12 AGAIN, EACH OF THOSE -- I MEAN, MS. LUCERO
13 WAS INVOLVED IN A RELATIONSHIP, AND MS. LOPEZ WAS,
14 QUOTE, "HIS PLAY SISTER," UNQUOTE.

15 SO I DON'T BELIEVE THAT EYEWITNESS
16 IDENTIFICATION IS AN ISSUE IN THIS CASE.

17 MR. HANRAHAN: OKAY.

18 MS. PENSANTI: WELL, AND ALSO, IT -- DOESN'T THAT
19 GO TO EYEWITNESS TO THE SHOOTING?

20 THE COURT: AND DO WE HAVE AN EYEWITNESS?

21 MR. PENSANTI: NEITHER ONE OF THOSE LADIES --

22 THE COURT: RIGHT.

23 MS. PENSANTI: -- WERE EYEWITNESS TO THE
24 SHOOTING.

25 THE COURT: I AGREE.

26 MR. PENSANTI: THE ONLY EYEWITNESS WOULD BE
27 MISSING PERSON, MR. THOMAS.

28 THE COURT: OR ANYONE ELSE, FOR THAT MATTER, WHO

1 MAY HAVE WITNESSED THE CRIME.

2 OKAY. ANYTHING ELSE, MR. HANRAHAN?

3 MR. HANRAHAN: JUST DOUBLE-CHECKING.

4

5 (A BRIEF PAUSE IN THE PROCEEDINGS.)

6

7 MR. HANRAHAN: I ASKED FOR 360, WHICH IS SORT

8 OF A SUPPLEMENT TO THE EXPERT WITNESS INSTRUCTION.

9 IT JUST CAUTIONS THE JURY ABOUT EVALUATING HEARSAY

10 STATEMENTS THAT OFFICER CASTANEDA RELIED ON.

11 HE DID RELY ON -- HE WAS INVOLVED IN THE

12 ARREST OF TWO OF THE -- THE TWO PREDICATE.

13 THE COURT: RIGHT.

14 MR. HANRAHAN: HE PERSONALLY HAD CONTACT WITH THE

15 DEFENDANT, BUT HE DID RE- -- I MEAN, I'M QUITE SURE HE

16 DID SAY HE DID RELY ON.

17 THE COURT: ALL RIGHT.

18 MS. PENSANTI, YOUR POSITION ON 360?

19 MR. PENSANTI: MAY I HAVE THE 360 LANGUAGE?

20 BECAUSE, I'M SORRY. I DON'T HAVE IT.

21 THE COURT: SURE.

22 JUST A SECOND.

23

24 (A BRIEF PAUSE IN THE PROCEEDINGS.)

25

26 MR. PENSANTI: PLEASE.

27 THE COURT: WE ARE ONLY TALKING ABOUT OFFICER

28 CASTANEDA AT THIS POINT IN TIME, MR. HANRAHAN?

1 MR. HANRAHAN: YES, YOUR HONOR.

2 THE COURT: SO IT WOULD BE "OFFICER CASTANEDA
3 TESTIFIED THAT IN REACHING HIS CONCLUSIONS AS AN EXPERT
4 WITNESS, HE CONSIDERED STATEMENTS MADE BY --

5 MR. HANRAHAN: OTHER POLICE OFFICERS.

6 THE COURT: -- OTHER OFFICERS. YOU MAY CONSIDER
7 THOSE STATEMENTS ONLY TO EVALUATE HIS OPINION. DO NOT
8 CONSIDER THOSE STATEMENTS AS PROOF OF INFORMATION
9 CONTAINED IN THE STATEMENTS AS TRUE."

10 MR. PENSANTI: I -- I'LL SUBMIT ON THAT.

11 THE COURT: ALL RIGHT.

12 I THINK IT'S A NON FACTOR EITHER WAY, BUT
13 I'LL GIVE THE INSTRUCTION.

14 ANYTHING ELSE, MR. HANRAHAN?

15 MR. HANRAHAN: I'D ASK FOR 371, WHICH IS THE
16 DEFENDANT TRIED TO HIDE EVIDENCE AS CONSCIOUSNESS OF
17 GUILT. THEY TOOK THE GUN TO MARGARITA LOPEZ'S HOUSE
18 AND THEN SOLD IT TO GET RID OF IT.

19 THE COURT: ALL RIGHT.

20 MS. PENSANTI.

21 MR. PENSANTI: I -- I'M GOING TO OBJECT TO THAT.
22 BECAUSE I -- I THINK THAT THAT INSTRUCTION NEEDS TO
23 SHOW A CONTINUOUS COURSE OF ACTION. AND THAT'S -- THAT
24 WAS NOT PROVEN AT TRIAL.

25 IN OTHER WORDS, WE DON'T KNOW WHEN THE SALE
26 OF THE GUN HAPPENED, OR IF IT HAPPENED AT ALL.

27 MR. HANRAHAN: WELL, JESSICA LUCERO SAID THEY
28 SOLD THE GUN.

1 MR. PENSANTI: OKAY. WELL, THAT'S -- SHE ALSO
2 SAID A LOT OF OTHER THINGS THAT MAY NOT BE TRUE.

3 THE COURT: I -- YOU KNOW, I HAVE TO BE HONEST
4 WITH YOU, MR. HANRAHAN. IN FACT, I THINK THAT THE
5 EVIDENCE, TO AN EXTENT, SHOWS THAT THEY DID NOT SELL
6 THE WEAPON.

7 IS IT MY RECOLLECTION -- AND CORRECT ME IF
8 I'M WRONG -- THAT THE WEAPON WAS BROUGHT TO THE POLICE
9 STATION BY MARGARITA LOPEZ'S MOTHER.

10 MR. HANRAHAN: NO. LILLIANA TORRES WAS NOT
11 MARGARITA LOPEZ'S MOTHER, SHE WAS THE MOTHER OF ANOTHER
12 MALE AT THE SCENE.

13 THE COURT: DIDN'T THEY -- DIDN'T THEY SAY --
14 DETECTIVE STACK, I BELIEVE, TESTIFIED THAT THEY MISSED
15 THE WEAPON WHEN THEY SEARCHED MARGARITA LOPEZ'S HOUSE.

16 MR. HANRAHAN: THEY MISSED THE WEAPON WHEN THEY
17 SEARCHED FOR IT, AND SO -- BUT THEY HAD THE NUMBER OF
18 LILLIANA TORRES. SO OFFICER STACK CAME BACK TO THE
19 STATION AND DETECTIVE CARRILLO VOLUNTEERED TO HELP.
20 SO HE CALLED THE NUMBER OF LILLIANA TORRES, WHO LIVED
21 AT MARGARITA LOPEZ'S RESIDENCE, AND IMPORED HER TO
22 BRING THE GUN TO THE STATION. SO SHE, ONE WOULD
23 ASSUME, FOUND THE GUN SOMEWHERE AT THE LOCATION AND
24 BROUGHT THE GUN -- FOUND THE GUN AT THE RESIDENCE AND
25 BROUGHT THE GUN TO THE STATION.

26 THE COURT: BUT, AGAIN, DOESN'T THAT SUGGEST THAT
27 THE WEAPON WAS NOT SOLD? THAT IT WAS AT MARGARITA
28 LOPEZ'S HOUSE?

1 MR. HANRAHAN: WELL, THERE WAS ALSO -- I MEAN,
2 THE -- THE BASIS -- THE FACTUAL BASIS OF THE
3 INSTRUCTION IS LARGELY JESSICA LUCERO'S STATEMENT THAT
4 THE GUN WAS SOLD. YOU KNOW, WHAT EXACTLY TRANSPIRED
5 BETWEEN LILLIANA TORRES AND WHOEVER PURCHASED THE GUN
6 OR OBTAINED THE GUN FOR WHATEVER -- AT WHATEVER PRICE,
7 I DON'T KNOW. I MEAN, AS A PRACTICAL MATTER, AGAIN,
8 IT'S NOT THAT BIG OF A DEAL. SO --

9 THE COURT: OKAY. I'M GOING TO DECLINE TO GIVE
10 THAT INSTRUCTION.

11 MS. PENSANTI: THANK YOU, YOUR HONOR.

12 THE COURT: ANYTHING ELSE?

13

14 (NO AUDIBLE RESPONSE BY COUNSEL.)

15

16 MR. PENSANTI: NOTHING FOR ME.

17

18 (A BRIEF PAUSE IN THE PROCEEDINGS.)

19

20 MR. HANRAHAN: THAT'S IT, YOUR HONOR.

21 THE COURT: ALL RIGHT.

22 MS. PENSANTI, ANYTHING ELSE?

23 MR. PENSANTI: NOTHING ELSE, YOUR HONOR.

24 THE COURT: ALL RIGHT.

25 THEN I'M GOING TO PRINT OUT ANOTHER SET OF
26 THESE INSTRUCTIONS FOR YOU, AND I'M GOING TO HAVE THEM
27 COPIED. SO WE ARE GOING TO NEED ABOUT PROBABLY 10 MORE
28 MINUTES BEFORE WE ARE GOING TO BE READY TO GO.

1 HAPPENED. THAT'S WHAT, UH -- THAT'S THE GANG LOGIC.

2 SO THE DEFENDANT IS GONNA HAVE A CHANCE TO
3 ARGUE TO YOU, AND THEN I'LL HAVE A CHANCE TO REBUT
4 THEIR ARGUMENTS. AND AFTER I HAVE HAD A CHANCE TO
5 ADDRESS YOU THE SECOND TIME, I WILL ASK YOU TO FIND THE
6 DEFENDANT GUILTY OF THE ATTEMPTED MURDER OF WILLIAM
7 THOMAS, AND TO FIND TRUE ALL THE SPECIAL ALLEGATIONS.

8 THANK YOU, YOUR HONOR.

9 THE COURT: THANK YOU, MR. HANRAHAN.

10 MS. PENSANTI, WHEN YOU ARE READY, PLEASE.

11
12 CLOSING ARGUMENT

13 BY MS. PENSANTI:

14 GOOD AFTERNOON. THIS SETS UP INTO -- AND
15 THAT'S THE ENDS OF THE STORY. HE SAID THAT. THAT'S
16 THE END OF THE STORY WHICH DOES NOT CONTEMPLATE YOUR
17 VIEW OF THE EVIDENCE, IT'S ONLY HIS VIEW OF THE
18 EVIDENCE THAT SAYS THIS IS THE END OF THE STORY.

19 WE KNOW THAT THIS IS NOT A WHODUNIT. IT'S A
20 HOW.

21 I TOLD YOU AT THE BEGINNING THIS IS AN
22 OVERCHARGED CASE. IT SHOULD HAVE BEEN AN ATTEMPTED
23 VOLUNTARY MANSLAUGHTER.

24 MR. HANRAHAN: OBJECTION, YOUR HONOR. THAT'S
25 IMPROPER. THERE'S NO --

26 THE COURT: SUSTAINED.

27 MS. PENSANTI: OKAY.

28 BUT WE DON'T HAVE ANY CHOICE.

1 MR. HANRAHAN: SAME OBJECTION.

2 BY MS. PENSANTI:

3 WE HAVE TO DEAL WITH WHAT IS CHARGED.

4 THE COURT: OVERRULED.

5 CONTINUE, MS. PENSANTI.

6 BY MS. PENSANTI:

7 WE HAVE TO DEAL WITH WHAT IS CHARGED.

8 MR. THOMAS HAD A PROBLEM WITH MR. SANCHEZ.
9 WE ONLY GOT A LITTLE -- A LITTLE BIT OF WHAT THAT WAS
10 ALL ABOUT WHEN WE HEARD THE TESTIMONY OF THE JUVENILE
11 OFFICER. THE JUVENILE OFFICER SAID IT WAS A PERSONAL
12 BEEF. HE TESTIFIED THAT DURING THE TIME, THAT BOTH OF
13 THEM BEING IN WEST -- EAST LAKE JUVENILE HALL, THAT
14 THERE WAS WHAT HE SAW AN UNPROVOKED HITTING OF
15 MR. THOMAS BY MR. SANCHEZ. BUT THEY CONTINUED TO
16 GRAPPLE TOGETHER AFTER THAT. THEY WERE SEPARATED.
17 THE STEP BETWEEN MEANT IT HAD TO BE TWO TANGLING
18 TOGETHER.

19 WE DID NOT GET TO HEAR ANY TESTIMONY FROM
20 MR. THOMAS. HE WAS NOT BROUGHT HERE. HE COULD HAVE
21 GIVEN SOME INCITE INTO OTHER THINGS THAT HAPPENED
22 BETWEEN MR. SANCHEZ AND HIMSELF.

23 THIS WAS AN ONGOING PROBLEM BETWEEN THEM.
24 THESE TWO KIDS HAD A PERSONAL PROBLEM. NOTHING TO DO
25 WITH THE GANG. NOTHING AT ALL.

26 THE DISTRICT ATTORNEY WANTS TO YOU SPECULATE
27 AS TO THE MOTIVATION AND HAVE YOU SPECULATE THAT IT'S A
28 GANG RELATED PROBLEM, AND IT'S NOT.

1 HE NEEDS TO PROVE TO YOU TWO ELEMENTS.
2 REMEMBER, WE TALKED ABOUT THE INGREDIENTS IN A CAKE.
3 INGREDIENTS: FLOWER, EGGS, WATER, MILK, WHATEVER.

4 THE FIRST OF THOSE INGREDIENTS IS THAT
5 MR. SANCHEZ NEEDED TO TAKE AT LEAST ONE STEP TOWARDS
6 THE ACT. AND THE SECOND STEP IS THAT HE HAD TO HAVE
7 THE INTENT TO KILL. AND THIS IS WHERE WE LOOK AT THE
8 WORDS OF ISRAEL SANCHEZ. HE HAS NO INTENT TO KILL.

9 WHEN HE TALKS TO THE OFFICERS, SANCHEZ IS ON
10 HIS WAY TO HIS HOUSE. HE SAYS, "I'M ON MY WAY TO MY
11 HOUSE." TALBOT SAYS, "AND YOU JUST HAPPENED TO SEE
12 THIS GUY, HUH?" HE SAYS, "YEAH. HE WAS WALKING IN OUR
13 DIRECTION." AND OFFICER TALBOT SAYS, "AND IT STARTED
14 EVERYTHING?" AND MR. SANCHEZ SAYS, "YEAH. IT JUST
15 SPARKED EVERYTHING UP, SIR."

16 TALBOT SAYS, "YOU SHOT HIM IN THE BACK?"
17 HE SAID, "I -- I DON'T KNOW WHERE I HIT HIM, I JUST
18 SHOT." THIS IS NOT AN INTENT TO KILL, HE JUST SHOT.

19 THE ALLEGATION OF WILLFUL AND DELIBERATE AND
20 PREMEDITATION -- I'M SORRY -- WILLFUL AND WITH
21 DELIBERATION AND PREMEDITATION IS A VERY IMPORTANT
22 ALLEGATION. AGAIN, THERE'S THREE ELEMENTS THAT HAVE
23 TO BE MET IN ORDER FOR THOSE -- THAT ALLEGATION TO BE
24 FOUND. THE FIRST IS THAT HE HAD TO HAVE ACTED
25 WILLFULLY IF HE INTENDED TO KILL WHEN HE ACTED.

26 AGAIN, GO BACK TO HIS OWN WORDS. HE DID NOT
27 HAVE AN INTENTION TO KILL. HE STATES ON -- ACTUALLY,
28 IT'S WHEN HE'S TALKING TO OFFICER STACK -- AND THIS IS

1 AFTERWARDS. AFTERWARDS. A DECISION TO KILL THAT'S
2 MADE RATIONALLY OR IMPULSIVE OR WITHOUT CAREFUL
3 CONSIDERATION OF THE CHOICE AND ITS CONSEQUENCES IS NOT
4 DELIBERATE AND PREMEDITATED.

5 SO WHEN STACK -- OFFICER STACK SAYS, "I WANT
6 TO KNOW WHAT YOU WERE THINKING HERE WHEN YOU SEE THIS
7 GUY WAS CROSSING THE STREET. DO YOU THINK TO YOURSELF,
8 YOU KNOW, 'FUCK IT. ENOUGH IS ENOUGH. I'M GOING TO
9 KILL THIS GUY, YOU KNOW, PUT HIM DOWN' OR WHAT?"
10 ISRAEL SANCHEZ ANSWERS, "NO. NOT PUT HIM DOWN. I WAS
11 JUST ANGRY."

12 THEN OFFICER STACK SAYS, "YEAH, BUT I WANT
13 TO KNOW. IF YOU HAVE A GUN AND IF YOU ARE GOING TO
14 SHOOT SOMEBODY THREE TIMES, I MEAN, WHAT DO YOU THINK
15 IS GOING TO HAPPEN?" THAT'S WHAT HE SAYS. "YOU ARE
16 GONNA DIE." THAT'S WHEN AFTER THE EVENT HE'S ASKED TO
17 THINK ABOUT IT AND REFLECT ON IT. HE DIDN'T REFLECT ON
18 THIS BEFORE. IT WAS WHEN HE WAS ASKED BY OFFICER
19 STACK -- DETECTIVE STACK. I'M SORRY. AND THIS IS
20 AFTERWARD.

21 WE ARE TALKING ABOUT THE MOMENTS BEFORE THE
22 SHOOTING AND WHAT WAS GOING ON IN HIS MIND. AND I WILL
23 TELL YOU THAT WHAT WAS GOING ON IN HIS MIND WAS
24 NOTHING. HE WAS ANGRY. THIS -- MR. THOMAS SPARKED
25 SOMETHING OFF IN HIS MIND. IT WASN'T THE INTENT TO
26 KILL. IT WAS A -- A SPARK OF PASSION OR RASHNESS.
27 IMPULSE. IMPULSE. THERE WAS NO CONSIDERATION.
28 THERE WASN'T ANY CAREFUL CONSIDERATION OF WHAT HE DID.

1 AND HE CERTAINLY DIDN'T THINK ABOUT THE CONSEQUENCES
2 OF WHAT WAS GOING ON.

3 HE SHOT, AND HE DIDN'T EVEN KNOW WHAT HE
4 WAS SHOOTING. HE JUST SAID -- HE -- HIS WORDS. "I
5 DIDN'T KNOW WHERE I WAS SHOOTING. I JUST SHOT."

6 THE DISTRICT ATTORNEY IS ASKING YOU TO ACT
7 RASHLY IN FINDING THAT THERE WAS NO REFLECTION OR
8 FINDING THAT THERE WAS REFLECTION. I'M SORRY. ASKING
9 YOU NOT TO REFLECT WHEN HE PUTS THE CHECK MARK IN HIS
10 PRESENTATION. FIND HIM GUILTY. FIND HIS ALLEGATION.

11 WE HAD THE TESTIMONY OF -- OF A GANG
12 OFFICER, CASTANEDA, WHO TALKED ABOUT HIS PAST WITH
13 ISRAEL SANCHEZ SAYING ON THE STAND THAT THERE WERE
14 FIVE TO TEN CONTACTS WITH ISRAEL SANCHEZ WHEN, IN FACT,
15 THERE WAS ONE. ONE FIELD IDENTIFICATION CARD WHICH HAD
16 TO DO WITH A CURFEW VIOLATION OF A MINOR. IT HAD
17 NOTHING TO DO WITH BEING A GANG MEMBER, THOUGH HE'S A
18 SELF-ADMITTED GANG MEMBER.

19 IT'S NOT AGAINST THE LAW TO BE A GANG
20 MEMBER. IT'S ONLY AGAINST THE LAW IF YOU DO SOMETHING
21 IN PROMOTION OF THE WORDS THAT HAVE TO DO WITH GANG.

22 WHAT THE DISTRICT ATTORNEY'S OFFICE IS
23 DOING -- OR THE DISTRICT ATTORNEY IS DOING IS PUTTING
24 FEAR INTO YOUR HEARTS ABOUT GANGS AND HAVING YOU
25 BELIEVE THAT ISRAEL SANCHEZ IS THE BIGGEST GANG MEMBER
26 ON THE EARTH, OR THAT HE WANTED TO PROVE HIS MANHOOD
27 AND SHOT MR. THOMAS. WHEN, IN FACT, IT WAS A PERSONAL
28 BEEF. OVER AND OVER AGAIN IT'S A PERSONAL BEEF.

1 HE MAY HAVE YELLED OUT "BARRIO GODS," BUT
2 THIS WAS NOT FOR THE PROMOTION OF THE GANG. HE HAD
3 SOME PERSONAL PROBLEM WITH THE GUY WHO WAS NOT BROUGHT
4 TO COURT, AND THE DISTRICT ATTORNEY CAN TALK ABOUT HOW
5 THAT'S THE CODE OF THE GANG; THE CODE OF THE GANG.

6 PLEASE, WHEN YOU ARE THINKING ABOUT THIS AND
7 WHEN YOU HAVE TWO OR MORE WAYS OF LOOKING AT IT, THERE
8 IS A -- THERE IS A JURY INSTRUCTION THAT TALKS ABOUT
9 CIRCUMSTANTIAL EVIDENCE AND REGARDING HIS INTENT OR
10 MENTAL STATE. AND IT'S 225. BEFORE YOU MAY RELY ON
11 CIRCUMSTANTIAL EVIDENCE TO CONCLUDE THAT THE DEFENDANT
12 HAD THE REQUIRED INTENT OR MENTAL STATE, YOU MUST BE
13 CONVINCED THAT THE ONLY REASONABLE CONCLUSION SUPPORTED
14 BY THE CIRCUMSTANTIAL EVIDENCE IS THAT THE DEFENDANT
15 HAD THE REQUIRED INTENT OR MENTAL STATE.

16 IF YOU CAN DRAW TWO OR MORE REASONABLE
17 CONCLUSIONS FROM THE CIRCUMSTANTIAL EVIDENCE AND ONE OF
18 THOSE REASONABLE CONCLUSIONS SUPPORTS A FINDING THAT
19 THE DEFENDANT DID HAVE THE REQUIRED INTENT OR MENTAL --
20 MENTAL STATE, AND ANOTHER REASONABLE CONCLUSION
21 SUPPORTS A FINDING THAT THE DEFENDANT DID NOT, YOU
22 MUST -- AND I HAVE TO UNDERLINE "MUST" -- CONCLUDE THAT
23 THE REQUIRED INTENT OR MENTAL STATE WAS NOT PROVED BY
24 THE CIRCUMSTANTIAL EVIDENCE.

25 IN OTHER WORDS, IT GOES TO MR. SANCHEZ IF
26 YOU HAVE TWO OR MORE REASONABLE CONCLUSIONS THAT YOU
27 CAN COME TO AS FAR AS HIS MENTAL INTENT WAS.

