

APPENDIX A

IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA

SECOND APPELLATE DISTRICT

DIVISION FIVE

COURT OF APPEAL - SECOND DIST.

F I L E D

May 15, 2020

DANIEL P. POTTER, Clerk

kdominguez Deputy Clerk

PAUL COOK,

B305668

Petitioner,

(Super. Ct. No. BS42047-1908)

v.

(App. Div. No. BR054820)

APPELLATE DIVISION OF THE
LOS ANGELES SUPERIOR COURT,

(Tony Richardson, Sanjay Kumar,
Alex Ricciardulli, Judges)

Respondent.

O R D E R

THE PEOPLE,

Real Party in Interest.

THE COURT:

The court read and considered the petition for writ of mandate filed with the Supreme Court on April 30, 2020 and transferred to this court on May 5, 2020, as well as the supplemental brief and motions filed by petitioner on May 12, 2020. The petition for writ of mandate is denied. Petitioner fails to demonstrate the appellate division erred in dismissing his interlocutory appeal. (Pen. Code, §§ 1424, subd. (b)(2), 1466, subd. (b); *People v. Vasquez* (2006) 39 Cal.4th 47, 70.) The motion to transfer from division is also denied. (Code Civ. Proc., §170.1.) The request for judicial notice is likewise denied.

AX-02

APPENDIX B

1 CASE NUMBER: BS42047
2 CASE NAME: PEOPLE V. COOK
3 EL MONTE, CALIFORNIA OCTOBER 24, 2019
4 DEPARTMENT 6 HON. ROB B. VILLEZA, JUDGE
5 AUDIO RECORDED