28 WE HAD THE TESTIMONY OF TWO PEOPLE WHO WERE

1 IN THE CAR WITH HIM, WITH MR. SANCHEZ. AND THEY ARE
2 NOT EYEWITNESSES. THEY ARE INSIDE THE VEHICLE, BUT
3 DID NOT SEE THE ACTUAL SHOOTING. DID NOT. SO THEY
4 HAVE NO IDEA WHAT HAPPENED, HOW IT HAPPENED.

5 AND, FINALLY, THE MOST IMPORTANT -- WELL,
6 YEAH, THE MOST IMPORTANT JURY INSTRUCTION IS THE
7 REASONABLE DOUBT JURY INSTRUCTION WHICH IS -- WHICH IS
8 220 IN YOUR JURY INSTRUCTIONS. AND THE PART TO PLEASE
9 KEEP IN MIND IS THAT PROOF BEYOND A REASONABLE DOUBT
10 IS PROOF THAT LEADS YOU WITH AN ABIDING CONVICTION
11 THAT THE CHARGE IS TRUE. "ABIDING." IT LIVES WITH
12 YOU. LIVES WITH YOU FURTHER ON DOWN, NOT A RASH
13 SITUATION.

14 THE EVIDENCE NEED NOT ELIMINATE ALL POSSIBLE
15 DOUBT, BECAUSE EVERYTHING IN LIFE IS OPEN TO SOME
16 IMAGINARY -- POSSIBLE OR IMAGINARY DOUBT.

17 IN DECIDING WHETHER THE PEOPLE HAVE PROVED
18 THEIR CASE BEYOND A REASONABLE DOUBT, YOU MUST
19 IMPARTIALLY COMPARE AND CONSIDER ALL OF THE EVIDENCE
20 THAT WAS RECEIVED THROUGHOUT THE TRIAL. NOT
21 SPECULATION, NOT HEARSAY, THE EVIDENCE THAT WAS
22 PRESENTED. AND UNLESS THE EVIDENCE PROVES A DEFENDANT
23 GUILTY BEYOND A REASONABLE DOUBT, HE IS ENTITLED TO AN
24 ACQUITTAL, AND YOU MUST FIND HIM NOT GUILTY.

25 I BELIEVE THAT THE PROSECUTION HAS NOT
26 PROVED THIS CASE BEYOND A REASONABLE DOUBT. AND I'M
27 ASKING YOU TO FIND MY CLIENT NOT GUILTY.

28 THANK YOU.

1 THE COURT: THANK YOU, MS. PENSANTI.

2 MR. HANRAHAN, ARE YOU READY?

3 MR. HANRAHAN: YOUR HONOR, MAY WE APPROACH JUST
4 VERY BRIEFLY?

5 THE COURT: YES.

6
7 (THE FOLLOWING PROCEEDINGS WERE HELD
8 AT SIDEBAR:)

9
10 THE COURT: MR. HANRAHAN.

11 MR. HANRAHAN: CAN I JUST HAVE FIVE MINUTES TO
12 QUE UP THE VIDEOTAPE AND JUST MAKE SURE? I WAS HAVING
13 SOME TECHNICAL PROBLEM.

14 THE COURT: SURE.

15 MR. HANRAHAN: THANK YOU.

16
17 (THE FOLLOWING PROCEEDINGS WERE HELD
18 IN OPEN COURT IN THE PRESENCE OF THE
19 JURY:)

20
21 THE COURT: LADIES AND GENTLEMEN OF THE JURY, I
22 WANT YOU TO STAND UP AND STRETCH YOUR LEGS FOR A
23 MINUTE.

24 THE JURY: (COMPLIES.)

25 THE COURT: OKAY.

26 LEGS STRETCHED?

27 THE JURY: (COLLECTIVELY) LEGS STRETCHED.

28 MR. HANRAHAN: COUNSEL, THIS IS YOURS.

1 MS. PENSANTI: OH.

2
3 (A BRIEF PAUSE IN THE PROCEEDINGS.)

4
5 CLOSING ARGUMENT

6 BY MR. HANRAHAN:

7 LADIES AND GENTLEMEN OF THE JURY, THIS IS
8 GOING TO BE THE LAST TIME THAT I ADDRESS YOU, AND I
9 JUST WANTED TO THANK YOU FOR YOUR CANDID ANSWERS
10 DURING JURY SELECTION AND THANK YOU FOR YOUR JURY
11 SERVICE. HOPEFULLY, THIS HAS BEEN AT LEAST AN
12 EDUCATIONAL EXPERIENCE FOR YOU WITH THE JURY AND ABOUT
13 TRIAL PRACTICE IN GENERAL.

14 I WANT TO ADDRESS THE BASIC POINTS THAT THE
15 DEFENSE MADE. THE FIRST OF WHICH I COMPLETELY AGREE
16 WITH IS THAT THIS IS NOT A WHODUNIT IT. THERE'S REALLY
17 NO QUESTION AS TO WHO COMMITTED THIS CRIME. AND THERE
18 IS ONLY ONE CRIME ALLEGED, AND THAT IS ATTEMPTED
19 MURDER.

20 AND THE DEFENSE DID NOT REALLY MAKE MUCH OF
21 AN ARGUMENT AS TO THE ELEMENTS OF THE OFFENSE WHICH ARE
22 A DIRECT BUT INEFFECTUAL ACT BEYOND MERE PREPARATION.
23 I DON'T THINK -- I PREDICTED THAT THE DEFENSE WOULD NOT
24 MAKE SUCH AN ARGUMENT, AND AS IT TURNS OUT, THAT
25 PREDICTION WAS TRUE.

26 THE DEFENSE DID ARGUE THAT THE DEFENDANT
27 LACKED THE INTENT TO KILL, WHICH IS THE SECOND
28 NECESSARY ELEMENT OF ATTEMPTED MURDER. AND SHE

1 WILLIAM THOMAS IN THE BACK ON JUNE 16TH, 2010? DID HE
2 INTEND TO KILL HIM? DID HE TAKE DIRECT BUT INEFFECTUAL
3 ACT BEYOND PREPARATION?

4 AND THE ANSWER IS: THERE'S NO REASONABLE
5 DOUBT THAT HE DID. THERE'S NO REASONABLE DOUBT THAT HE
6 THOUGHT ABOUT IT, AND HE HAD EVERY CHANCE, EVERY
7 OPPORTUNITY TO RECONSIDER. VOICES OF REASON BEGGED
8 WITH HIM NOT TO DO IT, BUT HE DID IT ANYWAY. AND HE
9 DID EVERYTHING HE COULD TO COMMIT THIS CRIME BEYOND
10 FOLLOW HIM TO THE HOSPITAL AND TRY AGAIN. HE DIDN'T DO
11 THAT. HE TOOK STEPS WAY BEYOND MERE PREPARATION.

12 THE DEFENSE DIDN'T ADDRESS YOU, BUT I'M
13 GOING TO MENTION IT TO YOU. YOU ARE GOING TO BE -- YOU
14 ARE GIVEN INSTRUCTIONS ABOUT WHETHER WITNESSES ARE
15 ACCOMPLICES OR NOT OR WHETHER THEY NEED CORROBORATION
16 OR NOT. THE FACT IS, IS THAT IT IS -- THE DEFENSE
17 COULD HAVE ARGUED HYPOTHETICALLY THAT MARGARITA LOPEZ
18 AND JESSICA LUCERO WERE ACCOMPLICES OF ISRAEL SANCHEZ.
19 THAT THEY KNEW WHAT HE WAS ABOUT TO DO, AND THEY AIDED
20 OR FACILITATED OR ENCOURAGED HIM TO DO IT. AND IF YOU
21 MAKE THAT FINDING, THEN THEIR TESTIMONY WOULD MEAN
22 CORROBORATION.

23 SO THAT'S REALLY A LEGAL KIND OF QUESTION.
24 IT'S NOT THAT IMPORTANT BECAUSE THERE'S AN ABUNDANCE OF
25 EVIDENCE NO MATTER WHICH WAY YOU FIND, AS TO WHETHER
26 THERE ARE ACCOMPLICES OR NOT, TO FIND THE DEFENDANT
27 GUILTY.

28 IF YOU FIND THAT THERE ARE ACCOMPLICES, YOU

1 NEED TO BELIEVE BY A PREPONDERANCE THAT THEY KNEW WHAT
2 ISRAEL SANCHEZ -- WHAT HIS GOAL WAS. IF HE WAS GOING
3 TO GO OUT THERE AND KILL HIM, NOT JUST FIGHT WITH HIM.

4 I THINK IT'S REASONABLE TO BELIEVE THAT THEY
5 DID NOT KNOW WHAT HE WAS GOING TO DO. I THINK JESSICA
6 LUCERO SAID IN HER STATEMENT THAT SHE THOUGHT HE WAS
7 GOING TO FIGHT WILLIAM THOMAS. SHE DIDN'T BELIEVE HE
8 WAS GOING TO SHOOT HIM. ISRAEL SANCHEZ SAID THE WOMEN
9 DIDN'T KNOW.

10 HE HAD A MOTIVATION TO TRY TO PROTECT THEM,
11 CERTAINLY HIS GIRLFRIEND, THE MOTHER OF HIS CHILD. BUT
12 IT REALLY -- IT RINGS TRUE. THERE'S SOMETHING ABOUT
13 WHEN HE SAYS IT. THERE'S SOMETHING ABOUT WHEN JESSICA
14 SAYS IT THAT SHE REALLY DIDN'T KNOW, DID NOT EXPECT HIM
15 TO GO THIS FAR. SO -- SO THAT WOULD MEAN NEITHER
16 JESSICA NOR MARGARITA ARE ACCOMPLICES, SO YOU WOULDN'T
17 NEED ANY EVIDENCE TO CORROBORATE THEIR STATEMENT. AND
18 YOU CAN VIEW THIS TESTIMONY JUST AS ANYBODY ELSE'S
19 TESTIMONY.

20 THE BOTTOM LINE IS, THE DEFENDANT ACCEPTED
21 RESPONSIBILITY. TO HIS CREDIT, TO HIS CREDIT, HE
22 ADMITTED WHAT HE DID. HE ADMITTED WHAT HE DID, WHY HE
23 DID IT, HOW HE DID IT. JUST ABOUT EVERYTHING THERE WAS
24 TO ADMIT ABOUT IT, HE DID. BY THEN, THE POLICE ALREADY
25 KNEW QUITE WELL THAT HE HAD COMMITTED IT BASED ON THE
26 PHYSICAL EVIDENCE, THE -- YOU KNOW, THE BULLET FOUND AT
27 THE SCENE, THE FIREARM PROVIDED TO THE POLICE,
28 MARGARITA LOPEZ'S AND JESSICA LUCERO'S TESTIMONY.

1 (THE FOLLOWING PROCEEDINGS WERE HELD
2 IN OPEN COURT OUTSIDE THE PRESENCE OF
3 THE JURY:)

4
5 THE COURT: ALL RIGHT. THE JURY AND ALTERNATES
6 HAVE LEFT THE COURTROOM.

7 MR. HANRAHAN, WE ARE GOING TO NEED A CLEAN
8 COMPUTER FOR YOUR DISK TO PLAY, IF THEY ASK.

9 JUST SO YOU KNOW, ONCE THE JURY BEGINS
10 DELIBERATIONS, IF THEY ASK TO SEE THE GUN, DEPUTY
11 ALVAREZ WILL BRING THE GUN INTO THE JURY DELIBERATION
12 ROOM. HE WILL REMAIN IN THE JURY DELIBERATION ROOM
13 WHILE THEY ARE LOOKING AT THE GUN. HE WILL NOT
14 COMMUNICATE AT ALL WITH THE JURY, AND HE WILL REMOVE
15 THE GUN WHEN THEY ARE DONE LOOKING AT IT. THEY WILL
16 NOT KEEP THE GUN BACK THERE UNDER ANY CIRCUMSTANCES.

17 I'M NOT SURE --

18 GABY.

19 THE CLERK: YES, YOUR HONOR.

20 THE COURT: HAVE YOU FINISHED THE VERDICT FORMS
21 YET?

22 THE CLERK: I DO HAVE ONE COMPLETED.

23 THE COURT: ALL RIGHT.

24 SO I'LL TAKE A LOOK AT THE VERDICT FORM AND
25 THEN LET YOU LOOK AT IT, DEPENDING UPON WHAT I SEE.

26 YOU NEED TO GIVE INFORMATION WHERE GABY CAN
27 GET A HOLD OF YOU.

28 MS. PENSANTI, WHO GETS TO POSSESS YOU NEXT?

1 MS. PENSANTI: I'M NOT SURE. I KNOW THIS SOUNDS
2 VERY FUNNY. I'M WAITING FOR RESULTS OF SOMETHING IN
3 RIVERSIDE.

4 THE COURT: OKAY. ALL RIGHT.

5 MS. PENSANTI: IT'S POSSIBLE I'LL BE HERE
6 TOMORROW --

7 THE COURT: OKAY.

8 MS. PENSANTI: -- DOING A PRELIMINARY HEARING.

9 THE COURT: ALL RIGHT.

10 SO WE ARE GOING TO NEED PHONE NUMBERS, PAGER
11 NUMBERS, CELL PHONE NUMBERS, AND THE LIKE.

12 MS. PENSANTI: YES.

13 THE COURT: I WOULD ASK THAT BOTH PARTIES
14 STIPULATE THAT IT BE DEEMED THAT THE SEPARATION
15 ADMONITION CAN BE GIVEN TO THE JURY AT EACH SEPARATION.

16 SO STIPULATED, MS. PENSANTI?

17 MS. PENSANTI: SO STIPULATED.

18 THE COURT: MR. HANRAHAN?

19 MR. HANRAHAN: YES, YOUR HONOR.

20 THE COURT: ALL RIGHT. I DON'T THINK THAT
21 THERE'S ANYTHING ELSE THAT WE NEED TO TALK ABOUT RIGHT
22 NOW.

23 LET ME LOOK AT THE JURY DELIBERATION -- THE
24 VERDICT FORM. IF YOU GUY SAYS -- IF -- ONCE I LOOK AT
25 IT, YOU AGREE JUST.

26 MR. HANRAHAN, SOMETHING YOU WANTED TO SAY?

27 MR. HANRAHAN: I WAS JUST GOING TO ASK: DOES THE
28 COURT WANT A LAPTOP AVAILABLE, OR --

1 (AT 3:20 P.M. JURY DELIBERATIONS
2 WERE COMMENCED.

3
4 THE COURT: ALL RIGHT. THE JURY AND ALTERNATES
5 HAVE LEFT THE COURTROOM.

6 WE ARE IN RECESS UNTIL WE HEAR FROM THE
7 JURY.

8 THANK YOU.

9 MS. PENSANTI: THANK YOU.

10 MR. HANRAHAN: THANK YOU.

11
12 (AT 4:10 P.M., THE MATTER WAS CONTINUED
13 TO TUESDAY, JULY 12, 2011 AT 9:00 A.M.
14 FOR FURTHER PROCEEDINGS.)

15
16 (THE NEXT PAGE NUMBER IS 701.)

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1 CASE NUMBER: BA372623-01
2 CASE NAME: PEOPLE OF THE STATE OF
3 CALIFORNIA
4 VS.
5 ISRAEL JAMMIR SANCHEZ
6 LOS ANGELES, CALIFORNIA TUESDAY, JULY 12, 2011
7 DEPARTMENT 120 HON. CRAIG RICHMAN, JUDGE
8 REPORTER: TRACY WILLIAMS, CSR #10139
9 TIME: 9:01 A.M.

10
11 APPEARANCES:

12 THE DEFENDANT, ISRAEL JAMMIR SANCHEZ,
13 PRESENT IN COURT REPRESENTED BY COUNSEL,
14 JOCELYN SICAT, PRIVATELY RETAINED COUNSEL;
15 THE PEOPLE REPRESENTED BY EUGENE HANRAHAN,
16 DEPUTY DISTRICT ATTORNEY, THE FOLLOWING
17 PROCEEDINGS WERE HELD IN OPEN COURT OUTSIDE
18 THE PRESENCE OF THE JURY:

19
20 -000-

21
22 (AT 9:10 P.M., JURY DELIBERATIONS
23 WERE RESUMED.)

24
25 (AT 9:20 A.M., THE JURY REQUESTS TO
26 SEE EXHIBIT NO. 8, THE HANDGUN.)
27
28

1 (AT 9:45 A.M., THE JURY IS SHOWN
2 EXHIBIT NO. 8, THE HANDGUN, BY
3 BAILIFF RICHARD ALVAREZ.)
4

5 (AT 11:10 A.M., THE JURY SUBMITS A
6 QUESTION.)
7

8 (AT 11:50 A.M., THE COURT AND COUNSEL
9 CONFER REGARDING THE JURY QUESTION.)
10

11 (AT 11:57 A.M., THE FOLLOWING PROCEEDINGS
12 WERE HELD IN OPEN COURT, OUTSIDE THE
13 PRESENCE OF THE JURY:)
14

15 THE COURT: PEOPLE VS. ISRAEL SANCHEZ, BA372623.
16 MR. SANCHEZ IS NOT PRESENT IN COURT. MS. SICAT,
17 S-I-C-A-T, IS HERE ON BEHALF OF MS. PENSANTI.
18 MR. HANRAHAN IS HERE FOR THE PEOPLE.

19 WE HAVE RECEIVED A QUESTION FROM THE JURY
20 ASKING WHETHER THEY MUST UNANIMOUSLY AGREE ON THE
21 SPECIAL ALLEGATIONS.

22 OBVIOUSLY, THE ANSWER IS YES. SO I'M JUST
23 GOING TO WRITE "YES" ON THEIR QUESTION AND RETURN THE
24 QUESTION TO THE JURY.

25 IS THAT ALL RIGHT WITH YOU, MS. SICAT?

26 MS. SICAT: YES, YOUR HONOR.

27 THE COURT: MR. HANRAHAN?

28 MR. HANRAHAN: YES, YOUR HONOR.

1 THE COURT: ALL RIGHT.

2 IN POSSIBLY FIVE MINUTES I'M GOING TO LET
3 THEM GO FOR LUNCH. SO WE ARE NOT GOING TO HEAR
4 ANYTHING BEFORE THEN. ALL RIGHT?

5 SO THANK YOU FOR HELPING, MS. SICAT.

6 MS. SICAT: THANK YOU.

7 THE COURT: MR. HANRAHAN, THANK YOU FOR YOUR
8 HELP.

9
10 (AT 11:59 A.M., THE PROCEEDINGS
11 WERE CONCLUDED.)

12
13 (AT 12:00 P.M., A JURY VERDICT HAVING
14 BEEN REACHED, THE JURY IS EXCUSED FOR
15 LUNCH UNTIL 1:30 P.M. OF THE SAME DAY.)

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1 CASE NUMBER: BA372623-01
2 CASE NAME: PEOPLE OF THE STATE OF
3 CALIFORNIA
4 VS.
5 ISRAEL JAMMIR SANCHEZ
6 LOS ANGELES, CALIFORNIA TUESDAY, JULY 12, 2011
7 DEPARTMENT 120 HON. CRAIG RICHMAN, JUDGE
8 REPORTER: TRACY WILLIAMS, CSR #10139
9 TIME: 1:30 P.M.

10
11 APPEARANCES:

12 THE DEFENDANT, ISRAEL JAMMIR SANCHEZ,
13 PRESENT IN COURT REPRESENTED BY COUNSEL,
14 JOCELYN SICAT, PRIVATELY RETAINED COUNSEL;
15 THE PEOPLE REPRESENTED BY EUGENE HANRAHAN,
16 DEPUTY DISTRICT ATTORNEY, THE FOLLOWING
17 PROCEEDINGS WERE HELD IN OPEN COURT OUTSIDE
18 THE PRESENCE OF THE JURY:

19
20 -000-

21
22 (AT 1:30 P.M., ALL JURORS WERE PRESENT
23 AND RETURNED TO THE JURY ROOM.)

24
25 (AT 1:40 P.M., THE FOLLOWING PROCEEDINGS
26 WERE HELD IN OPEN COURT OUTSIDE THE
27 PRESENCE OF THE JURY:)
28

1 THE COURT: ALL RIGHT. WE ARE BACK ON THE RECORD
2 IN THE SANCHEZ MATTER, BA372623. MR. SANCHEZ IS HERE
3 PRESENT IN COURT. MS. SICAT IS HERE WITH HIM ON
4 BEHALF OF MS. PENSANTI. THE PEOPLE ARE REPRESENTED BY
5 MR. HANRAHAN. THE JURY AND ALTERNATE ARE NOT PRESENT.

6 I WAS TOLD -- ACTUALLY, I HEARD THE THREE
7 BUZZES PROBABLY A MINUTE AFTER THE RESPONSE TO THE
8 QUESTION WAS GIVEN TO THE JURY. I WAS ACTUALLY KIND OF
9 SURPRISED.

10 BUT I'VE BEEN TOLD THAT THERE IS A VERDICT.
11 AND DEPUTY ALVAREZ DID CONFIRM THAT THERE WAS A
12 VERDICT.

13 SO IS THERE ANYTHING WE NEED TO TALK ABOUT
14 BEFORE WE TAKE THE VERDICT, MS. SICAT? LADIES FIRST.

15 MS. SICAT: NO, YOUR HONOR.

16 THE COURT: MR. HANRAHAN?

17 MR. HANRAHAN: NO, YOUR HONOR.

18 THE COURT: ALL RIGHT.

19 LET'S BRING IN THE JURY AND ALTERNATE,
20 PLEASE.

21 THE CLERK: (COMPLIES.)

22 THE COURT: I DIDN'T NOTICE WHO THE ALTERNATE
23 WAS.

24 DID YOU KNOW THAT?

25 MR. HANRAHAN: WHO WAS THE ALTERNATE?

26 THE COURT: I MEAN, THE FOREPERSON.

27 MR. HANRAHAN: NO. 9.

28 THE COURT: NO. 9?

1 MR. HANRAHAN: I THINK IT WAS A MALE.

2 THE COURT: WE NEED TO PAY CLOSER ATTENTION.

3

4 (THE FOLLOWING PROCEEDINGS WERE HELD
5 IN OPEN COURT IN THE PRESENCE OF THE
6 JURY:)

7

8 THE COURT: THE JURY AND ALTERNATE HAVE NOW
9 ENTERED THE COURTROOM.

10 GOOD AFTERNOON, EVERYBODY. WELCOME BACK.

11 THE JURY: (COLLECTIVELY) THANK YOU, YOUR HONOR.

12 THE COURT: SORRY I'M LATE.

13 I'D LIKE TO INTRODUCE MS. SICAT WHO IS HERE
14 ON BEHALF OF MS. PENSANTI THIS AFTERNOON.

15 MS. SICAT: GOOD AFTERNOON.

16 THE COURT: I'VE BEEN TOLD THAT THERE IS A
17 VERDICT.

18 WHO IS YOUR FOREPERSON?

19 JUROR NO. 9: (INDICATES.)

20 THE COURT: JUROR NO. 9? CONGRATULATIONS.

21 IS THERE A VERDICT?

22 JUROR NO. 9: YES, THERE IS.

23 THE COURT: DO YOU HAVE THE FORMS WITH YOU?

24 NO. 9: YES, I DO.

25 THE COURT: ARE THEY BOTH IN THE ENVELOPE?

26 JUROR NO. 9: YES, THEY ARE.

27 THE COURT: ALL RIGHT.

28 WOULD GIVE IT TO DEPUTY ALVAREZ, PLEASE.

1 JUROR NO. 9: (COMPLIES.)

2 THE COURT: MADAM CLERK, WOULD YOU READ THE
3 VERDICT, PLEASE.

4 MR. SANCHEZ, WOULD YOU PLEASE STAND.

5 THE DEFENDANT: (COMPLIES.)

6 THE CLERK: IN THE SUPERIOR COURT OF CALIFORNIA,
7 LOS ANGELES COUNTY, CASE NO. BA372623, DEPARTMENT 120.

8 THE PEOPLE OF THE STATE OF CALIFORNIA VS.
9 ISRAEL SANCHEZ.

10 WE, THE JURY IN THE ABOVE-ENTITLED ACTION,
11 FIND THE DEFENDANT, ISRAEL SANCHEZ, GUILTY OF
12 THE CRIME OF ATTEMPTED MURDER OF WILLIAM THOMAS,
13 IN VIOLATION OF PENAL CODE SECTION 664-187(A),
14 A FELONY, AS CHARGED IN COUNT 1 OF THE
15 INFORMATION.

16 WE FURTHER FIND THE ALLEGATION THAT THE
17 ATTEMPTED MURDER WAS COMMITTED WILLFULLY,
18 DELIBERATELY, AND WITH PREMEDITATION WITHIN THE
19 MEANING OF PENAL CODE SECTION 664(A) TO BE NOT
20 TRUE.

21 WE FURTHER FIND THE ALLEGATION THAT IN THE
22 COMMISSION OF THE ABOVE OFFENSE, THE DEFENDANT,
23 ISRAEL SANCHEZ, PERSONALLY AND INTENTIONALLY
24 DISCHARGED A FIREARM, NAMELY A HANDGUN, WHICH
25 CAUSED GREAT BODILY INJURY TO WILLIAM THOMAS,
26 WITHIN THE MEANING OF PENAL CODE SECTION
27 12022.53(D) TO BE TRUE.

28 WE FURTHER FIND THE ALLEGATION THAT IN THE

1 COMMISSION OF THE ABOVE OFFENSE, THE DEFENDANT,
2 ISRAEL SANCHEZ, PERSONALLY AND INTENTIONALLY
3 DISCHARGED A FIREARM, NAMELY A HANDGUN, WITHIN
4 THE MEANING OF PENAL CODE SECTION 12022.53(C)
5 TO BE TRUE.

6 WE FURTHER FIND THE ALLEGATION THAT IN THE
7 COMMISSION OF THE ABOVE OFFENSE, THE DEFENDANT,
8 ISRAEL SANCHEZ, PERSONALLY USED A FIREARM,
9 NAMELY A HANDGUN, WITHIN THE MEANING OF PENAL
10 CODE SECTION 12022.53(B) TO BE TRUE.

11 WE FURTHER FIND THE ALLEGATION THAT THE
12 OFFENSE WAS COMMITTED FOR THE BENEFIT OF, AT
13 THE DIRECTION OF, OR IN ASSOCIATION WITH A
14 CRIMINAL STREET GANG WITH THE SPECIFIC INTENT
15 TO PROMOTE, FURTHER, AND ASSIST IN CRIMINAL
16 CONDUCT BY GANG MEMBERS WITHIN THE MEANING OF
17 PENAL CODE SECTION 186.22(B) TO BE TRUE.

18 DATED JULY 11, 2011.

19 SIGNED JUROR SEAT NO. 9, FOREPERSON.

20
21 LADIES AND GENTLEMEN OF THE JURY, IS THIS
22 YOUR VERDICT, SO SAY YOU ONE, SO SAY YOU ALL?
23

24 (THE JURORS RESPOND IN THE
25 AFFIRMATIVE.)
26

27 THE COURT: MR. SANCHEZ, MS. SICAT, PLEASE HAVE A
28 SEAT.

1 I KNOW THAT THEY WOULD APPRECIATE IT. IF YOU DON'T
2 WANT TO, GO AHEAD AND GO TO THE JURY ASSEMBLY ROOM
3 AND BEAT THE AFTERNOON TRAFFIC OUT.

4 THANK YOU, AGAIN.

5
6 (AT 1:54 P.M. THE JURORS WERE EXCUSED.)

7
8 (THE FOLLOWING PROCEEDINGS WERE HELD
9 IN OPEN COURT OUTSIDE THE PRESENCE OF
10 THE JURY:)

11
12 THE COURT: MS. SICAT.

13 MS. SICAT: YES, YOUR HONOR.

14 THE COURT: DID YOU RECEIVE ANY INSTRUCTIONS ON A
15 PROBATION AND SENTENCING DATE?

16 MS. SICAT: HOW FAR OUT DO YOU NORMALLY PUT
17 SENTENCING OUT, YOUR HONOR?

18 THE COURT: MR. HANRAHAN, DO YOU HAVE ANY
19 SCHEDULING CONFLICTS IN THE NEXT MONTH OR MONTH AND A
20 HALF?

21 MR. HANRAHAN: NO, YOUR HONOR.

22 THE COURT: I'LL GO 45 DAYS OR SO, MS. SICAT.
23 45 DAYS FROM TODAY WOULD TAKE US ABOUT UNTIL THE END
24 OF AUGUST. SO --

25 MS. SICAT: THAT'S FINE. WE DON'T HAVE ANYTHING.

26 MR. HANRAHAN: EXCEPT THAT -- EXCEPT THE LAST
27 FROM THE -- FROM ABOUT THE 20TH THROUGH THE END OF THE
28 MONTH.

1 THE COURT: ALL RIGHT.

2 SO LET'S TRY TO GET IT BEFORE THE 20TH. SO
3 SOMETIME THE WEEK OF AUGUST 15.

4 MS. SICAT: COULD WE -- WOULD IT BE POSSIBLE TO
5 DO SEPTEMBER IF MY CLIENT'S WILLING TO WAIVE TIME?

6 THE COURT: SEPTEMBER WHAT?

7 MS. SICAT: ANYTIME. ANYTIME IN SEPTEMBER.

8 THE COURT: ALL RIGHT.

9 MR. HANRAHAN, YOU ARE BACK ON THE 8TH?

10 MR. HANRAHAN: YES.

11 THE COURT: ALL RIGHT.

12 IS THAT A GOOD DAY FOR YOU?

13 MR. HANRAHAN: YES.

14 THE COURT: MS. SICAT, IS THAT ALL RIGHT?

15 MS. SICAT: YES, YOUR HONOR.

16 THE COURT: MR. SANCHEZ, DO YOU WAIVE YOUR RIGHT
17 TO BE SENTENCED UNTIL SEPTEMBER 8, 2011?

18 THE DEFENDANT: YES, YOUR HONOR.

19 THE COURT: COUNSEL JOIN?

20 MS. SICAT: JOIN.

21 THE COURT: WITH THE TIME WAIVER, THE MATTER IS
22 CONTINUED FOR PROBATION AND SENTENCING TO SEPTEMBER 8,
23 2011. MR. SANCHEZ IS ORDERED TO RETURN HERE THAT DAY
24 AT 8:30 A.M. IN LIGHT OF THE VERDICT, HE WILL BE HELD
25 WITHOUT BAIL.

26 MS. SICAT: THANK YOU, YOUR HONOR.

27 THE COURT: ANYTHING ELSE WE NEED TO TALK ABOUT
28 TODAY, MS. SICAT?

1 MS. SICAT: NO.

2 THE COURT: MR. HANRAHAN?

3 MR. HANRAHAN: NO, YOUR HONOR.

4 THE COURT: ALL RIGHT.

5 THANK YOU.

6 MR. HANRAHAN: THANK YOU.

7 THE COURT: THE BODY ATTACHMENT FOR WILLIAM

8 THOMAS IS RECALLED AND QUASHED.

9

10 (AT 1:56 P.M., THE MATTER WAS CONTINUED
11 TO SEPTEMBER 8, 2011 AT 8:30 A.M. FOR
12 FURTHER PROCEEDINGS.)

13

14 (THE NEXT PAGE NUMBER IS 717.)

15

16

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1 CASE NUMBER: BA372623-01
2 CASE NAME: PEOPLE OF THE STATE OF
3 CALIFORNIA
4 VS.
5 ISRAEL JAMMIR SANCHEZ
6 LOS ANGELES, CALIFORNIA TUESDAY, JANUARY 31, 2012
7 DEPARTMENT 120 HON. CRAIG RICHMAN, JUDGE
8 REPORTER: TRACY WILLIAMS, CSR #10139
9 TIME: 9:15 A.M.

10
11 APPEARANCES:

12 THE DEFENDANT, ISRAEL JAMMIR SANCHEZ,
13 PRESENT IN COURT REPRESENTED BY COUNSEL,
14 LOUISA PENSANTI, PRIVATELY RETAINED COUNSEL;
15 THE PEOPLE REPRESENTED BY EUGENE HANRAHAN,
16 DEPUTY DISTRICT ATTORNEY, THE FOLLOWING
17 PROCEEDINGS WERE HELD IN OPEN COURT OUTSIDE
18 THE PRESENCE OF THE JURY:

19
20 -000-
21

22 THE COURT: PEOPLE VS. ISRAEL SANCHEZ, BA372623.
23 MR. SANCHEZ IS PRESENT IN COURT. HE'S IN CUSTODY.
24 HE'S REPRESENTED BY MS. PENSANTI. THE PEOPLE ARE
25 REPRESENTED BY MR. HANRAHAN.

26 THE MATTER IS HERE FOR SENTENCING TODAY.
27 I INDICATED NO FURTHER CONTINUANCES, BUT I'M JUST
28 CHECKING.

1 ARE YOU GOING FORWARD TODAY?

2 MS. PENSANTI: WE ARE GOING FORWARD TODAY.

3 THE COURT: ALL RIGHT.

4 SO WAIVE TIME FOR FORMAL ARRAIGNMENT NO
5 LEGAL CAUSE, MS. PENSANTI?

6 MS. PENSANTI: SO WAIVED.

7 THE COURT: ALL RIGHT.

8 MR. HANRAHAN, I HAVE READ AND CONSIDERED THE
9 SENTENCING MEMORANDUM.

10 DO YOU WISH TO ADD ANYTHING?

11 MR. HANRAHAN: I WOULD ONLY ASK TO -- ACTUALLY,
12 NO, YOUR HONOR. THE PEOPLE SUBMIT ON THE SENTENCING
13 MEMORANDUM.

14 THE COURT: ALL RIGHT.

15 MS. PENSANTI, DO YOU WISH TO BE HEARD?

16 MS. PENSANTI: NO, NOTHING OTHER THAN WHAT'S IN
17 THE SENTENCING BRIEF.

18 THE COURT: ALL RIGHT.

19 IS THERE ANYONE FROM THE PUBLIC WHO WISHES
20 TO ADDRESS ME BEFORE I SENTENCE MR. SANCHEZ?

21 MR. HANRAHAN: NO. NOT FOR THE PEOPLE,
22 YOUR HONOR. THE PEOPLE HAVE LOST CONTACT WITH THE
23 VICTIM, WILLIAM THOMAS. HE WAS GENERALLY UNCOOPERATIVE
24 THROUGHOUT THE PROCEEDINGS.

25 I HAVE RECEIVED INFORMATION FROM JESSICA
26 LUCERO WHO SAYS THAT HE'S BEEN TRYING TO MAKE CONTACT
27 WITH HER IN A WAY THAT IS HARASSING TOWARDS HER.

28 THE PEOPLE WILL TAKE THE APPROPRIATE PROTECTIVE

1 MEASURES.

2 THE COURT: ALL RIGHT.

3 MS. PENSANTI, IS THERE ANYONE FROM DEFENSE
4 WHO WISHES TO ADDRESS --

5 MS. PENSANTI: ANYONE FROM THE FAMILY WANT TO
6 SPEAK?

7 YES? NO?

8

9 (NO AUDIBLE RESPONSE.)

10

11 MS. PENSANTI: NO. NO, THANK YOU.

12 THE COURT: ALL RIGHT.

13 MS. PENSANTI: THEY PROVIDED LETTERS.

14 THE COURT: MR. SANCHEZ WAS CONVICTED OF
15 ATTEMPTED MURDER, THE ALLEGATION THAT IT WAS WILLFUL,
16 DELIBERATE, AND PREMEDITATED FOUND NOT PROVED.

17 HE WAS CONVICTED BY THE JURY FOR PERSONAL
18 USE OF A FIREARM CAUSING DEATH OR GREAT BODILY INJURY
19 PURSUANT TO PENAL CODE SECTION 12022.53(D), THE
20 UNDERLYING (C) AND (B) ALSO FOUND TRUE. THE GANG
21 ALLEGATION AS WELL WAS FOUND TRUE PURSUANT TO
22 PENAL CODE SECTION 186.22(B)(1).

23 BECAUSE OF THE FIREARM ALLEGATION AND THE
24 GANG --

25 OH, THE GANG ALLEGATION HAS NO AFFECT ON THE
26 SENTENCING.

27 SO WITH THAT UNDERSTANDING, I AM GOING TO
28 SENTENCE MR. SANCHEZ TO THE MIDTERM OF 7 YEARS FOR THE

1 ATTEMPTED MURDER.

2 AND THEN CONSECUTIVE TO THAT, AS I MUST, A
3 TERM OF 25 YEARS TO LIFE FOR THE 12022.53(D)
4 ALLEGATION. THE (C) AND (B) ARE STAYED. FOR, AGAIN, A
5 TOTAL OF 7 YEARS DETERMINANT SENTENCE, PLUS AN
6 INDETERMINATE SENTENCE OF 25 YEARS TO LIFE.

7 AGAIN, 186.22(B)(1) ALLEGATION IS STAYED,
8 HAVING NO AFFECT AS A RESULT OF THE JURY FINDING, THE
9 12022.53(D) ALLEGATION TRUE.

10 MS. PENSANTI, HAVE YOU CALCULATED
11 MR. SANCHEZ'S ACTUAL CUSTODY CREDIT?

12 MS. PENSANTI: YES, I HAVE.

13 IT'S 595 DAYS ACTUAL.

14 THE COURT: 595 DAYS ACTUAL CUSTODY CREDIT?
15 ALL RIGHT.

16 HE IS ENTITLED TO 15 PERCENT CREDIT AGAINST
17 THE 7 YEAR DETERMINANT SENTENCE.

18 MS. PENSANTI: WHICH IS 89 DAYS, MAKING A TOTAL
19 OF 684 DAYS TOTAL.

20 THE COURT: 684 DAYS?

21 MS. PENSANTI: YES.

22 THE COURT: ALL RIGHT.

23 THEN HE IS GIVEN CREDIT FOR 89 GOOD
24 TIME/WORK TIME CREDITS, FOR A TOTAL OF 684 DAYS CUSTODY
25 CREDIT.

26 HE IS ORDERED TO PAY A \$200 RESTITUTION
27 FINE.

28 THERE IS A \$200 PAROLE REVOCATION FINE

1 THAT'S SUSPENDED, A \$40 COURT SECURITY FEE, A \$30
2 CONVICTION FEE.

3 MR. HANRAHAN, ARE THE PEOPLE ASKING FOR ANY
4 RESTITUTION IN THIS MATTER?

5 MR. HANRAHAN: NO, YOUR HONOR.

6 THE COURT: ALL RIGHT.

7 MR. SANCHEZ WILL BE REQUIRED TO PROVIDE A
8 DNA SAMPLE AND PRINT IMPRESSIONS.

9 THIS WILL BE A FORTHWITH COMMITMENT.

10 MR. SANCHEZ, SIR, I DO NEED TO READ YOUR
11 APPELLATE RIGHTS TO YOU.

12 SIR, YOU DO HAVE THE RIGHT TO APPEAL THE
13 JUDGMENT OR SENTENCE OF THIS COURT. WRITTEN NOTICE OF
14 YOUR APPEAL MUST BE FILED WITHIN 60 DAYS OF TODAY'S
15 DATE.

16 MS. PENSANTI HAS IT IN HER HAND. IT HAS TO
17 BE FILED HERE IN COURT. I KNOW MS. PENSANTI WILL DO IT
18 FOR YOU. NOT THE COURT OF APPEAL.

19 IT WILL BE FILED TODAY, MS. PENSANTI?

20 MS. PENSANTI: IT WILL.

21 THE COURT: ALL RIGHT.

22 UNLESS YOUR ATTORNEY FILES A NOTICE, YOU
23 MUST FILE YOUR OWN NOTICE. THE NOTICE MUST SPECIFY
24 WHAT IS BEING APPEALED, WHETHER SIMPLY THE JUDGMENT OF
25 THIS COURT OR THE ENTIRE PROCEEDINGS LEADING TO THE
26 CONVICTION.

27 IF YOU ARE INDIGENT, YOU ARE ENTITLED TO AN
28 APPOINTED ATTORNEY AND FREE TRANSCRIPTS ON APPEAL.

1 IT IS YOUR OBLIGATION TO KEEP THE APPELLATE COURT
2 ADVISED OF YOUR CURRENT ADDRESS.

3 SIR, DO YOU UNDERSTAND YOUR APPELLATE
4 RIGHTS?

5 THE DEFENDANT: YES, YOUR HONOR.

6 THE COURT: THAT WILL BE THE ORDER.

7 GOOD LUCK TO YOU, SIR.

8 MS. PENSANTI: THANK YOU.

9 THE COURT: THANK YOU, MS. PENSANTI.

10 MR. HANRAHAN: AND MS. PENSANTI, DO YOU OBJECT TO
11 THE RETURN OF THE CAMERA AND CELL PHONE TO THE --

12 THE COURT: I THOUGHT WE ALREADY ADDRESSED THAT.

13 MR. HANRAHAN: WE DID, BUT I JUST WANTED TO GET
14 IT ON THE RECORD SO I CAN PREPARE THE ORDER.

15 MS. PENSANTI: THERE'S NO OBJECTION.

16 THE COURT: OKAY.

17 MR. HANRAHAN: OKAY.

18
19 (AT 9:21 A.M., THE PROCEEDINGS
20 WERE CONCLUDED.)
21
22
23
24
25
26
27
28

ATTORNEY GENERAL

COURT OF APPEAL
SECOND APPELLATE DISTRICT
STATE OF CALIFORNIA

PEOPLE OF THE STATE OF CALIFORNIA,
Plaintiff and **RESPONDENT**

No. BA372623 - 01

Vs

SANCHEZ, ISRAEL J - 01,

Volume 1 of 2 Volumes
Notice of appeal filing date: 01/31/12

Defendant(s) and **APPELLANTS**

CLERK'S TRANSCRIPT
Page 1 to 223

Appearances:

Counsel for Plaintiff:

THE ATTORNEY GENERAL

Counsel for Defendant:

c/o CAP

**Appeal from the Superior Court,
County of Los Angeles**

Honorable CRAIG RICHMAN, Judge

Date Mailed to:

Defendant (in pro per)
Defendant's Trial Attorney
Defendant's Appellate Attorney
District Attorney
Attorney General

MAR 29 2012

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**SUPERIOR COURT OF THE STATE OF CALIFORNIA
FOR THE COUNTY OF LOS ANGELES**

FILED

LOS ANGELES SUPERIOR COURT

THE PEOPLE OF THE STATE OF CALIFORNIA,
Plaintiff,

CASE NO. BA372623

NOV 04 2010

v.

JOHN A. CLARKE, CLERK

01 ISRAEL JAMMIR SANCHEZ (12/1 [REDACTED]) (Bk#
2371456),
aka MANIAC

INFORMATION BY _____ DEPUTY

Defendant(s).

Arraignment Hearing
Date: 11/04/2010
Department: CEN 122

**INFORMATION
SUMMARY**

Ct. No.	Charge	Charge Range	Defendant	Special Allegation	Alleg. Effect
1	PC 664/187(A)	Life	SANCHEZ, ISRAEL JAMMIR	PC 186.22(B)(5) PC 12022.53(D) PC 186.22(B)(1)(A) PC 12022.53(D)	Check Code +25 Yrs. to Life, MS +2,3,4 Yrs. +25Y-Life, MSP*

The District Attorney of the County of Los Angeles, by this Information alleges that:

COUNT 1

On or about June 16, 2010, in the County of Los Angeles, the crime of ATTEMPTED WILLFUL, DELIBERATE, AND PREMEDITATED MURDER, in violation of PENAL CODE SECTION 664/187(a), a Felony, was committed by ISRAEL JAMMIR SANCHEZ, who did unlawfully and with malice aforethought attempt to murder WILLIAM THOMAS, a human being.

It is further alleged that the aforesaid attempted murder was committed willfully, deliberately and with premeditation within the meaning of Penal Code section 664(a) and is a serious felony pursuant to Penal Code section 1192.7(c).

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It is further alleged pursuant to Penal Code section 186.22(b)(1)(A) that the above offense was committed for the benefit of, at the direction of, and in association with a criminal street gang with the specific intent to promote, further and assist in criminal conduct by gang members. Said act also caused the above offense to become a serious felony pursuant to Penal Code section 1192.7(c)(28).

It is further alleged that the offense(s) charged in Count(s) 1 are punishable in the state prison for life and cause the sentencing to be pursuant to section 186.22(b)(5).

It is further alleged that said defendant(s), ISRAEL JAMMIR SANCHEZ personally and intentionally discharged a firearm, a handgun, which caused great bodily injury and death to WILLIAM THOMAS within the meaning of Penal Code Section 12022.53(d) also causing the above offense to become a serious felony pursuant to Penal Code section 1192.7(c)(8) and a violent felony within the meaning of Penal Code section 667.6(c)(8).

It is further alleged that said defendant(s), ISRAEL JAMMIR SANCHEZ personally and intentionally discharged a firearm, a handgun, within the meaning of Penal Code Section 12022.53(c) also causing the above offense to become a serious felony pursuant to Penal Code section 1192.7(c)(8) and a violent felony within the meaning of Penal Code section 667.5(c)(8).

It is further alleged that said defendant(s), ISRAEL JAMMIR SANCHEZ personally used a firearm, a handgun, within the meaning of Penal Code Section 12022.53(b) also causing the above offense to become a serious felony pursuant to Penal Code section 1192.7(c)(8) and a violent felony within the meaning of Penal Code section 667.5(c)(8).

It is further alleged that a principal personally and intentionally discharged a firearm, a handgun, which proximately caused great bodily injury and death to WILLIAM THOMAS within the meaning of Penal Code section 12022.53(d) and (e)(1).

It is further alleged that a principal personally and intentionally discharged a firearm, a handgun, within the meaning of Penal Code section 12022.53(c) and (e)(1).

It is further alleged that a principal personally used a firearm, a handgun, within the meaning of Penal Code sections 12022.53(b) and (e).

* * * * *

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NOTICE: Conviction of this offense will require the defendant to provide DNA samples and print impressions pursuant to Penal Code sections 296 and 296.1. Willful refusal to provide the samples and impressions is a crime.

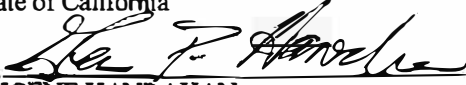
THIS INFORMATION CONSISTS OF 1 COUNT(S).

Filed in Superior Court,
County of Los Angeles

DATED: 10-25-10

STEVE COOLEY
DISTRICT ATTORNEY
County of Los Angeles,
State of California

BY:


EUGENE HANRAHAN
DEPUTY DISTRICT ATTORNEY

/AML

Pursuant to Penal Code Section 1054.5(b), the People are hereby informally requesting that defense counsel provide discovery to the People as required by Penal Code Section 1054.3.

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MINUTE ORDER
SUPERIOR COURT OF CALIFORNIA, COUNTY OF LOS ANGELES

DATE PRINTED: 03/07/12

CASE NO. BA372623

THE PEOPLE OF THE STATE OF CALIFORNIA
VS.
DEFENDANT 01: ISRAEL JAMMIR SANCHEZ

INFORMATION FILED ON 11/04/10.

COUNT 01: 664-187(A) PC FEL

ON 11/04/10 AT 830 AM IN CENTRAL DISTRICT DEPT 122

WAS CALLED FOR ARRAIGNMENT

PARTIES: CHARLAINE F OLMEDO (JUDGE) ROBERT SAIKI (CLERK)
KATHRYN MAUTZ (REP) EUGENE HANRAHAN (DA)

DEFENDANT IS PRESENT IN COURT, AND REPRESENTED BY LOUISA B PENSANTI PRIVATE
COUNSEL

INFORMATION FILED AND THE DEFENDANT IS ARRAIGNED.

DEFENDANT WAIVES ARRAIGNMENT, READING OF INFORMATION/INDICTMENT, AND STATEMENT
OF CONSTITUTIONAL AND STATUTORY RIGHTS.

DEFENDANT PLEADS NOT GUILTY TO COUNT 01, 664-187(A) PC.

COURT ORDERS AND FINDINGS:

THE COURT ORDERS THE DEFENDANT TO APPEAR ON THE NEXT COURT DATE.

BOOKING #2371456 PPR/TRANSCRIPT IN FILE LAST DAY 01-24-11

DDA: EUGENE HANRAHAN SBN #185820

*MATTER IS CALLED IN DEPARTMENT 121 FOR DEPARTMENT 122**

AT THE DEFENDANT'S REQUEST, ALTERNATE PUBLIC DEFENDER IS

RELIEVED AND PRIVATE COUNSEL LOUISA IS SUBSTITUTED IN.

DISCOVERY IS HANDED TO COUNSEL OF RECORD.

THE DEFENDANT DENIES ANY AND ALL SPECIAL ALLEGATIONS.

THE MATTER IS SET FOR PRETRIAL CONFERENCE AS INDICATED BELOW.

THE PROBATION PRE-PLEA REPORT AND PRELIMINARY HEARING TRANSCRIPT

WAS RECEIVED THIS DATE.

PAGE NO. 1

ARRAIGNMENT
HEARING DATE: 11/04/10

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CASE NO. BA372623
REF NO. 01

DATE PRINTED 03/07/12

TCIS ENTRY BY S. CEDENO, JUDICIAL ASSISTANT.)

MAIL SET AT \$2,000,000.

MAIVES STATUTORY TIME.

NEXT SCHEDULED EVENT:

2/10/10 830 AM PRETRIAL CONFERENCE DIST CENTRAL DISTRICT DEPT 122

PAY 00 OF 45

JUSTODY STATUS: DEFENDANT REMANDED

2/03/12 ARREST DISPOSITION REPORT SENT VIA FILE TRANSFER TO DEPARTMENT OF JUSTICE

PAGE NO. 2

ARRAIGNMENT
HEARING DATE: 11/04/10

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MINUTE ORDER
SUPERIOR COURT OF CALIFORNIA, COUNTY OF LOS ANGELES

DATE PRINTED: 03/07/12

CASE NO. BA372623

THE PEOPLE OF THE STATE OF CALIFORNIA
VS.
DEFENDANT 01: ISRAEL JAMMIR SANCHEZ

INFORMATION FILED ON 11/04/10.

COUNT 01: 664-187(A) PC FEL

ON 12/10/10 AT 830 AM IN CENTRAL DISTRICT DEPT 122

CASE CALLED FOR PRETRIAL CONFERENCE

PARTIES: CRAIG E VEALS (JUDGE) SYLVIA M. CEDENO (CLERK)
DIANNE MCGIVERN (REP) EUGENE HANRAHAN (DA)

DEFENDANT IS PRESENT IN COURT, AND REPRESENTED BY LOUISA B PENSANTI PRIVATE
COUNSEL APPEARING BY JOCELYN SICAT

BAIL SET AT \$2,000,000

BOOKING #2371456 PPR/TRANSCRIPT IN FILE LAST DAY 1-24-11

DDA: EUGENE HANRAHAN SBN #185826

PRETRIAL CONFERENCE IS HELD.

ON THE DEFENDANT'S MOTION, THE MATTER IS CALENDARED AS INDICATED

BELOW FOR FURTHER PRETRIAL CONFERENCE.

COURT ORDERS AND FINDINGS:

THE COURT ORDERS THE DEFENDANT TO APPEAR ON THE NEXT COURT DATE.

NEXT SCHEDULED EVENT:

2/20/10 830 AM PRETRIAL CONF/TRIAL SETTING DIST CENTRAL DISTRICT DEPT 122

CUSTODY STATUS: DEFENDANT REMANDED

PAGE NO. 1

PRETRIAL CONFERENCE
HEARING DATE: 12/10/10

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MINUTE ORDER
SUPERIOR COURT OF CALIFORNIA, COUNTY OF LOS ANGELES

DATE PRINTED: 03/07/12

CASE NO. BA372623

THE PEOPLE OF THE STATE OF CALIFORNIA
VS.
DEFENDANT 01: ISRAEL JAMMIR SANCHEZ

INFORMATION FILED ON 11/04/10.

QUANT 01: 664-187(A) PC FEL

ON 12/20/10 AT 830 AM IN CENTRAL DISTRICT DEPT 122

WAS CALLED FOR PRETRIAL CONF/TRIAL SETTING

PARTIES: CRAIG E VEALS (JUDGE) SYLVIA M. CEDENO (CLERK)
ANNETTE YOUNG (REP) EUGENE HANRAHAN (DA)

THE DEFENDANT IS PRESENT (IN LOCK UP) AND REPRESENTED BY LOUISA B PENSANTI
PRIVATE COUNSEL APPEARING BY LISA MATTERN

BAIL SET AT \$2,000,000

BOOKING #2371456 LAST DAY 1-24-11
PRETRIAL CONFERENCE HELD.
ON THE DEFENDANT'S MOTION, THE MATTER IS CONTINUED AS INDICATED
BELOW.

COURT ORDERS AND FINDINGS:

THE COURT ORDERS THE DEFENDANT TO APPEAR ON THE NEXT COURT DATE.

NEXT SCHEDULED EVENT:
1/06/11 830 AM JURY TRIAL DIST CENTRAL DISTRICT DEPT 122

CUSTODY STATUS: DEFENDANT REMANDED

PAGE NO. 1

PRETRIAL CONF/TRIAL SETTING
HEARING DATE: 12/20/10

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MINUTE ORDER
SUPERIOR COURT OF CALIFORNIA, COUNTY OF LOS ANGELES

DATE PRINTED: 03/07/12

CASE NO. BA372623

THE PEOPLE OF THE STATE OF CALIFORNIA
VS.
DEFENDANT 01: ISRAEL JAMMIR SANCHEZ

INFORMATION FILED ON 11/04/10.

QUANT 01: 664-187(A) PC FEL

ON 01/06/11 AT 830 AM IN CENTRAL DISTRICT DEPT 122

WAS CALLED FOR JURY TRIAL

PARTIES: CRAIG E VEALS (JUDGE) SYLVIA M. CEDENO (CLERK)
DIANNE MCGIVERN (REP) EUGENE HANRAHAN (DA)

DEFENDANT IS PRESENT IN COURT, AND REPRESENTED BY LOUISA B PENSANTI PRIVATE
COUNSEL APPEARING BY LISA MATTERN

BAIL SET AT \$2,000,000

BOOKING #2371456
DDA: EUGENE HANRAHAN
AT THE DEFENDANT'S REQUEST, THE MATTER IS CONTINUED AS INDICATED
BELOW.

AT THE PEOPLE'S REQUEST, JESSICA LUCERO AND LILIAN LUCERO ARE
ORDERED TO RETURN ON THE NEXT COURT DATE AND TIME WITHOUT
FURTHER NOTICE, ORDER OR SUBPOENA.

COURT ORDERS AND FINDINGS:

THE COURT ORDERS THE DEFENDANT TO APPEAR ON THE NEXT COURT DATE.

NEXT SCHEDULED EVENT:
1/18/11 830 AM JURY TRIAL DIST CENTRAL DISTRICT DEPT 122

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CUSTODY STATUS: DEFENDANT REMANDED

PAGE NO. 1 JURY TRIAL
HEARING DATE: 01/06/11

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MINUTE ORDER
SUPERIOR COURT OF CALIFORNIA, COUNTY OF LOS ANGELES

DATE PRINTED: 03/07/12

CASE NO. BA372623

THE PEOPLE OF THE STATE OF CALIFORNIA
VS.
DEFENDANT 01: ISRAEL JAMMIR SANCHEZ

INFORMATION FILED ON 11/04/10.

COUNT 01: 664-187(A) PC FEL

ON 01/18/11 AT 830 AM IN CENTRAL DISTRICT DEPT 122

CASE CALLED FOR JURY TRIAL

PARTIES: CRAIG E VEALS (JUDGE) SYLVIA M. CEDENO (CLERK)
DIANNE MCGIVERN (REP) EUGENE HANRAHAN (DA)

DEFENDANT IS PRESENT IN COURT, AND REPRESENTED BY LOUISA B PENSANTI PRIVATE
COUNSEL APPEARING BY MARGARET MENDOZA

BOOKING #2371456
COURT AND COUNSEL CONFER RE STATUS OF CASE.
ON THE DEFENDANT'S MOTION, THE MATTER IS CONTINUED AS
INDICATED BELOW.

COURT ORDERS AND FINDINGS:

THE COURT ORDERS THE DEFENDANT TO APPEAR ON THE NEXT COURT DATE.
ADVISES STATUTORY TIME.

NEXT SCHEDULED EVENT:
1/25/11 830 AM JURY TRIAL DIST CENTRAL DISTRICT DEPT 122

PAGE 00 OF 10

PAGE NO. 1 JURY TRIAL
HEARING DATE: 01/18/11

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MINUTE ORDER
SUPERIOR COURT OF CALIFORNIA, COUNTY OF LOS ANGELES

DATE PRINTED: 03/07/12

CASE NO. BA372623

THE PEOPLE OF THE STATE OF CALIFORNIA
VS.
DEFENDANT 01: ISRAEL JAMMIR SANCHEZ

INFORMATION FILED ON 11/04/10.

COUNT 01: 664-187(A) PC FEL

ON 01/25/11 AT 830 AM IN CENTRAL DISTRICT DEPT 122

CASE CALLED FOR JURY TRIAL

PARTIES: CRAIG E VEALS (JUDGE) MARY GOJANIUK (CLERK)
KARIE MARTIN (REP) EUGENE HANRAHAN (DA)

DEFENDANT IS PRESENT IN COURT, AND REPRESENTED BY LISA MATTERN PRIVATE COUNSEL

BAIL SET AT \$2,000,000

BOOKING: 2371456/DDA:EUGENE HANRAHAN/LIFE MAX/TIME EST: 13 DAYS

ALL PARTIES ANNOUNCE READY FOR JURY TRIAL, AND COURT ORDERS
CASE TRANSFERRED TO DEPARTMENT 100 FOR ASSIGNMENT FOR JURY TRIAL
ON DAY 8 OF 10.

PEOPLE'S WITNESS, JESSICA LUCERO, APPEARS, AND IS ORDERED TO
RETURN ON NEXT HEARING DATE.

ATTACHMENT FOR NON-APPEARING PEOPLE'S WITNESS, WILLIAM THOMAS,
REMAINS ISSUED AND HELD TO NEXT HEARING DATE.

COURT ORDERS AND FINDINGS:

THE COURT ORDERS THE DEFENDANT TO APPEAR ON THE NEXT COURT DATE.

NEXT SCHEDULED EVENT:
2/02/11 830 AM JURY TRIAL DIST CENTRAL DISTRICT DEPT 100

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JUSTICE STATUS: DEFENDANT REMANDED

PAGE NO. 1

JURY TRIAL
HEARING DATE: 01/25/11

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MINUTE ORDER
SUPERIOR COURT OF CALIFORNIA, COUNTY OF LOS ANGELES

DATE PRINTED: 03/07/12

CASE NO. BA372623

THE PEOPLE OF THE STATE OF CALIFORNIA
VS.
DEFENDANT 01: ISRAEL JAMMIR SANCHEZ

INFORMATION FILED ON 11/04/10.

COUNT 01: 664-187(A) PC FEL

ON 02/02/11 AT 830 AM IN CENTRAL DISTRICT DEPT 100

CASE CALLED FOR JURY TRIAL

PARTIES: PATRICIA M. SCHNEGG (JUDGE) BLANCA PEREZ (CLERK)
CANDACE HENRY (REP) EUGENE HANRAHAN (DA)

DEFENDANT IS PRESENT IN COURT, AND REPRESENTED BY LOUISA PENSANTI PRIVATE
COUNSEL

BAIL SET AT \$2,000,000

BOOKING #2371456 / TRIAL: 13 DAYS / DDA: EUGENE HANRAHAN 185826

DU TO DEFENSE COUNSEL BEING ENGAGED IN TRIAL ON ANOTHER MATTER,
THE COURT FINDS GOOD CAUSE TO GRANT A CONTINUANCE IN DEPARTMENT

122 FOR DATE AND TIME INDICATED BELOW.

COURT ORDERS AND FINDINGS:

THE COURT ORDERS THE DEFENDANT TO APPEAR ON THE NEXT COURT DATE.

ADVISES STATUTORY TIME.

EXT SCHEDULED EVENT:
1/04/11 830 AM JURY TRIAL DIST CENTRAL DISTRICT DEPT 122

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CUSTODY STATUS: DEFENDANT REMANDED

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JURY TRIAL
HEARING DATE: 02/02/11

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MINUTE ORDER
SUPERIOR COURT OF CALIFORNIA, COUNTY OF LOS ANGELES

DATE PRINTED: 03/07/12

CASE NO. BA372623

THE PEOPLE OF THE STATE OF CALIFORNIA
VS.
DEFENDANT 01: ISRAEL JAMMIR SANCHEZ

INFORMATION FILED ON 11/04/10.

QUANT 01: 664-187(A) PC FEL

ON 04/04/11 AT 830 AM IN CENTRAL DISTRICT DEPT 122

CASE CALLED FOR JURY TRIAL

PARTIES: CRAIG E VEALS (JUDGE) MARY GOJANIUK (CLERK)
DIANNE MCGIVERN (REP) NONE (DDA)

THE DEFENDANT IS PRESENT (IN LOCK UP) AND REPRESENTED BY LOUISA PENSANTI PRIVATE COUNSEL

BAIL SET AT \$2,000,000

BOOKING: 2371456 DDA: EUGENE HANRAHAN

CASE IS CONTINUED TO DATE AND TIME INDICATED BELOW.

COURT ORDERS AND FINDINGS:

THE COURT ORDERS THE DEFENDANT TO APPEAR ON THE NEXT COURT DATE.

NEXT SCHEDULED EVENT:
4/05/11 830 AM JURY TRIAL DIST CENTRAL DISTRICT DEPT 122

PAGE 01 OF 10

CUSTODY STATUS: DEFENDANT REMANDED

PAGE NO. 1

JURY TRIAL
HEARING DATE: 04/04/11

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MINUTE ORDER
SUPERIOR COURT OF CALIFORNIA, COUNTY OF LOS ANGELES

DATE PRINTED: 03/07/12

CASE NO. BA372623

THE PEOPLE OF THE STATE OF CALIFORNIA
VS.
DEFENDANT 01: ISRAEL JAMMIR SANCHEZ

INFORMATION FILED ON 11/04/10.

COUNT 01: 664-187(A) PC FEL

ON 04/05/11 AT 830 AM IN CENTRAL DISTRICT DEPT 122

CASE CALLED FOR JURY TRIAL

PARTIES: CRAIG E VEALS (JUDGE) MARY GOJANIUK (CLERK)
DIANNE MCGIVERN (REP) EUGENE HANRAHAN (DA)

DEFENDANT IS PRESENT IN COURT, AND REPRESENTED BY LOUISA PENSANTI PRIVATE
COUNSEL

BAIL SET AT \$2,000,000

BKG: 2371456 DDA: EUGENE HANRAHAN

DEFENDANT'S MOTION TO CONTINUE PURSUANT TO PENAL CODE SECTION
050 IS GRANTED, AND CASE IS CONTINUED TO DATE AND TIME

INDICATED BELOW.

COURT WILL GRANT NO FURTHER CONTINUANCES.

COURT ORDERS AND FINDINGS:

THE COURT ORDERS THE DEFENDANT TO APPEAR ON THE NEXT COURT DATE.

SAVES STATUTORY TIME.

EXT SCHEDULED EVENT:
4/25/11 830 AM JURY TRIAL DIST CENTRAL DISTRICT DEPT 122

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CUSTODY STATUS: DEFENDANT REMANDED

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JURY TRIAL
HEARING DATE: 04/05/11

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MINUTE ORDER
SUPERIOR COURT OF CALIFORNIA, COUNTY OF LOS ANGELES

DATE PRINTED: 03/07/12

CASE NO. BA372623

THE PEOPLE OF THE STATE OF CALIFORNIA
VS.
DEFENDANT 01: ISRAEL JAMMIR SANCHEZ

INFORMATION FILED ON 11/04/10.

COUNT 01: 664-187(A) PC FEL

ON 04/25/11 AT 830 AM IN CENTRAL DISTRICT DEPT 122

CASE CALLED FOR JURY TRIAL

PARTIES: CRAIG E VEALS (JUDGE) SYLVIA M. CEDENO (CLERK)
DIANNE MCGIVERN (REP) EUGENE HANRAHAN (DA)

DEFENDANT IS PRESENT IN COURT, AND REPRESENTED BY LOUISA PENSANTI PRIVATE COUNSEL

BAIL SET AT \$2,000,000

BOOKING #2371456 DDA: EUGENE HANRAHAN
PRIVATE COUNSEL JOCELYN SICAT APPEARING FOR LOUISA PENSANTI.

DEFENDANT'S REQUEST TO CONTINUE THE MATTER IS GRANTED AS
INDICATED BELOW.

THE COURT ORDERS DEFENSE COUNSEL LOUISA PENSANTI NOT TO BECOME
ENGAGED IN TRIAL.

AT THE PEOPLE'S REQUEST, BODY ATTACHMENT FOR JESSICA LUCERO
IS ORDERED ISSUED AND HELD TO THE NEXT COURT DATE.

COURT ORDERS AND FINDINGS:

THE COURT ORDERS THE DEFENDANT TO APPEAR ON THE NEXT COURT DATE.

SAVES STATUTORY TIME.

NEXT SCHEDULED EVENT:
4/28/11 830 AM JURY TRIAL DIST CENTRAL DISTRICT DEPT 122

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PAGE NO. 1 JURY TRIAL
HEARING DATE: 04/25/11

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CASE NO. BA372623
DEF NO. 01

DATE PRINTED 03/07/12

USTODY STATUS: DEFENDANT REMANDED

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HEARING DATE: 04/25/11

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MINUTE ORDER
SUPERIOR COURT OF CALIFORNIA, COUNTY OF LOS ANGELES

DATE PRINTED: 03/07/12

CASE NO. BA372623

THE PEOPLE OF THE STATE OF CALIFORNIA
VS.
DEFENDANT 01: ISRAEL JAMMIR SANCHEZ

INFORMATION FILED ON 11/04/10.

COUNT 01: 664-187(A) PC FEL

ON 04/28/11 AT 830 AM IN CENTRAL DISTRICT DEPT 122

CASE CALLED FOR JURY TRIAL

PARTIES: CRAIG E VEALS (JUDGE) SYLVIA M. CEDENO (CLERK)
JEANNETTE BUSH (REP) EUGENE HANRAHAN (DA)

DEFENDANT IS PRESENT IN COURT, AND REPRESENTED BY LOUISA B PENSANTI PRIVATE
COUNSEL

AIL SET AT \$2,000,000

BOOKING #2371456
DDA: EUGENE HANRAHAN
DEPUTY DISTRICT ATTORNEY EUGENE HANRAHAN APPEARING BY
TEFAN C. MRAKICH.

DEFENDANT'S REQUEST FOR CONTINUANCE IS GRANTED.
(**LAST CONTINUANCE**)

THE COURT ORDERS BOTH SIDES TO BE AVAILABLE FOR TRIAL
ON THE NEXT COURT DATE.

COURT ORDERS AND FINDINGS:

THE COURT ORDERS THE DEFENDANT TO APPEAR ON THE NEXT COURT DATE.

SAVES STATUTORY TIME.

EXT SCHEDULED EVENT:
6/01/11 830 AM JURY TRIAL DIST CENTRAL DISTRICT DEPT 122

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CUSTODY STATUS: DEFENDANT REMANDED

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JURY TRIAL
HEARING DATE: 04/28/11

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CASE NO. BA372623
DEF NO. 01

DATE PRINTED 03/07/12

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HEARING DATE: 04/28/11

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MINUTE ORDER
SUPERIOR COURT OF CALIFORNIA, COUNTY OF LOS ANGELES

DATE PRINTED: 03/07/12

CASE NO. BA372623

THE PEOPLE OF THE STATE OF CALIFORNIA
VS.
DEFENDANT 01: ISRAEL JAMMIR SANCHEZ

INFORMATION FILED ON 11/04/10.

QUANT 01: 664-187(A) PC FEL

ON 06/01/11 AT 830 AM IN CENTRAL DISTRICT DEPT 122

CASE CALLED FOR JURY TRIAL

PARTIES: CRAIG E VEALS (JUDGE) SYLVIA M. CEDENO (CLERK)
DIANNE MCGIVERN (REP) EUGENE HANRAHAN (DA)

DEFENDANT IS PRESENT IN COURT, AND REPRESENTED BY LOUISA B PENSANTI PRIVATE
COUNSEL

BAIL SET AT \$2,000,000

BOOKING #2371456 DDA: E. HANRAHAN
PRIVATE COUNSEL LOUISA PENSANTI APPEARING BY JOCELYN SICAT.
DEFENSE COUNSEL OF RECORD IS ENGAGED IN TRIAL ON AN UNRELATED
MATTER. THE MATTER IS CONTINUED AT DEFENDANT'S REQUEST, OVER THE

PEOPLE'S OBJECTION.

DEFENSE COUNSEL LOUISA PENSANTI IS ORDERED TO APPEAR ON THE
NEXT COURT DATE.

PHOTO ATTACHMENT FOR JESSICA LUCERO IS ORDERED RECALLED AND
WASHED.

JESSICA LUCERO IS ORDERED TO APPEAR ON THE NEXT COURT DATE AND
TIME WITHOUT FURTHER NOTICE, ORDER OR SUBPOENA.

COURT ORDERS AND FINDINGS:

THE COURT ORDERS THE DEFENDANT TO APPEAR ON THE NEXT COURT DATE.

ADVISES STATUTORY TIME.

NEXT SCHEDULED EVENT:

PAGE NO. 1 JURY TRIAL
HEARING DATE: 06/01/11

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CASE NO. BA372623
REF NO. 01

DATE PRINTED 03/07/12

6/10/11 830 AM JURY TRIAL DIST CENTRAL DISTRICT DEPT 122

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CUSTODY STATUS: DEFENDANT REMANDED

PAGE NO. 2

JURY TRIAL
HEARING DATE: 06/01/11

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MINUTE ORDER
SUPERIOR COURT OF CALIFORNIA, COUNTY OF LOS ANGELES

DATE PRINTED: 03/07/12

CASE NO. BA372623

THE PEOPLE OF THE STATE OF CALIFORNIA
VS.
DEFENDANT 01: ISRAEL JAMMIR SANCHEZ

INFORMATION FILED ON 11/04/10.

QUANT 01: 664-187(A) PC FEL

ON 06/10/11 AT 830 AM IN CENTRAL DISTRICT DEPT 122

CASE CALLED FOR JURY TRIAL

PARTIES: CRAIG E VEALS (JUDGE) STEVEN WINSTON (CLERK)
DIANNE MCGIVERN (REP) EUGENE HANRAHAN (DA)

THE DEFENDANT IS PRESENT (IN LOCK UP) AND REPRESENTED BY LOUISA B PENSANTI
PRIVATE COUNSEL APPEARING BY AMANDA WATERS

AIL SET AT \$2,000,000

BKG. 2669149/ NO TIME ESTIMATE
DEPUTY DISTRICT ATTORNEY EUGENE HANRAHAN (185826)

THE COURT HAS DEEMED ALL OF THE PARTIES READY FOR TRIAL, AND

THE DEFENDANT'S MOTION FOR A CONTINUANCE PURSUANT TO PENAL CODE
SECTION 1050 IS DENIED.

THE COURT FINDS THAT ALL OF THE DISCOVERY IS COMPLETED.

HIS MATTER IS TRAILED TO JUNE 14, 2011, AT 8:30 A.M. IN
DEPARTMENT 100 AS DAY 8 OF 10 FOR THE JURY TRIAL.

COURT ORDERS AND FINDINGS:

THE COURT ORDERS THE DEFENDANT TO APPEAR ON THE NEXT COURT DATE.

EXT SCHEDULED EVENT:
6/14/11 830 AM JURY TRIAL DIST CENTRAL DISTRICT DEPT 100

DAY 08 OF 10

CUSTODY STATUS: DEFENDANT REMANDED

PAGE NO. 1 JURY TRIAL
HEARING DATE: 06/10/11

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CASE NO. BA372623
DEF NO. 01

DATE PRINTED 03/07/12

PAGE NO. 2 JURY TRIAL
HEARING DATE: 06/10/11

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MINUTE ORDER
SUPERIOR COURT OF CALIFORNIA, COUNTY OF LOS ANGELES

DATE PRINTED: 03/07/12

CASE NO. BA372623

THE PEOPLE OF THE STATE OF CALIFORNIA
VS.
DEFENDANT 01: ISRAEL JAMMIR SANCHEZ

INFORMATION FILED ON 11/04/10.

COUNT 01: 664-187(A) PC FEL

ON 06/14/11 AT 830 AM IN CENTRAL DISTRICT DEPT 100

CASE CALLED FOR JURY TRIAL

PARTIES: PATRICIA M. SCHNEGG (JUDGE) JULIANNA LOZA (CLERK)
CANDACE HENRY (REP) EUGENE HANRAHAN (DA)

DEFENDANT IS PRESENT IN COURT, AND REPRESENTED BY LOUISA B PENSANTI PRIVATE
COUNSEL

BAIL SET AT \$2,000,000

BKG#2371456 DDA: EUGENE HANRAHAN #185826

AT THE REQUEST OF COUNSEL FOR THE DEFENDANT AND THE COURT
FINDING GOOD CAUSE, THE MATTER IS CONTINUED, FOR A JURY TRIAL,

TO JUNE 22, 2011, AT 8:30 A.M. IN DEPARTMENT 100 AS DAY 08 OF

THE WITNESS, JESSICA LUCERO, IS ORDERED TO RETURN ON JUNE 22,
2011, AT 8:30 A.M. IN DEPARTMENT 100 WITHOUT FURTHER ORDER,
NOTICE, OR SUBPOENA.

COURT ORDERS AND FINDINGS:

THE COURT ORDERS THE DEFENDANT TO APPEAR ON THE NEXT COURT DATE.

WAIVES STATUTORY TIME.

NEXT SCHEDULED EVENT:
06/22/11 830 AM JURY TRIAL DIST CENTRAL DISTRICT DEPT 100

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CUSTODY STATUS: DEFENDANT REMANDED

PAGE NO. 1 JURY TRIAL
HEARING DATE: 06/14/11

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CASE NO. BA372623
REF NO. 01

DATE PRINTED 03/07/12

PAGE NO. 2 JURY TRIAL
HEARING DATE: 06/14/11

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MINUTE ORDER
SUPERIOR COURT OF CALIFORNIA, COUNTY OF LOS ANGELES

DATE PRINTED: 03/07/12

CASE NO. BA372623

THE PEOPLE OF THE STATE OF CALIFORNIA
VS.
DEFENDANT 01: ISRAEL JAMMIR SANCHEZ

INFORMATION FILED ON 11/04/10.

QUANT 01: 664-187(A) PC FEL

ON 06/20/11 AT 830 AM IN CENTRAL DISTRICT DEPT 123

CASE CALLED FOR JUDICIAL ACTION

PARTIES: GEORGE GONZALEZ LOMELI (JUDGE) DAVID MARQUEZ (CLERK)
KHOWOONSUN CHONG (REP) EUGENE HANRAHAN (DA)

DEFENDANT IS NOT PRESENT IN COURT, AND NOT REPRESENTED BY COUNSEL

BKG#2371456 DDA: EUGENE HANRAHAN #185826
BODY ATTACHMENT; WILLIAM THOMAS(BA372623-W2)

CAUSE CALLED AT THE PEOPLE'S REQUEST FOR ISSUANCE OF BODY
ATTACHMENT FOR PEOPLE'S WITNESS/VICTIM WILLIAM THOMAS.

TIMOTHY STACK IS PLACED UNDER OATH AND TESTIFIES ON BEHALF OF
THE PEOPLE.

THE COURT FINDS, UNDER PENAL CODE SECTIONS 1331/1332 THAT
WILLIAM THOMAS(PEOPLE'S WITNESS/VICTIM) IS A NECESSARY WITNESS
AND THE PROSPECTS OF HIM VOLUNTARILY APPEARING IN COURT FOR THE
PURPOSE OF TESTIFYING IS NIL AT THIS TIME AND WILL THEREFORE
ORDER A BODY ATTACHMENT ISSUED FOR WILLIAM THOMAS IN THE AMOUNT
OF \$90,000.00; CASE NO. BA372623-W2.

NEXT SCHEDULED EVENT:
JURY TRIAL

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JUDICIAL ACTION
HEARING DATE: 06/20/11

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MINUTE ORDER
SUPERIOR COURT OF CALIFORNIA, COUNTY OF LOS ANGELES

DATE PRINTED: 03/07/12

CASE NO. BA372623

THE PEOPLE OF THE STATE OF CALIFORNIA
VS.
DEFENDANT 01: ISRAEL JAMMIR SANCHEZ

INFORMATION FILED ON 11/04/10.

CHARGE 01: 664-187(A) PC FEL

ON 06/22/11 AT 830 AM IN CENTRAL DISTRICT DEPT 100

CASE CALLED FOR JURY TRIAL

PARTIES: PATRICIA M. SCHNEGG (JUDGE) EDWIN HERNANDEZ (CLERK)
CANDACE HENRY (REP) EUGENE HANRAHAN (DA)

DEFENDANT IS PRESENT IN COURT, AND REPRESENTED BY LOUISA B PENSANTI PRIVATE
COUNSEL APPEARING BY JOCELYN SICAT

BAILE SET AT \$2,000,000

BKG# 2371456 / 15 DAY ESTIMATE / DDA: EUGENE HANRAHAN #185826

AT THE DEFENDANT'S REQUEST, PURSUANT TO PENAL CODE SECTION 1050,
THIS MATTER IS CONTINUED AS INDICATED BELOW.

THE SHERIFF IS DIRECTED TO RETURN THE DEFENDANT TO COURT ON THE
NEXT HEARING DATE.

ESSICA LUCERO IS ORDERED TO RETURN ON THE NEXT HEARING DATE.

COURT ORDERS AND FINDINGS:

THE COURT ORDERS THE DEFENDANT TO APPEAR ON THE NEXT COURT DATE.

WAIVES STATUTORY TIME.

NEXT SCHEDULED EVENT:

06/28/11 830 AM JURY TRIAL DIST CENTRAL DISTRICT DEPT 100

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CUSTODY STATUS: DEFENDANT REMANDED

PAGE NO. 1

JURY TRIAL
HEARING DATE: 06/22/11

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CASE NO. BA372623
DEF NO. 01

DATE PRINTED 03/07/12

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HEARING DATE: 06/22/11

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MINUTE ORDER
SUPERIOR COURT OF CALIFORNIA, COUNTY OF LOS ANGELES

DATE PRINTED: 03/07/12

CASE NO. BA372623

THE PEOPLE OF THE STATE OF CALIFORNIA
VS.
DEFENDANT 01: ISRAEL JAMMIR SANCHEZ

NUNC PRO TUNC ORDER PREPARED. IT APPEARING TO THE COURT THAT THE MINUTE ORDER
IN THE ABOVE ENTITLED ACTION DOES NOT PROPERLY REFLECT THE COURT'S ORDER. SAID
MINUTE ORDER IS AMENDED NUNC PRO TUNC AS OF THAT DATE. ALL OTHER ORDERS ARE TO
REMAIN IN FULL FORCE AND EFFECT. DETAILS LISTED AT END OF THIS MINUTE ORDER.

INFORMATION FILED ON 11/04/10.

COUNT 01: 664-187(A) PC FEL

ON 06/28/11 AT 830 AM IN CENTRAL DISTRICT DEPT 100

CASE CALLED FOR JURY TRIAL

PARTIES: PATRICIA M. SCHNEGG (JUDGE) BLANCA PEREZ (CLERK)
CANDACE HENRY (REP) EUGENE HANRAHAN (DA)

THE DEFENDANT IS PRESENT(IN LOCK UP) AND REPRESENTED BY LOUISA B PENSANTI
PRIVATE COUNSEL

BAIL SET AT \$2,000,000

BOOKING #2371456 / TRIAL: 10-12 DAYS / DDA: EUGENE HANRAHAN

ALL PARTIES HAVING ANNOUNCED READY, THE CASE IS ORDERED
TRANSFERRED TO DEPARTMENT 120, FORTHWITH FOR TRIAL, BY THE
JUDGE SUPERVISING THE MASTER CALENDAR. THE PARTIES ARE SO
NOTIFIED. SHERIFF IS DIRECTED TO TRANSPORT THE DEFENDANT.

PEOPLE'S WITNESS, MARIA ELENA ARIZ IS ORDERED TO APPEAR IN
DEPARTMENT 120, FORTHWITH.

*****NUNC PRO TUNC*****

ISSUED ON: 06/28/11 BY B. PEREZ, JUDICIAL ASSISTANT

BY ADDING: "PEOPLE'S WITNESS, MARIA ELENA ARIZ IS ORDERED TO

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HEARING DATE: 06/28/11

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CASE NO. BA372623
REF NO. 01

DATE PRINTED 03/07/12

APPEAR IN DEPARTMENT 120, FORTHWITH.

*****NUNC PRO TUNC*****

NEXT SCHEDULED EVENT:
06/28/11 930 AM JURY TRIAL DIST CENTRAL DISTRICT DEPT 120

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CUSTODY STATUS: DEFENDANT REMANDED

02/03/12 ARREST DISPOSITION REPORT SENT VIA FILE TRANSFER TO DEPARTMENT OF
JUSTICE

PAGE NO. 2 JURY TRIAL
HEARING DATE: 06/28/11

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MINUTE ORDER
SUPERIOR COURT OF CALIFORNIA, COUNTY OF LOS ANGELES

DATE PRINTED: 03/07/12

CASE NO. BA372623

THE PEOPLE OF THE STATE OF CALIFORNIA
VS.
DEFENDANT 01: ISRAEL JAMMIR SANCHEZ

INFORMATION FILED ON 11/04/10.

DUNSTON 01: 664-187(A) PC FEL

ON 06/28/11 AT 930 AM IN CENTRAL DISTRICT DEPT 120

CASE CALLED FOR JURY TRIAL

PARTIES: CRAIG RICHMAN (JUDGE) ALBERTA P. JORDAN (CLERK)
TRACY WILLIAMS (REP) EUGENE HANRAHAN (DA)

DEFENDANT IS PRESENT IN COURT, AND REPRESENTED BY LOUISA B PENSANTI PRIVATE
COUNSEL

BAIL SET AT \$2,000,000

CAUSE, TRANSFERRED FROM DEPARTMENT 100, IS CALLED FOR TRIAL.

THE COURT AND COUNSEL CONFER REGARDING DETAILS OF TRIAL. A PANEL
OF PROSPECTIVE JURORS IS ORDERED FOR AFTER THE NOON RECESS.

AFTER THE NOON RECESS:

BEFORE THE PROSPECTIVE JURORS ARE BROUGHT INTO THE COURTROOM,
PURSUANT TO THE PEOPLE'S REQUEST, WITNESS YESSICA LUCERO IS
PRESENT, IN THE COURTROOM AND ORDERED, BY THE COURT, TO RETURN
TO THIS COURTROOM ON THURSDAY, JUNE 30, 2011 NO LATER THAN
10:00 A.M. WITNESS LUCERO AGREES TO RETURN AND SAYS THAT SHE
UNDERSTANDS THAT SHE COULD BE RISKING BEING TAKEN INTO CUSTODY
IF SHE DOES NOT RETURN.

AT 2:30 P.M., A PANEL OF 55 PROSPECTIVE JURORS IS GIVEN THE
PERJURY ADMONISHMENT REGARDING QUALIFICATIONS.
JURY SELECTION BEGINS.

THE PROSPECTIVE JURORS ARE ADMONISHED AND INSTRUCTED TO RETURN

PAGE NO. 1 JURY TRIAL
HEARING DATE: 06/28/11

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CASE NO. BA372623
DEF NO. 01

DATE PRINTED 03/07/12

TOMORROW (6-29-11) AT 10:30 A.M.
TRIAL IS IN RECESS.

COURT ORDERS AND FINDINGS:

-THE COURT ORDERS THE DEFENDANT TO APPEAR ON THE NEXT COURT DATE.

NEXT SCHEDULED EVENT:

6/29/11 1030 AM JURY TRIAL IN PROGRESS DIST CENTRAL DISTRICT DEPT 120

CUSTODY STATUS: DEFENDANT REMANDED

PAGE NO. 2 JURY TRIAL
HEARING DATE: 06/28/11

ATTORNEY GENERAL

COURT OF APPEAL SECOND APPELLATE DISTRICT STATE OF CALIFORNIA

PEOPLE OF THE STATE OF CALIFORNIA,
Plaintiff and **RESPONDENT**

No. BA372623 - 01

Vs

SANCHEZ, ISRAEL J - 01,

Volume 2 of 2 Volumes
Notice of appeal filing date: 01/31/12

Defendant(s) and **APPELLANTS**

CLERK'S TRANSCRIPT
Page 224 to 448

Appearances:

Counsel for Plaintiff:

THE ATTORNEY GENERAL

Counsel for Defendant:

c/o CAP

**Appeal from the Superior Court,
County of Los Angeles**

Honorable CRAIG RICHMAN, Judge.

Date Mailed to:
Defendant (in pro per)
Defendant's Trial Attorney
Defendant's Appellate Attorney
District Attorney
Attorney General

MAR 29 2012

224

MINUTE ORDER
SUPERIOR COURT OF CALIFORNIA, COUNTY OF LOS ANGELES

DATE PRINTED: 03/07/12

CASE NO. BA372623

THE PEOPLE OF THE STATE OF CALIFORNIA
VS.
DEFENDANT 01: ISRAEL JAMMIR SANCHEZ

INFORMATION FILED ON 11/04/10.

COUNT 01: 664-187(A) PC FEL

ON 06/29/11 AT 1030 AM IN CENTRAL DISTRICT DEPT 120

CASE CALLED FOR JURY TRIAL IN PROGRESS

PARTIES: CRAIG RICHMAN (JUDGE) ALBERTA P. JORDAN (CLERK)
TRACY WILLIAMS (REP) EUGENE HANRAHAN (DA)

DEFENDANT IS PRESENT IN COURT, AND REPRESENTED BY LOUISA B PENSANTI PRIVATE COUNSEL

BAIL SET AT \$2,000,000

TRIAL RESUMES FROM JUNE 28, 2011 WITH THE DEFENDANT, BOTH COUNSEL AND ALL PROSPECTIVE JURORS PRESENT AS HERETOFORE.

JURY SELECTION CONTINUES.

THE PROSPECTIVE JURORS ARE ADMONISHED AND EXCUSED FOR THE NOON RECESS.

AFTER THE NOON RECESS:
JURY SELECTION CONTINUES.

THE PROSPECTIVE JURORS ARE ADMONISHED AND INSTRUCTED TO RETURN ON THE DATE INDICATED BELOW.
TRIAL IS IN RECESS.

COURT ORDERS AND FINDINGS:

-THE COURT ORDERS THE DEFENDANT TO APPEAR ON THE NEXT COURT DATE.

NEXT SCHEDULED EVENT:

06/30/11 1030 AM JURY TRIAL IN PROGRESS DIST CENTRAL DISTRICT DEPT 120

CUSTODY STATUS: DEFENDANT REMANDED

PAGE NO. 1 JURY TRIAL IN PROGRESS
HEARING DATE: 06/29/11

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MINUTE ORDER
SUPERIOR COURT OF CALIFORNIA, COUNTY OF LOS ANGELES

DATE PRINTED: 03/07/12

CASE NO. BA372623

THE PEOPLE OF THE STATE OF CALIFORNIA
VS.
DEFENDANT 01: ISRAEL JAMMIR SANCHEZ

INFORMATION FILED ON 11/04/10.

COUNT 01: 664-187(A) PC FEL

ON 06/30/11 AT 1030 AM IN CENTRAL DISTRICT DEPT 120

CASE CALLED FOR JURY TRIAL IN PROGRESS

PARTIES: CRAIG RICHMAN (JUDGE) ALBERTA P. JORDAN (CLERK)
TRACY WILLIAMS (REP) EUGENE HANRAHAN (DA)

DEFENDANT IS PRESENT IN COURT, AND REPRESENTED BY LOUISA B PENSANTI PRIVATE COUNSEL

BAIL SET AT \$2,000,000

TRIAL RESUMES FROM JUNE 29, 2011 WITH THE DEFENDANT, BOTH COUNSEL AND PROSPECTIVE JURORS PRESENT AS HERETOFORE.

JURY SELECTION CONTINUES.

THE PROSPECTIVE JURORS ARE ADMONISHED AND EXCUSED FOR THE NOON RECESS.

AFTER THE NOON RECESS:
JURY SELECTION CONTINUES.

AT 4:00 P.M., BY ORDER OF THE COURT, A PANEL OF TWELVE JURORS AND TWO ALTERNATE JURORS IS SWORN TO TRY THE CAUSE.

THE JURORS ARE ADMONISHED AND INSTRUCTED TO RETURN ON THE DATE INDICATED BELOW.
TRIAL IS IN RECESS.

COURT ORDERS AND FINDINGS:

THE COURT ORDERS THE DEFENDANT TO APPEAR ON THE NEXT COURT DATE.

NEXT SCHEDULED EVENT:

PAGE NO. 1 JURY TRIAL IN PROGRESS
HEARING DATE: 06/30/11

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CASE NO. BA372623
DEF NO. 01

DATE PRINTED 03/07/12

07/01/11 830 AM JURY TRIAL IN PROGRESS DIST CENTRAL DISTRICT DEPT 120

CUSTODY STATUS: DEFENDANT REMANDED

PAGE NO. 2 JURY TRIAL IN PROGRESS
HEARING DATE: 06/30/11

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MINUTE ORDER
SUPERIOR COURT OF CALIFORNIA, COUNTY OF LOS ANGELES

DATE PRINTED: 03/07/12

CASE NO. BA372623

THE PEOPLE OF THE STATE OF CALIFORNIA
VS.
DEFENDANT 01: ISRAEL JAMMIR SANCHEZ

INFORMATION FILED ON 11/04/10.

COUNT 01: 664-187(A) PC FEL

ON 07/01/11 AT 830 AM IN CENTRAL DISTRICT DEPT 120

CASE CALLED FOR JURY TRIAL IN PROGRESS

PARTIES: CRAIG RICHMAN (JUDGE) ALBERTA P. JORDAN (CLERK)
TRACY WILLIAMS (REP) EUGENE HANRAHAN (DA)

DEFENDANT IS PRESENT IN COURT, AND REPRESENTED BY LOUISA B PENSANTI PRIVATE
COUNSEL

BAIL SET AT \$200,000

TRIAL RESUMES FROM JUNE 30, 2011 WITH THE DEFENDANT, BOTH COUN-
SEL AND ALL JURORS PRESENT AS HERETOFORE.

OUTSIDE THE PRESENCE OF THE JURY:

THE COURT AND COUNSEL CONFER REGARDING THE PEOPLE'S POWERPOINT
PRESENTATION. THE COURT OVER-RULES THE DEFENDANT'S OBJECTION TO
SOME IMAGES IN THE POWERPOINT.

IN THE PRESENCE OF THE JURY:
THE COURT IS NOTIFIED OF JUROR NUMBER FOUR'S ILLNESS.
THE COURT AND COUNSEL CONFER, AT SIDEBAR.
JUROR #4 IS EXCUSED FROM FURTHER SERVICE, ON THIS JURY.
ALTERNATE JUROR #1 IS RANDOMLY SELECTED TO REPLACE JUROR #4.

THE COURT GIVES THE JURY HIS INSTRUCTIONS AND ORIENTATION ABOUT
JURY TRIALS.

THE PEOPLE PRESENT THEIR OPENING STATEMENTS, USING POWERPOINT.

PAGE NO. 1

JURY TRIAL IN PROGRESS
HEARING DATE: 07/01/11

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CASE NO. BA372623
DEF NO. 01

DATE PRINTED 03/07/12

THE DEFENSE PRESENT THEIR OPENING STATEMENTS.

L.A.P.D. DETECTIVE JOHN JAMISON IS SWORN AND EXAMINED ON BEHALF OF THE PEOPLE.

PEOPLE'S EXHIBITS 1(AUDIO CD, IN PLASTIC SLEEVE), 2(TRANSCRIPT OF PEOPLE'S EXHIBIT 1) AND 3(MAP) ARE EACH MARKED FOR IDENTIFICATION.

EXAMINATION OF DETECTIVE JAMISON CONCLUDES, HE IS EXCUSED.

THE JURORS ARE ADMONISHED AND EXCUSED FOR THE NOON RECESS.

OUTSIDE THE PRESENCE OF THE JURY:

BAR PANEL COUNSEL ALTUS HUDSON IS PRESENT ON BEHALF OF THE

PEOPLE'S NEXT WITNESS, JESSICA LUCERO. ATTORNEY HUDSON CONFERS WITH WITNESS LUCERO.

AFTER THE NOON RECESS:

WITNESS JESSICA LUCERO IS SWORN AND EXAMINED ON BEHALF OF THE PEOPLE. ATTORNEY ALTUS HUDSON IS PRESENT ON BEHALF OF WITNESS LUCERO.

PEOPLE'S EXHIBITS 4 THROUGH 7(EACH A PHOTO) ARE MARKED FOR IDENTIFICATION.

OUTSIDE THE PRESENCE OF THE JURY:

THE COURT SIGNS AN ORDER FOR USE IMMUNITY FOR WITNESS LUCERO. PURSUANT TO PENAL CODE SECTION 1324.

THE COURT ADMONISHES THE WITNESS ABOUT PERJURY.

IN THE PRESENCE OF THE JURY:

EXAMINATION OF WITNESS LUCERO CONTINUES.

PEOPLE'S EXHIBITS 8(GUN), 9(MOBILE PHONE) AND 10, 11 & 12(EACH A PHOTO) ARE MARKED FOR IDENTIFICATION.

EXAMINATION OF WITNESS LUCERO DOES NOT CONCLUDE, SHE IS ORDERED TO RETURN ON THE NEXT COURT DATE OF THIS TRIAL (7-6-11).

THE JURORS ARE ADMONISHED AND INSTRUCTED TO RETURN ON THE DATE INDICATED BELOW.

TRIAL IS IN RECESS.

COURT ORDERS AND FINDINGS:

THE COURT ORDERS THE DEFENDANT TO APPEAR ON THE NEXT COURT DATE.

NEXT SCHEDULED EVENT:

7/06/11 1030 AM JURY TRIAL IN PROGRESS DIST CENTRAL DISTRICT DEPT 120

CUSTODY STATUS: DEFENDANT REMANDED

PAGE NO. 2

JURY TRIAL IN PROGRESS
HEARING DATE: 07/01/11

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MINUTE ORDER
SUPERIOR COURT OF CALIFORNIA, COUNTY OF LOS ANGELES

DATE PRINTED: 03/07/12

CASE NO. BA372623

THE PEOPLE OF THE STATE OF CALIFORNIA
VS.
DEFENDANT 01: ISRAEL JAMMIR SANCHEZ

INFORMATION FILED ON 11/04/10.

COUNT 01: 664-187(A) PC FEL

ON 07/06/11 AT 1030 AM IN CENTRAL DISTRICT DEPT 120

CASE CALLED FOR JURY TRIAL IN PROGRESS

PARTIES: CRAIG RICHMAN (JUDGE) MARY GOJANIUK (CLERK)
TRACY WILLIAMS (REP) EUGENE HANRAHAN (DA)

DEFENDANT IS PRESENT IN COURT, AND REPRESENTED BY LOUISA B PENSANTI PRIVATE COUNSEL

BAIL SET AT \$200,000

-BKG: 2371456

JURY TRIAL CONTINUED FROM 7/1/11 RESUMES, WITH DEFENDANT, COUNSEL AND JURORS PRESENT AS HERETOFORE.

OUT OF THE PRESENCE OF THE JURY:
COURT AND COUNSEL CONFER REGARDING EVIDENTIARY AND TRIAL ISSUES, AS MORE FULLY REFLECTED IN THE NOTES OF THE OFFICIAL COURT REPORTER.

IN THE PRESENCE OF THE JURY:
MARITERA SALAS IS SWORN AND TESTIFIES FOR THE PEOPLE OUT OF ORDER.

ESSICA LUCERO IS SWORN AND TESTIFIES FOR THE PEOPLE.

PEOPLE'S EXHIBIT 13(DVD) IS MARKED FOR IDENTIFICATION.

OUT OF THE PRESENCE OF THE JURY:

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JURY TRIAL IN PROGRESS
HEARING DATE: 07/06/11

241

CASE NO. BA372623
DEF NO. 01

DATE PRINTED 03/07/12

COURT AND COUNSEL CONFER REGARDING EVIDENTIARY ISSUES, AS MORE
FULLY REFLECTED IN THE NOTES OF THE OFFICIAL COURT REPORTER.

ON THE PRESENCE OF THE JURY:
MARGARITA LOPEZ IS SWORN AND TESTIFIES FOR THE PEOPLE.

PEOPLE'S EXHIBITS 14(AERIAL PHOTO), 15(SILVER-TONED DIGITAL
CAMERA, 16(PHOTO), 17(PHOTO), 18(PHOTO), AND 19(PHOTO) ARE
MARKED FOR IDENTIFICATION.

DEFENDANT'S EXHIBIT A(PHOTO) IS MARKED FOR IDENTIFICATION.

JURORS ARE ADMONISHED AND ORDERED TO RETURN AT THE DATE AND TIME
INDICATED BELOW.

COURT ORDERS AND FINDINGS:

THE COURT ORDERS THE DEFENDANT TO APPEAR ON THE NEXT COURT DATE.

NEXT SCHEDULED EVENT:
07/07/11 1030 AM JURY TRIAL IN PROGRESS DIST CENTRAL DISTRICT DEPT 120

CUSTODY STATUS: DEFENDANT REMANDED

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PAGE NO. 2

JURY TRIAL IN PROGRESS
HEARING DATE: 07/06/11

242

MINUTE ORDER
SUPERIOR COURT OF CALIFORNIA, COUNTY OF LOS ANGELES

DATE PRINTED: 03/07/12

CASE NO. BA372623

THE PEOPLE OF THE STATE OF CALIFORNIA
vs.
DEFENDANT 01: ISRAEL JAMMIR SANCHEZ

INFORMATION FILED ON 11/04/10.

COUNT 01: 664-187(A) PC FEL

ON 07/07/11 AT 1030 AM IN CENTRAL DISTRICT DEPT 120

CASE CALLED FOR JURY TRIAL IN PROGRESS

PARTIES: CRAIG RICHMAN (JUDGE) LAQUISHA CARSON (CLERK)
TRACY WILLIAMS (REP) EUGENE HANRAHAN (DA)

DEFENDANT IS PRESENT IN COURT, AND REPRESENTED BY LOUISA B PENSANTI PRIVATE COUNSEL

NONE, OFFICIAL COURT INTERPRETER, PRESENT AS INTERPRETER.

BAIL SET AT \$200,000

JURY TRIAL CONTINUED FROM 7/6/11 RESUMES, WITH DEFENDANT, COUNSEL AND JURORS PRESENT AS HERETOFORE.

DETECTIVE TIMOTHY STACK IS PRESENT AS PEOPLE'S INVESTIGATING OFFICER.

OUT OF THE PRESENCE OF THE JURY:
COURT AND COUNSEL CONFER REGARDING EVIDENTIARY AND TRIAL ISSUES,
AS MORE FULLY REFLECTED IN THE NOTES OF THE OFFICIAL COURT
REPORTER.

VARIOUS MOTIONS PURSUANT TO EVIDENCE CODE SECTION 352 ARE HEARD,
ARGUED, AND RULED UPON AS REFLECTED IN THE NOTES OF THE OFFICIAL
COURT REPORTER.

COURT AND COUNSEL CONFER REGARDING SCHEDULING.

PAGE NO. 1

JURY TRIAL IN PROGRESS
HEARING DATE: 07/07/11

243

CASE NO. BA372623
DEF NO. 01

DATE PRINTED 03/07/12

IN THE PRESENCE OF THE JURY:
MARIA ARIZ IS SWORN AND TESTIFIES FOR THE PEOPLE OUT OF
ORDER.

PEOPLE'S EXHIBITS 20-21(EACH A PHOTO),
22(A YELLOW LOS ANGELES POLICE DEPARTMENT EVIDENCE ENVELOPE
AND ITS CONTENTS: ONE BULLETT IN A SMALL, PLASTIC BAG),
23(AN UNMARKED VERSION OF PEOPLE'S EXHIBIT NUMBER 4), AND
24-28(EACH A PHOTO) ARE MARKED FOR IDENTIFICATION
ONLY.

HAVING PREVIOUSLY BEEN SWORN AND PLACED UNDER OATH,
MARGARITA LOPEZ RESUMES TESTIFYING ON BEHALF OF THE PEOPLE.

MARCUS MOODY, FRANK CARRILLO, DIANA PAUL, HABEL RODRIGUEZ,
AND IVAN PEREZ ARE SWORN AND TESTIFY FOR THE PEOPLE.

JURORS ARE ADMONISHED AND ORDERED TO RETURN AT THE DATE AND
TIME INDICATED BELOW.

OUT OF THE PRESENCE OF THE JURY: MOTION PURSUANT TO EVIDENCE
CODE SECTION 402 RE: (1) VIOLATION OF DEFENDANT'S MIRANDA
RIGHTS (2) DEFENDANT'S VOLUNTARY STATEMENTS MADE IS CALLED
FOR HEARING.

DETECTIVE TIMOTHY STACK IS SWORN AND EXAMINED BY BOTH THE
PROSECUTION AND DEFENSE. COURT'S EXHIBITS 1(DVD IN SLEEVE),
2(A TRANSCRIPT OF COURT'S EXHIBIT 1), 3(DEFENDANT'S RAP SHEET/
PLETS REPORT: 14-PAGES),
4(PHOTO), AND 5(A SHEET OF PAPER
CONTAINING DEFENDANT'S BOOKING PHOTO AND TATTOO PHOTO) ARE
MARKED FOR IDENTIFICATION ONLY AND LATER ADMITTED INTO
EVIDENCE FOR PURPOSES OF 402 HEARING ONLY.

BOTH PARTIES REST. MOTION IS ARGUED AND RULED UPON (IN PART)
AS FOLLOWS: COURT FINDS THAT THERE WAS A VOLUNTARY WAIVER OF
MIRANDA RIGHTS AS BEST REFLECTED IN THE NOTES OF THE
OFFICIAL COURT REPORTER. COURT STATES IT WILL RULE/ADDRESS
MOTION OF MOTION RE: DEFENDANT'S STATEMENTS ON
DATE AND TIME BELOW.

COURT AND COUNSEL BRIEFLY DISCUSS JURY INSTRUCTIONS.

TRIAL IS IN RECESS.

PARTIES ARE ORDERED TO RETURN.

COURT ORDERS AND FINDINGS:

THE COURT ORDERS THE DEFENDANT TO APPEAR ON THE NEXT COURT DATE.

EXT SCHEDULED EVENT:

7/08/11 1000 AM JURY TRIAL IN PROGRESS DIST CENTRAL DISTRICT DEPT 120

PAGE NO. 2

JURY TRIAL IN PROGRESS
HEARING DATE: 07/07/11

244

CASE NO. BA372623
DEF NO. 01

DATE PRINTED 03/07/12

CUSTODY STATUS: DEFENDANT REMANDED

PAGE NO. 3

JURY TRIAL IN PROGRESS
HEARING DATE: 07/07/11

SUPERIOR COURT OF CALIFORNIA, LOS ANGELES COUNTY

407

The People of the State of California

Case Number

Department

BA372623

120

Plaintiff

vs.

SANCHEZ, ISRAEL

Defendant

JURY QUESTION

FILED

LOS ANGELES SUPERIOR COURT
JUL 12 2011

JOHN A. CLARK
CLERK

We, the Jury in the above-entitled action, request the following:

We would like to find out if a Unanimous Vote
is required to find a statement true or not true
for a Special allegation (Not the charge
itself). Can we go by majority Vote for a
Special allegation? (Ex: Charge committed willfully,
deliberately and w/ premeditation.)

Yes

it must be unanimous

DATED 7/11/2011

Juror

408

SUPERIOR COURT OF CALIFORNIA, LOS ANGELES COUNTY	
The People of the State of California vs. ISRAEL SANCHEZ	Case Number BA372623 Department 120 VERDICT (GUILTY) COUNT 1
Plaintiff Defendant	FILED LOS ANGELES SUPERIOR COURT JUL 12 2015 JOHN A. CLINE C.G. LOPEZ

We, the Jury in the above-entitled action, find the Defendant, ISRAEL SANCHEZ, guilty of the crime of ATTEMPTED MURDER of WILLIAM THOMAS, in violation of Penal Code Section 664-187(a), a felony, as charged in Count 1 of the Information.

We further find the allegation that the attempted murder was committed willfully, deliberately and with premeditation within the meaning of Penal Code Section 664(a) to be Not True. ("TRUE" or "NOT TRUE")

We further find the allegation that in the commission of the above offense, the defendant, ISRAEL SANCHEZ, personally and intentionally discharged a firearm, namely: A HANDGUN, which caused great bodily injury to WILLIAM THOMAS within the meaning of Penal Code Section 12022.53(d) to be True. ("TRUE" or "NOT TRUE")

We further find the allegation that in the commission of the above offense, the defendant, ISRAEL SANCHEZ, personally and intentionally discharged a firearm, namely: A HANDGUN, within the meaning of Penal Code Section 12022.53(c) to be True. ("TRUE" or "NOT TRUE")

We further find the allegation that in the commission of the above offense, the defendant, ISRAEL SANCHEZ, personally used a firearm, namely: A HANDGUN, within the meaning of Penal Code Section 12022.53(b) to be True. ("TRUE" or "NOT TRUE")

We further find the allegation that the offense was committed for the benefit of, at the direction of, or in association with a criminal street gang with the specific intent to promote, further and assist in criminal conduct by gang members within the meaning of Penal Code Section 186.22(b) to be True. ("TRUE" or "NOT TRUE")

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MINUTE ORDER
SUPERIOR COURT OF CALIFORNIA, COUNTY OF LOS ANGELES

DATE PRINTED: 03/07/12

CASE NO. BA372623

THE PEOPLE OF THE STATE OF CALIFORNIA
VS.
DEFENDANT 01: ISRAEL JAMMIR SANCHEZ

INFORMATION FILED ON 11/04/10.

COUNT 01: 664-187(A) PC FEL

ON 09/08/11 AT 830 AM IN CENTRAL DISTRICT DEPT 120

WAS CALLED FOR PROBATION AND SENTENCE HEARING

PARTIES: CRAIG RICHMAN (JUDGE) GABRIELA LOPEZ (CLERK)
TRACY WILLIAMS (REP) EUGENE HANRAHAN (DA)

DEFENDANT IS PRESENT IN COURT, AND REPRESENTED BY LOUISA B PENSANTI PRIVATE
COUNSEL

BAIL SET AT NO BAIL

PPR / **DDA: EUGENE HANRAHAN / BKG: 2371456

MATTER IS CONTINUED TO 10-18-11 AT 8:30 A.M. IN THIS DEPARTMENT
FOR PROBATION AND SENTENCING.

COURT ORDERS AND FINDINGS:

THE COURT ORDERS THE DEFENDANT TO APPEAR ON THE NEXT COURT DATE.

SAVES STATUTORY TIME.

NEXT SCHEDULED EVENT:

10/18/11 830 AM PROBATION AND SENTENCE HEARING DIST CENTRAL DISTRICT DEPT
120

POSTED STATUS: DEFENDANT REMANDED

PAGE NO. 1

PROBATION AND SENTENCE HEARING
HEARING DATE: 09/08/11

4/7/16

MINUTE ORDER
SUPERIOR COURT OF CALIFORNIA, COUNTY OF LOS ANGELES

DATE PRINTED: 03/07/12

CASE NO. BA372623

THE PEOPLE OF THE STATE OF CALIFORNIA
VS.
DEFENDANT 01: ISRAEL JAMMIR SANCHEZ

INFORMATION FILED ON 11/04/10.

COUNT 01: 664-187(A) PC FEL

ON 10/18/11 AT 830 AM IN CENTRAL DISTRICT DEPT 120

CASE CALLED FOR PROBATION AND SENTENCE HEARING

PARTIES: CRAIG RICHMAN (JUDGE) GABRIELA LOPEZ (CLERK)
TRACY WILLIAMS (REP) EUGENE HANRAHAN (DA)

DEFENDANT IS PRESENT IN COURT, AND REPRESENTED BY LOUISA B PENSANTI PRIVATE
COUNSEL APPEARING BY POLINA PALACIOS

BAIL SET AT NO BAIL

PPR / **DDA: EUGENE HANRAHAN / BKG: 2371456

DA MARIO HAIDAR STANDS IN FOR TODAY'S HEARING.

MATTER IS CONTINUED TO 11-15-11 AT 8:30 A.M. IN THIS DEPARTMENT
FOR PROBATION AND SENTENCING.

COURT ORDERS AND FINDINGS:

THE COURT ORDERS THE DEFENDANT TO APPEAR ON THE NEXT COURT DATE.

ADVISES STATUTORY TIME.

NEXT SCHEDULED EVENT:

UPON MOTION OF DEFENDANT
1/15/11 830 AM PROBATION AND SENTENCE HEARING DIST CENTRAL DISTRICT DEPT
20

JUSTICE STATUS: DEFENDANT REMANDED

PAGE NO. 1

PROBATION AND SENTENCE HEARING
HEARING DATE: 10/18/11

4/85

MINUTE ORDER
SUPERIOR COURT OF CALIFORNIA, COUNTY OF LOS ANGELES

DATE PRINTED: 03/07/12

CASE NO. BA372623

THE PEOPLE OF THE STATE OF CALIFORNIA
VS.
DEFENDANT 01: ISRAEL JAMMIR SANCHEZ

INFORMATION FILED ON 11/04/10.

COUNT 01: 664-187(A) PC FEL

ON 11/15/11 AT 830 AM IN CENTRAL DISTRICT DEPT 120

WAS CALLED FOR PROBATION AND SENTENCE HEARING

PARTIES: CRAIG RICHMAN (JUDGE) GABRIELA LOPEZ (CLERK)
TRACY WILLIAMS (REP) EUGENE HANRAHAN (DA)

DEFENDANT IS PRESENT IN COURT, AND REPRESENTED BY LOUISA B PENSANTI PRIVATE
COUNSEL

BAIL SET AT NO BAIL

PPR / **DDA: EUGENE HANRAHAN

MATTER IS CONTINUED TO 12-9-11 AT 8:30 A.M. IN THIS DEPARTMENT
FOR PROBATION AND SENTENCING.

COURT ORDERS AND FINDINGS:

THE COURT ORDERS THE DEFENDANT TO APPEAR ON THE NEXT COURT DATE.

GRIVES STATUTORY TIME.

NEXT SCHEDULED EVENT:

11/09/11 830 AM PROBATION AND SENTENCE HEARING DIST CENTRAL DISTRICT DEPT
120

CUSTODY STATUS: DEFENDANT REMANDED

PAGE NO. 1

PROBATION AND SENTENCE HEARING
HEARING DATE: 11/15/11

437

MINUTE ORDER
SUPERIOR COURT OF CALIFORNIA, COUNTY OF LOS ANGELES

DATE PRINTED: 03/07/12

CASE NO. BA372623

THE PEOPLE OF THE STATE OF CALIFORNIA
VS.
DEFENDANT 01: ISRAEL JAMMIR SANCHEZ

INFORMATION FILED ON 11/04/10.

COUNT 01: 664-187(A) PC FEL

ON 12/09/11 AT 830 AM IN CENTRAL DISTRICT DEPT 120

CASE CALLED FOR PROBATION AND SENTENCE HEARING

PARTIES: CRAIG RICHMAN (JUDGE) GABRIELA LOPEZ (CLERK)
TRACY WILLIAMS (REP) EUGENE HANRAHAN (DA)

THE DEFENDANT FAILS TO APPEAR, WITH SUFFICIENT EXCUSE. (MISS-OUT) AND
REPRESENTED BY LOUISA B PENSANTI PRIVATE COUNSEL APPEARING BY POLINA POLONSKY

BAIL SET AT NO BAIL

PPR / *DDA: EUGENE HANRAHAN

DA: MARIO HAIDAR STANDS IN FOR TODAY'S HEARING.

MATTER IS TRAILED TO 12-12-11 AT 8:30 A.M. IN THIS DEPARTMENT
FOR BENCH WARRANT HOLD HEARING/PROBATION AND SENTENCING.

BENCH WARRANT IS ORDERED ISSUED AND HELD TO THE NEXT COURT
DATE; NO BAIL.

COURT ORDERS AND FINDINGS:

THE COURT ORDERS THE DEFENDANT TO APPEAR ON THE NEXT COURT DATE.

NEXT SCHEDULED EVENT:

12/12/11 830 AM BENCH WARRANT HOLD DIST CENTRAL DISTRICT, DEPT 120

CUSTODY STATUS: DEFENDANT REMANDED

PAGE NO. 1

PROBATION AND SENTENCE HEARING
HEARING DATE: 12/09/11

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MINUTE ORDER
SUPERIOR COURT OF CALIFORNIA, COUNTY OF LOS ANGELES

DATE PRINTED: 03/07/12

CASE NO. BA372623

THE PEOPLE OF THE STATE OF CALIFORNIA
VS.
DEFENDANT 01: ISRAEL JAMMIR SANCHEZ

INFORMATION FILED ON 11/04/10.

COUNT 01: 664- 187(A) PC FEL

ON 12/12/11 AT 830 AM IN CENTRAL DISTRICT DEPT 120

CASE CALLED FOR BENCH WARRANT HOLD

PARTIES: CRAIG RICHMAN (JUDGE) GABRIELA LOPEZ (CLERK)
TRACY WILLIAMS (REP) EUGENE HANRAHAN (DA)

DEFENDANT IS PRESENT IN COURT, AND REPRESENTED BY POLINA POLONSKY PRIVATE
COUNSEL

BAIL SET AT NO BAIL

PPR / *DDA: EUGENE HANRAHAN / BKG: 237 1456

BENCH WARRANT HELD IS QUASHED.

MATTER IS CONTINUED TO 12-21-11 AT 8:30 A.M. IN THIS DEPARTMENT
FOR PROBATION AND SENTENCING.

COURT ORDERS AND FINDINGS:

THE COURT ORDERS THE DEFENDANT TO APPEAR ON THE NEXT COURT DATE.

ADVISES STATUTORY TIME.

NEXT SCHEDULED EVENT:
12/21/11 830 AM SURRENDER DIST CENTRAL DISTRICT DEPT 120

CUSTODY STATUS: DEFENDANT REMANDED

PAGE NO. 1

BENCH WARRANT HOLD
HEARING DATE: 12/12/11

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MINUTE ORDER
SUPERIOR COURT OF CALIFORNIA, COUNTY OF LOS ANGELES

DATE PRINTED: 03/07/12

CASE NO. BA372623

THE PEOPLE OF THE STATE OF CALIFORNIA
VS.
DEFENDANT 01: ISRAEL JAMMIR SANCHEZ

INFORMATION FILED ON 11/04/10.

COUNT 01: 664-187(A) PC FEL

ON 12/21/11 AT 830 AM IN CENTRAL DISTRICT DEPT 120

CASE CALLED FOR SURRENDER

PARTIES: CRAIG RICHMAN (JUDGE) GABRIELA LOPEZ (CLERK)
TRACY WILLIAMS (REP) EUGENE HANRAHAN (DA)

DEFENDANT IS PRESENT IN COURT, AND REPRESENTED BY LOUISA PENSANTI PRIVATE
COUNSEL

BAIL SET AT NO BAIL

PPR / *DDA: EUGENE HANRAHAN / BKG: 2371456

MATTER IS CONTINUED TO 1-31-12 AT 8:30 A.M. IN THIS DEPARTMENT
FOR PROBATION AND SENTENCING.

NO FURTHER CONTINUANCES.

DESIGNATION OF AGENT RE: EVIDENCE ADMITTED IS FILED.

COURT ORDERS AND FINDINGS:

THE COURT ORDERS THE DEFENDANT TO APPEAR ON THE NEXT COURT DATE.

ADVISES STATUTORY TIME.

NEXT SCHEDULED EVENT:
1/31/12 830 AM PROBATION AND SENTENCE HEARING DIST CENTRAL DISTRICT DEPT
20

CUSTODY STATUS: DEFENDANT REMANDED

PAGE NO. 1

SURRENDER
HEARING DATE: 12/21/11

4/43

MINUTE ORDER
SUPERIOR COURT OF CALIFORNIA, COUNTY OF LOS ANGELES

DATE PRINTED: 03/07/12

CASE NO. BA372623

THE PEOPLE OF THE STATE OF CALIFORNIA
VS.
DEFENDANT 01: ISRAEL JAMMIR SANCHEZ

INFORMATION FILED ON 11/04/10.

COUNT 01: 664-187(A) PC FEL

ON 01/31/12 AT 830 AM IN CENTRAL DISTRICT DEPT 120

CASE CALLED FOR PROBATION AND SENTENCE HEARING

PARTIES: CRAIG RICHMAN (JUDGE) ELYSE GIFFORD (CLERK)
TRACY WILLIAMS (REP) EUGENE HANRAHAN (DA)

DEFENDANT IS PRESENT IN COURT, AND REPRESENTED BY LOUISA PENSANTI PRIVATE
COUNSEL

DEFENDANT WAIVES ARRAIGNMENT FOR JUDGMENT AND STATES THERE IS NO LEGAL CAUSE
WHY SENTENCE SHOULD NOT BE PRONOUNCED. THE COURT ORDERED THE FOLLOWING
JUDGMENT:

AS TO COUNT (01):

COURT ORDERS PROBATION DENIED.

SERVE 7 YEARS IN ANY STATE PRISON

COURT SELECTS THE MID TERM OF 7 YEARS AS TO COUNT 01.

DEFENDANT GIVEN TOTAL CREDIT FOR 684 DAYS IN CUSTODY 595 DAYS ACTUAL CUSTODY
AND 89 DAYS GOOD TIME/WORK TIME

ORTHWITH

PLUS \$40.00 COURT OPERATIONS ASSESSMENT (PURSUANT TO 1465.8(A)(1) P.C.)

30.00 CRIMINAL CONVICTION ASSESSMENT (PURSUANT TO 70373 G.C.)

COMMITMENT ISSUED

TOTAL DUE: \$70.00

PAROLE REVOCATION RESTITUTION FINE IN THE SAME AMOUNT AS

PAGE NO. 1

PROBATION AND SENTENCE HEARING
HEARING DATE: 01/31/12

444

CASE NO. BA372623
DEF NO. 01

DATE PRINTED 03/07/12

THE RESTITUTION FINE, PER PC 1202.45, PAYMENT IS STAYED UNTIL
PAROLE IS REVOKED AND YOU ARE RETURNED TO PRISON.

THE COURT ADVISES THE DEFENDANT OF PAROLE RIGHTS.

COURT ORDERS AND FINDINGS:

-PURSUANT TO PC SECTION 296, THE DEFENDANT IS ORDERED TO PROVIDE
BUCCAL SWAB SAMPLES, A RIGHT THUMB PRINT, A FULL PALM PRINT
IMPRESSION OF EACH HAND, ANY BLOOD SPECIMENS OR OTHER BIOLOGICAL
SAMPLES AS REQUIRED BY THIS SECTION FOR LAW ENFORCEMENT
IDENTIFICATION.

-BK#2371456
COURT ENHANCES SENTENCE CONSECUTIVELY BY 25 YEARS TO LIFE
PURSUANT TO PENAL CODE SECTION 12022.53(D).

SENTENCES PURSUANT TO PENAL CODE SECTION 12022.53(B) AND
12022.53(C) ARE STAYED.

NOTICE OF APPEAL IS RECEIVED AND FORWARDED TO APPEALS THIS
DATE.

COURT ORDERS \$200.00 RESTITUTION FINE PURSUANT TO PENAL CODE
SECTION 1202.4(B).

COURT ORDERS \$200.00 PAROLE RESTITUTION FEE PURSUANT TO PENAL
CODE SECTION 1202.45.

COUNT (01): DISPOSITION: FOUND GUILTY - CONVICTED BY JURY

MV ABSTRACT NOT REQUIRED

EXT SCHEDULED EVENT:
PROCEEDINGS TERMINATED

PAGE NO. 2

PROBATION AND SENTENCE HEARING
HEARING DATE: 01/31/12

**SUPERIOR COURT OF CALIFORNIA,
COUNTY OF LOS ANGELES**

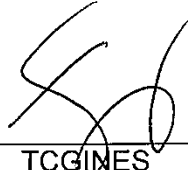
Of Pages **448**
Defendant's Name: **SANCHEZ, ISRAEL -01**
Case #: **BA372623-01**

I, JOHN A. CLARKE, EXECUTIVE OFFICER/CLERK of the Superior Court for the County and State aforesaid, do hereby certify that I have compared this transcript with the original documents on file and/or of record in this office and it is a full, true and correct copy.



JOHN A. CLARKE
Executive Officer/Clerk

Date: March 8, 2012

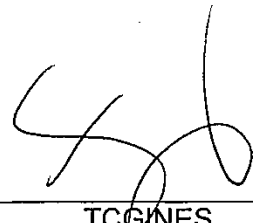
By:  , Deputy
TCGINES

- ☐ Notice of Completion of the Clerk's Transcripts on appeal of the within action having been mailed/delivered to the attorneys representing the appellant and the respondent pursuant to Rule 8.336(f) of the rules on appeal, I hereby certify the foregoing record consisting of _____ p ages to be a full, true and correct transcript on appeal.

Date: **MAR 29 2012** By:  , Deputy

- ☒ Portions of this transcript are governed by the provisions of Code of Civil Procedure Section 237(a)(2), and all of the personal juror identifying information has been redacted.

Date: March 8, 2012

By:  , Deputy
TCGINES

1 HILARY POTASHNER (Bar No. 167060)
Federal Public Defender
2 GAIL IVENS (Bar No. 116806)
(E-Mail: Gail_Ivens@fd.org)
3 Non Capital Habeas Unit Chief
C. PAMELA GOMEZ (Bar No. 233848)
4 (E-Mail: Pamela_Gomez@fd.org)
Deputy Federal Public Defender
5 321 East 2nd Street
Los Angeles, California 90012-4202
6 Telephone: (213) 894-2854
Facsimile: (213) 894-0081

7 Attorneys for Petitioner
8 ISRAEL SANCHEZ

9 **UNITED STATES DISTRICT COURT**
10 **CENTRAL DISTRICT OF CALIFORNIA**
11 **WESTERN DIVISION**

12
13 ISRAEL SANCHEZ,
14 Petitioner,
15
16 v.
17 M.D. BITER, Warden,
18 Respondent.

NO. CV 15-01191-JVS-KS

**PETITIONER'S NOTICE OF
LODGMET**

The Honorable Karen Stevenson
United States Magistrate Judge

1 Petitioner hereby lodges with the Court for consideration in these proceedings
2 copies of the following documents from the proceedings in *People v. Israel J. Sanchez*,
3 Los Angeles County Superior Court case number BA372623:

4 1. Notice of Motion and Motion for Continuance (Penal Code § 1050);
5 Declaration of Louisa Pensanti, January 26, 2011;

6 2. Notice of Motion and Motion for Continuance (Penal Code § 1050);
7 Declaration of Louisa Pensanti, April 01, 2011;

8 3. Notice of Motion and Motion for Continuance (Penal Code § 1050);
9 Declaration of Louisa Pensanti, April 21, 2011;

10 4. Notice of Motion and Motion for Continuance (Penal Code § 1050);
11 Declaration of Louisa Pensanti, May 27, 2011;

12 5. Notice of Motion and Motion for Continuance (Penal Code § 1050);
13 Declaration of Louisa Pensanti, June 09, 2011;

14 6. Notice of Motion and Motion for Continuance (Penal Code § 1050);
15 Declaration of Louisa Pensanti, June 20, 2011.

16
17
18 Respectfully submitted,

19 HILARY POTASHNER
20 Federal Public Defender

21 DATED: October 6, 2016

By: /s/ C. Pamela Gómez

22 C. PAMELA GÓMEZ
23 Deputy Federal Public Defender

24 Attorneys for Petitioner
25 ISRAEL SANCHEZ
26
27
28

1 Louisa Pensanti, SBN#200988
2 Pensanti & Associates
3 A Professional Law Corporation
4 14431 Ventura Boulevard, Suite 227
5 Sherman Oaks, CA 91423
6 Telephone: (818) 947-7999

7 Attorney for Defendant
8 ISRAEL SANCHEZ

FILED
Los Angeles Superior Court

JAN 26 2011

John A. Clarke, Executive Officer/Clerk

By BRW, Deputy

9 IN THE SUPERIOR COURT OF CALIFORNIA
10 COUNTY OF LOS ANGELES

11 PEOPLE OF CALIFORNIA,

12 Plaintiff,

13 vs.

14 ISRAEL SANCHEZ,

15 Defendant,

Case No. BA372623

NOTICE OF MOTION AND MOTION FOR
CONTINUANCE (PENAL CODE § 1050);
DECLARATION OF LOUISA PENSANTI.

Time: 8:30 A.M.

Date: February 2, 2011

Dept: 100

16 TO THE ABOVE-ENTITLED COURT, AND TO THE LOS ANGELES COUNTY
17 DISTRICT ATTORNEY, STATE OF CALIFORNIA:

18 PLEASE TAKE NOTICE that on February 2, 2011 at the hour of 8:30 A.M. or as soon
19 thereafter as the matter may be heard, in Department 100 of the above-entitled court, defendant,
20 ISRAEL SANCHEZ will make a motion to continue the Trial, pursuant to Penal Code § 1050 on
21 the grounds that counsel is engaged in trial for the matter of *People v. Jose Juan Rincon*,
22 Southwest Justice Center, Dept. S301, Case No.: SWF021729 as of January 21, 2011 and Trial is
23 expected to last three to four weeks. Additionally, defense counsel has yet to receive the
24 translated reports of the jail calls. This motion is based on this notice of motion, the points and
25 authorities, declaration served and filed herewith, all papers and records on file and such oral and
26 documentary evidence as may be presented at the hearing of the motion.

27 DATED: January 26, 2011

Respectfully Submitted,
LOUISA PENSANTI
Attorney for Defendant

Louisa Pensanti

DECLARATION OF COUNSEL LOUISA PENSANTI

I, LOUISA PENSANTI, hereby declare:

1. That I am an attorney licensed in the State of California and in good standing with the Bar.
2. That Pensanti & Associates represents the above-captioned defendant, ISRAEL SANCHEZ, in this matter.
3. That I am engaged in trial in the matter of People v. Jose Juan Rincon, Southwest Justice Center, Dept. S301, Case No.: SWF021729 as of January 21, 2011 and Trial is expected to last at least three to four weeks. (See Attached Minute Order).
4. That in light of my trial schedule and the multiple life allegations involved in this case, additional time is needed in order to prepare an adequate defense.
5. Accordingly, it is respectfully requested that additional time be granted for the Trial.

I declare under penalty of perjury that the foregoing is true and correct and/or, where applicable, based upon information and belief. Executed January 26, 2011.

LOUISA PENSANTI
Attorney at Law



RIVERSIDE SUPERIOR COURT

PUBLIC ACCESS

Print This Report

Close This Window

Minute Order

Case SWF021729 - RINCON, JOSE JUAN Defendant 1 of 2

Action: HEARING SET RE: PRE-TRIAL MOTIONS

Date: 01/21/2011 Time: 9:00 AM

Division: S301

Hearing Status: DISPOSED

HONORABLE MARK E. PETERSEN PRESIDING.

COURTROOM ASSISTANT: KP-K. PALEO

COURT REPORTER: KE-K. ERNST

PEOPLE REPRESENTED BY DEPUTY DISTRICT ATTORNEY: RICH NECOCHEA.

DEFENDANT REPRESENTED BY PVT LOUISA PENSANTI.

DEFENDANT PRESENT.

AT 10:25, THE FOLLOWING PROCEEDINGS WERE HELD:

COURT AND COUNSEL CONFER REGARDING: AMENDED INFORMATION AS STATED ON THE RECORD.

ORAL MOTION BY PEOPLE REGARDING FILE AMENDED INFORMATION IS CALLED FOR HEARING.
MOTION GRANTED

COURT ORDERS AMENDED INFORMATION FILED.

DEFENDANT WAIVES FORMAL ARRAIGNMENT.

DEFENDANT ARRAIGNED ON AMENDED INFORMATION.

COUNSEL FOR DEFENDANT WAIVES FORMAL READING OF COMPLAINT AND STIPULATES
DEFENDANT HAS BEEN ADVISED OF HIS LEGAL & CONSTITUTIONAL RIGHTS.

PLEADS NOT GUILTY TO ALL CHARGES.

DENIALS AS TO ALL ALLEGATIONS/PRIORS.

DEFENDANT DENIES PRIOR/STRIKE(S).

COURT AND COUNSEL CONFER REGARDING: TRIAL SCHEDULE AS STATED ON THE RECORD.

COURT TAKES RECESS AT 10:31.

AT 11:11, THE FOLLOWING PROCEEDINGS WERE HELD:

ALL PARTIES PRESENT IN COURT.

DEFENDANT PRESENT.

COURT AND COUNSEL CONFER REGARDING: TRIAL SCHEDULE AS STATED ON THE RECORD.

COURT AND COUNSEL CONFER REGARDING: SPANISH INTERPRETER FOR PEOPLES WITNESSES.

MOTION TO EXCLUDE ALL WITNESSES IS GRANTED.

MOTION IN LIMINE RE: PROSECUTION TO DISCLOSE ANY EVIDENCE TO DEFENSE CALLED FOR
HEARING.

COURT FINDS PEOPLE HAVE COMPLIED-ISSUE IS MOOT.

MOTION IN LIMINE RE: ORDER THAT THE PROSECUTOR

PROVIDE ALL EXCULPATORY MATERIAL IN THEIR

POSSESSION OF REASONABLY OBTAINABLE FROM
INVESTIGATING AGENCIES IS CALLED FOR HEARING.
COURT FINDS PEOPLE HAVE COMPLIED-ISSUE IS MOOT.
MOTION IN LIMINE RE: EXCLUDE THE PROSECUTION FROM
MAKING ANY REFERENCE TO MR. HANINGS INVOCATION
OF MIRANDA RIGHTS IS CALLED FOR HEARING.
MOTION GRANTED.
MOTION IN LIMINE RE: EXCLUDE ANY REFERENCE TO
COURT TAKES MOTION IN LIMINE RE: EXCLUDE ANY
DEFENDANTS PAROLE STATUS OR THE FACT THERE MAY
OR MAY NOT HAVE BEEN A WARRANT FOR HIS ARREST.
COURT TAKES MOTION IN LIMINE RE: EXCLUDE ANY
REFERENCE TO DEFENDANTS PAROLE STATUS OR THE
FACT THERE MAY OR MAY NOT HAVE BEEN A WARRANT
FOR HIS ARREST UNDER SUBMISSION.
MOTION IN LIMINE RE: EXCLUDE THE PROSECUTION
FROM QUESTIONING THE POLICE OFFICER OR
ALLOWING THE POLICE OFFICER TO TESTIFY AS TO THEIR
OPINION WHETHER THE WITNESS APPEARED TO BE
TRUTHFUL.
MOTION GRANTED.
JURY TRIAL IN PROGRESS IS ADJOURNED TO 02/02/2011 AT 9:00 IN DEPARTMENT S301.
DEFENDANT ORDERED TO RETURN ON ANY AND ALL FUTURE HEARING DATES.
REMAINS REMANDED TO CUSTODY OF RIVERSIDE SHERIFF.
BAIL TO REMAIN AS FIXED.
DEFENDANT TO BE DRESSED OUT FOR TRIAL.
MINUTE ORDER PRINTED TO SOUTHWEST DETENTION CENTER

PROOF OF SERVICE
STATE OF CALIFORNIA, COUNTY OF LOS ANGELES

I am employed in the County of Los Angeles, State of California. I am over the age of 18 and not a party to the within action. My business address is 14431 Ventura Boulevard, Suite 227, Sherman Oaks, California 91423.

On January 26, 2011, I served the foregoing documents described as:

**NOTICE OF MOTION
AND MOTION FOR CONTINUANCE
(PENAL CODE § 1050)**

On the interested parties in this action by placing a true copy thereof enclosed in a sealed envelope addressed as follows:

Honorable Judge Craig Veals, Dept. 100
Clara Shortridge Foltz Criminal Justice Center
210 West Temple Street
Los Angeles, CA 90012

Office of the District Attorney
DDA Eugene Hanrahan
210 W. Temple St., 17th Floor
Los Angeles, CA 90012
(213) 974-3887

[X] BY FAX.

[] BY MAIL. I deposited an envelope in the mail at Los Angeles, California addressed to each individual or entity on the service list containing a true copy of the above-entitled document, with postage thereon prepaid. I am readily familiar with the firm's practice of collection and processing correspondence for mailing. Under that practice, it would be deposited with the U.S. Postal Service on that same day with postage thereon fully prepaid at Los Angeles, California in the ordinary course of business.

[] BY PERSONAL SERVICE. I caused the above-described document to be hand-delivered to the offices or the person of each individual or entity on the service list.

I declare under penalty of perjury under the Laws of the State of California that the foregoing is true and correct. Executed on January 26, 2011 at Los Angeles, California.



#12

Louisa Pensanti, SBN: 200988
Pensanti & Associates, APLC
14431 Ventura Boulevard, Suite 227
Sherman Oaks, CA 91423
Telephone: (818) 947-7999

FILED
Los Angeles Superior Court

APR 01 2011

John A. Clarke, Executive Officer/Clerk
By _____, Deputy

Attorney for Defendant
ISRAEL SANCHEZ

IN THE SUPERIOR COURT OF CALIFORNIA
COUNTY OF LOS ANGELES - LACCB

PEOPLE OF CALIFORNIA,

Case No. BA372623

Plaintiff,

NOTICE OF MOTION AND MOTION FOR
CONTINUANCE (PENAL CODE § 1050);
DECLARATION OF LOUISA PENSANTI.

vs.

ISRAEL SANCHEZ,

Time: 8:30 A.M.
Date: April 4, 2011
Dept: 122

Defendant.

**TO THE ABOVE-ENTITLED COURT, AND TO THE LOS ANGELES COUNTY
DISTRICT ATTORNEY, STATE OF CALIFORNIA:**

PLEASE TAKE NOTICE that on April 4, 2011 at the hour of 8:30 A.M. or as soon thereafter as the matter may be heard, in Department 122 of the above-entitled court, defendant, ISRAEL SANCHEZ will make a motion to continue the TRIAL pursuant to Penal Code § 1050 on the grounds that counsel Louisa Pensanti has been ordered to be engaged in Trial for the matter of People v. Jamelle Cooper, Case No.: BA369869, LACCB, Dept. 100 on April 4, 2011 by Judge Ronald Rose and trial is expected to last at least a week. Furthermore, counsel is currently engaged in Trial for the matter of People v. Charles Payton, Lancaster Courthouse, Dept. A20, Case No.: MA047370. This motion is based on this notice of motion, the points and authorities, declaration served and filed herewith, all papers and records on file and such oral and documentary evidence as may be presented at the hearing of the motion.

DATED: March 30, 2011

Respectfully Submitted,
LOUISA PENSANTI
Attorney for Defendant

Louisa Pensanti

DECLARATION OF COUNSEL LOUISA PENSANTI

I, LOUISA PENSANTI, hereby declare:

1. That I am an attorney licensed in the State of California and in good standing with the Bar.
2. That Louisa Pensanti represents the above-captioned defendant, ISRAEL SANCHEZ, in this matter.
3. That I am ordered to be engaged the matter of People v. Jamelle Cooper, Case No.: BA369869, LACCB, Dept. 134, per Judge Rose immediately after the Charles Payton Trial. Trial is expected to last at least week.
4. That I am currently engaged in the matter of People v. Charles Payton, Lancaster Courthouse, Dept. A20, Case No.: MA047370, as of March 22, 2011. Trial is taking longer than estimated and closing arguments will likely be on April 1, 2011.
5. Furthermore, per Judge Daniel Murphy after the Cooper Trial I am ordered to be engaged in the Trial for the matter of People v. Robert Hopkins, Norwalk Courthouse, Dept. J, Case No.: VA116505-02. Trial is expected to last at least a week.
6. That **immediately** after the Hopkins matter, per Judge Daniel Murphy, I am ordered to be engaged in the Trial for the matter of People v. Rene Panameno, Norwalk Courthouse, Dept. J, Case No.: VA115011. Trial is expected to last at least a week.
7. Accordingly, it is respectfully requested that additional time be granted and TRIAL be set on a day that is agreeable with the Defense, Prosecution and the Court.

I declare under penalty of perjury that the foregoing is true and correct and/or, where applicable, based upon information and belief. Executed this March 30, 2011.

LOUISA PENSANTI
Attorney for Defendant



PROOF OF SERVICE
STATE OF CALIFORNIA, COUNTY OF LOS ANGELES

I am employed in the County of Los Angeles, State of California. I am over the age of 18 and not a party to the within action. My business address is 14431 Ventura Boulevard, Suite 227, Sherman Oaks, California 91423.

On March 31, 2011, I served the foregoing documents described as:

**NOTICE OF MOTION
AND MOTION FOR CONTINUANCE
(PENAL CODE § 1050)**

On the interested parties in this action by placing a true copy thereof enclosed in a sealed envelope addressed as follows:

Honorable Judge Craig Veals, Dept. 122
Clara Shortridge Foltz Criminal Justice Center
210 West Temple Street
Los Angeles, CA 90012

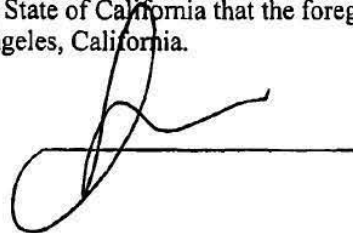
Office of the District Attorney
DDA Eugene Hanrahan
210 W. Temple St., 17th Floor
Los Angeles, CA 90012

☒ **BY FAX.**

☐ **BY MAIL.** I deposited an envelope in the mail at Los Angeles, California addressed to each individual or entity on the service list containing a true copy of the above-entitled document, with postage thereon prepaid. I am readily familiar with the firm's practice of collection and processing correspondence for mailing. Under that practice, it would be deposited with the U.S. Postal Service on that same day with postage thereon fully prepaid at Los Angeles, California in the ordinary course of business.

☐ **BY PERSONAL SERVICE.** I caused the above-described document to be hand-delivered to the offices or the person of each individual or entity on the service list.

I declare under penalty of perjury under the Laws of the State of California that the foregoing is true and correct. Executed on March 31, 2011 at Los Angeles, California.



Recvd 4-21/11
NO: 4.25.11

Louisa Pensanti, SBN#200988
Pensanti & Associates
A Professional Law Corporation
14431 Ventura Boulevard, Suite 227
Sherman Oaks, CA 91423
Telephone: (818) 947-7999

Attorney for Defendant
ISRAEL SANCHEZ

Los Angeles
APR 21 2011
John A. Clatis, Executive
By _____

IN THE SUPERIOR COURT OF CALIFORNIA
COUNTY OF LOS ANGELES

PEOPLE OF CALIFORNIA,

Plaintiff,

vs.

ISRAEL SANCHEZ,

Defendant,

Case No. BA372623

NOTICE OF MOTION AND MOTION FOR
CONTINUANCE (PENAL CODE § 1050);
DECLARATION OF LOUISA PENSANTI.

Time: 8:30 A.M.

Date: April 25, 2011

Dept: 122

TO THE ABOVE-ENTITLED COURT, AND TO THE LOS ANGELES COUNTY
DISTRICT ATTORNEY, STATE OF CALIFORNIA:

PLEASE TAKE NOTICE that on April 25, 2011, at the hour of 8:30 A.M. or as soon thereafter
as the matter may be heard, in Department 122 of the above-entitled court, defendant, ISRAEL
SANCHEZ will make a motion to continue the Trial, pursuant to Penal Code § 1050 on the
grounds that defense counsel is engaged in trial for the matter of People v. Jorge Fernandez,
West Covina Courthouse, Dept. 5, Case No.: KA091346 as of April 21, 2011. This motion is
based on this notice of motion, the points and authorities, declaration served and filed herewith,
all papers and records on file and such oral and documentary evidence as may be presented at the
hearing of the motion.

DATED: April 21, 2011

Respectfully Submitted,
LOUISA PENSANTI
Attorney for Defendant

Louisa Pensanti

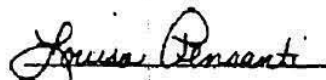
DECLARATION OF COUNSEL LOUISA PENSANTI

I, LOUISA PENSANTI, hereby declare:

1. That I am an attorney licensed in the State of California and in good standing with the Bar.
2. That Pensanti & Associates represents the above-captioned defendant, ISRAEL SANCHEZ, in this matter.
3. That I am engaged in trial in the matter of People v. Jorge Fernandez, West Covina Courthouse, Dept. 5, Case No.: KA091346 as of April 21, 2011
4. Accordingly, it is respectfully requested that additional time be granted for the Trial.

I declare under penalty of perjury that the foregoing is true and correct and/or, where applicable, based upon information and belief. Executed April 21, 2011.

LOUISA PENSANTI
Attorney at Law



PROOF OF SERVICE
STATE OF CALIFORNIA, COUNTY OF LOS ANGELES

I am employed in the County of Los Angeles, State of California. I am over the age of 18 and not a party to the within action. My business address is 14431 Ventura Boulevard, Suite 227, Sherman Oaks, California 91423.

On April 21, I served the foregoing documents described as:

**NOTICE OF MOTION
AND MOTION FOR CONTINUANCE
(PENAL CODE § 1050)**

On the interested parties in this action by placing a true copy thereof enclosed in a sealed envelope addressed as follows:

Honorable Judge, Dept. 122
Clara Shortridge Foltz Criminal Justice Center
210 West Temple Street
Los Angeles, CA 90012

Office of the District Attorney
DDA Eugene Hanrahan
210 W. Temple St., 17th Floor
Los Angeles, CA 90012

☒ **BY FAX.**

☐ **BY MAIL.** I deposited an envelope in the mail at Los Angeles, California addressed to each individual or entity on the service list containing a true copy of the above-entitled document, with postage thereon prepaid. I am readily familiar with the firm's practice of collection and processing correspondence for mailing. Under that practice, it would be deposited with the U.S. Postal Service on that same day with postage thereon fully prepaid at Los Angeles, California in the ordinary course of business.

☐ **BY PERSONAL SERVICE.** I caused the above-described document to be hand-delivered to the offices or the person of each individual or entity on the service list.

I declare under penalty of perjury under the Laws of the State of California that the foregoing is true and correct. Executed on April 21, 2011, at Los Angeles, California.



D120
ACD: 629-11

FILED
Los Angeles Superior Court
MAY 27 2011
John A. Gifford, Executive Officer/Clerk
By _____ Deputy

Louisa Pensanti, State Bar No. 200988
Pensanti & Associates, APLC
14431 Ventura Boulevard, Suite 227
Sherman Oaks, CA 91423
Telephone: (818) 947-7999

Attorney for Defendant
ISRAEL SANCHEZ

IN THE SUPERIOR COURT OF CALIFORNIA
COUNTY OF LOS ANGELES --- LACCB

PEOPLE OF CALIFORNIA,

Plaintiff,

v.

ISRAEL SANCHEZ,

Defendant.

Case No.: BA372623

NOTICE OF MOTION AND MOTION FOR
CONTINUANCE (PENAL CODE § 1050);
DECLARATION OF LOUISA PENSANTI.

Time: 8:30 A.M.
Date: June 1, 2011
Dept: 122

**TO THE ABOVE-ENTITLED COURT, AND TO THE LOS ANGELES COUNTY
DISTRICT ATTORNEY, STATE OF CALIFORNIA:**

PLEASE TAKE NOTICE that on June 1, 2011 at the hour of 8:30 A.M. or as soon thereafter as the matter may be heard, in Department 122 of the above-entitled court, defendant ISRAEL SANCHEZ will make a motion to continue the Trial pursuant to Penal Code § 1050 on the grounds that Louisa Pensanti, the attorney of record, is expected to be engaged in trial for the matter of *People v. Ernesto Gudino*, LACCB, Dept. 100, Case No.: BA367860. The matter is set as a seven of ten date for trial. Furthermore, defense needs additional time for investigation. This motion is based on this notice of motion, the points and authorities, declaration served and filed herewith, all papers and records on file and such oral and documentary evidence as may be presented at the hearing of the motion.

DATED: May 26, 2011

Respectfully Submitted,
Louisa Pensanti
Attorney for Defendant

Louisa Pensanti


DECLARATION OF COUNSEL LOUISA PENSANTI

I, LOUISA PENSANTI, hereby declare:

1. That I am an attorney licensed in the State of California and in good standing with the Bar.
2. That I am the attorney of record for the above-captioned defendant ISRAEL SANCHEZ, in this matter.
3. That I am expected to be engaged in trial for the matter of *People v. Ernesto Gudino*, LACCB, Dept. 100, Case No.: BA367860.
4. That the matter is set as a seven of ten date for Trial.
5. That the defense needs additional time to investigate.
6. Accordingly, it is respectfully requested that additional time be granted for the Trial.

I declare under penalty of perjury that the foregoing is true and correct and/or, where applicable, based upon information and belief. Executed May 26, 2011.

LOUISA PENSANTI
Attorney at Law



PROOF OF SERVICE
STATE OF CALIFORNIA, COUNTY OF LOS ANGELES

I am employed in the County of Los Angeles, State of California. I am over the age of 18 and not a party to the within action. My business address is 14431 Ventura Boulevard, Suite 227, Sherman Oaks, California 91423.

On May 26, 2011, I served the foregoing documents described as:

**NOTICE OF MOTION
AND MOTION FOR CONTINUANCE
(PENAL CODE § 1050)**

On the interested parties in this action by placing a true copy thereof enclosed in a sealed envelope addressed as follows:

Honorable Judge, Dept. 122
LACCB
210 W. Temple St.
Los Angeles, CA 90012

DDA Eugene Hanrahan
Los Angeles County District Attorney's Office
210 W. Temple St.
Los Angeles, CA 90012

☒ **BY FAX.**

☐ **BY MAIL.** I deposited an envelope in the mail at Los Angeles, California addressed to each individual or entity on the service list containing a true copy of the above-entitled document, with postage thereon prepaid. I am readily familiar with the firm's practice of collection and processing correspondence for mailing. Under that practice, it would be deposited with the U.S. Postal Service on that same day with postage thereon fully prepaid at Los Angeles, California in the ordinary course of business.

☐ **BY PERSONAL SERVICE.** I caused the above-described document to be hand-delivered to the offices or the person of each individual or entity on the service list.

I declare under penalty of perjury under the Laws of the State of California that the foregoing is true and correct. Executed on May 26, 2011 at Los Angeles, California.



JUN 9 2011 10:53A FROM:

18189477999

10:12136803540

P.274

Louisa Pensanti, State Bar No. 200988
Pensanti & Associates, APLC
14431 Ventura Boulevard, Suite 227
Sherman Oaks, CA 91423
Telephone: (818) 947-7999

Attorney for Defendant
ISRAEL SANCHEZ

FILED
LOS ANGELES SUPERIOR COURT

JUN 09 2011

JOHN A. CLARKE, EXECUTIVE OFFICER/CLERK
BY: Deborah A. Cotton, DEPUTY
DEBORAH A. COTTON

IN THE SUPERIOR COURT OF CALIFORNIA
COUNTY OF LOS ANGELES --- LACCB

PEOPLE OF CALIFORNIA,

Plaintiff,

v.

ISRAEL SANCHEZ,

Defendant.

Case No.: BA372623

NOTICE OF MOTION AND MOTION FOR
CONTINUANCE (PENAL CODE § 1050);
DECLARATION OF LOUISA PENSANTI.

Time: 8:30 A.M.

Date: June 10, 2011

Dept: 122

TO THE ABOVE-ENTITLED COURT, AND TO THE LOS ANGELES COUNTY
DISTRICT ATTORNEY, STATE OF CALIFORNIA:

PLEASE TAKE NOTICE that on June 10, 2011 at the hour of 8:30 A.M. or as soon thereafter
as the matter may be heard, in Department 122 of the above-entitled court, defendant
ISRAEL SANCHEZ will make a motion to continue the Trial pursuant to Penal Code § 1050 on
the grounds that Louisa Pensanti, has been ordered not to be engaged by the Honorable Judge in
Dept 21 of Lancaster Courthouse. Counsel is set to appear on 6/14/11 in the matter of *People v.*
Alan Gil, Antelope Valley, Dept. 21, Case No.: MA049799. The matter is set as a seven of ten
date for trial. Furthermore, defense needs additional time for investigation. This motion is based
on this notice of motion, the points and authorities, declaration served and filed herewith, all
papers and records on file and such oral and documentary evidence as may be presented at the
hearing of the motion.

DATED: May 26, 2011

Respectfully Submitted,
Louisa Pensanti
Attorney for Defendant

Louisa Pensanti

DECLARATION OF COUNSEL LOUISA PENSANTI

I, LOUISA PENSANTI, hereby declare:

1. That I am an attorney licensed in the State of California and in good standing with the Bar.
2. That I am the attorney of record for the above-captioned defendant ISRAEL SANCHEZ, in this matter.
3. That I have been ordered not to be engaged in any other court by the Honorable Judge in Dept 21 of Lancaster Courthouse. I am set to appear on 6/14/11 in the matter of *People v. Alan Gil*, Antelope Valley, Dept. 21, Case No.: MA049799.
4. The matter is set as a seven of ten date for trial.
5. That the defense needs additional time to investigate.
6. Accordingly, it is respectfully requested that additional time be granted for the Trial.

I declare under penalty of perjury that the foregoing is true and correct and/or, where applicable, based upon information and belief. Executed June 9, 2011.

LOUISA PENSANTI
Attorney at Law



PROOF OF SERVICE
STATE OF CALIFORNIA, COUNTY OF LOS ANGELES

I am employed in the County of Los Angeles, State of California. I am over the age of 18 and not a party to the within action. My business address is 14431 Ventura Boulevard, Suite 227, Sherman Oaks, California 91423.

On June 9, 2011, I served the foregoing documents described as:

**NOTICE OF MOTION
AND MOTION FOR CONTINUANCE
(PENAL CODE § 1050)**

On the interested parties in this action by placing a true copy thereof enclosed in a sealed envelope addressed as follows:

Honorable Judge, Dept. 122
LACCB
210 W. Temple St.
Los Angeles, CA 90012

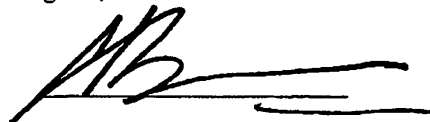
DDA
Los Angeles County District Attorney's Office
210 W. Temple St.
Los Angeles, CA 90012

☒ **BY FAX.**

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☐ **BY PERSONAL SERVICE.** I caused the above-described document to be hand-delivered to the offices or the person of each individual or entity on the service list.

I declare under penalty of perjury under the Laws of the State of California that the foregoing is true and correct. Executed on June 9, 2011 at Los Angeles, California.



1 Louisa Pensanti, State Bar No. 200988
2 Pensanti & Associates, APLC
3 14431 Ventura Boulevard, Suite 227
4 Sherman Oaks, CA 91423
5 Telephone: (818) 947-7999

6 Attorney for Defendant
7 ISRAEL SANCHEZ

8 IN THE SUPERIOR COURT OF CALIFORNIA
9 COUNTY OF LOS ANGELES --- LACCB

10 PEOPLE OF CALIFORNIA,

11 Plaintiff,

12 v.

13 ISRAEL SANCHEZ,

14 Defendant.

Case No.: BA372623

NOTICE OF MOTION AND MOTION FOR
CONTINUANCE (PENAL CODE § 1050);
DECLARATION OF LOUISA PENSANTI.

Time: 8:30 A.M.
Date: June 22, 2011
Dept: 100

15 TO THE ABOVE-ENTITLED COURT, AND TO THE LOS ANGELES COUNTY
16 DISTRICT ATTORNEY, STATE OF CALIFORNIA:

17 PLEASE TAKE NOTICE that on June 22, 2011 at the hour of 8:30 A.M. or as soon thereafter
18 as the matter may be heard, in Department 100 of the above-entitled court, defendant
19 ISRAEL SANCHEZ will make a motion to continue the Trial pursuant to Penal Code § 1050 on
20 the grounds that Louisa Pensanti, the attorney of record, is currently engaged in trial in the matter
21 of *People v. Alan Gil*, Case No. MA049799 in Dept A21 of the Michael D. Antonovich Antelope
22 Valley Courthouse before the Honorable Judge Kathleen Blanchard (661-974-7321). Trial is
23 expected to last eight to ten court days. This motion is based on this notice of motion, the points
24 and authorities, declaration served and filed herewith, all papers and records on file and such oral
25 and documentary evidence as may be presented at the hearing of the motion.

26 DATED: June 20, 2011

Respectfully Submitted,
Louisa Pensanti
Attorney for Defendant

27
28 

DECLARATION OF COUNSEL LOUISA PENSANTI

I, LOUISA PENSANTI, hereby declare:

1. That I am an attorney licensed in the State of California and in good standing with the Bar.
2. That I am the attorney of record for the above-captioned defendant ISRAEL SANCHEZ, in this matter.
3. That I am engaged in Trial in the matter of *People v. Alan Gil*, Michael D. Antonovich Antelope Valley Courthouse, Dept. A21, Case No. MA050140.
4. That Trial is expected to last eight to ten court days.
5. Accordingly, it is respectfully requested that additional time be granted for the Trial.

I declare under penalty of perjury that the foregoing is true and correct and/or, where applicable, based upon information and belief. Executed June 20, 2011.

LOUISA PENSANTI
Attorney at Law



PROOF OF SERVICE
STATE OF CALIFORNIA, COUNTY OF LOS ANGELES

I am employed in the County of Los Angeles, State of California. I am over the age of 18 and not a party to the within action. My business address is 14431 Ventura Boulevard, Suite 227, Sherman Oaks, California 91423.

On June 20, 2011, I served the foregoing documents described as:

**NOTICE OF MOTION
AND MOTION FOR CONTINUANCE
(PENAL CODE § 1050)**

On the interested parties in this action by placing a true copy thereof enclosed in a sealed envelope addressed as follows:

Honorable Judge Schnegg, Dept. 100
Clara Shortridge Foltz Criminal Justice Center
210 W. Temple St.
Los Angeles, CA 90012

DDA Eugene Hanrahan
Los Angeles County District Attorney's Office
210 W. Temple St.
Los Angeles, CA 90012

☒ **BY FAX.**

☐ **BY MAIL.** I deposited an envelope in the mail at Los Angeles, California addressed to each individual or entity on the service list containing a true copy of the above-entitled document, with postage thereon prepaid. I am readily familiar with the firm's practice of collection and processing correspondence for mailing. Under that practice, it would be deposited with the U.S. Postal Service on that same day with postage thereon fully prepaid at Los Angeles, California in the ordinary course of business.

☐ **BY PERSONAL SERVICE.** I caused the above-described document to be hand-delivered to the offices or the person of each individual or entity on the service list.

I declare under penalty of perjury under the Laws of the State of California that the foregoing is true and correct. Executed on June 20, 2011 at Los Angeles, California.



05:01 S

Pensanti & Associates
14431 Ventura Boulevard # 227
Sherman Oaks, CA 91423
Tel: (818) 947-7999
Fax: (818) 947-7995
www.pensanti-law.com

Send to:	LACCB, Dept. 100	From:	Pensanti & Associates
Attention:	Honorable Judge Schnegg		
Office Location:	210 W. Temple Street Los Angeles, CA 90012	Date:	June 20, 2011
Fax Number:	(213) 217-4981	Phone No.:	(818) 947-7999

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Comments: 4 pages total including cover page

Re: People v. Israel Sanchez, Case No.: BA372623

Notice of Motion and Motion for Continuance Penal Code § 1050.

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Pensanti & Associates
14431 Ventura Boulevard # 227
Sherman Oaks, CA 91423
Tel: (818) 947-7999
Fax: (818) 947-7995
www.pensanti-law.com

Send to:	LACCB, Dept. 100	From:	Pensanti & Associates
Attention:	Honorable Judge Schnegg		
Office Location:	210 W. Temple Street Los Angeles, CA 90012	Date:	June 20, 2011
Fax Number:	(213) 217-4981	Phone No.:	(818) 947-7999

☒ URGENT ☐ REPLY ASAP ☐ PLEASE COMMENT ☐ PLEASE REVIEW ☐ FOR YOUR INFORMATION

Comments: 4 pages total including cover page

Re: People v. Israel Sanchez, Case No.: BA372623

Notice of Motion and Motion for Continuance Penal Code § 1050.

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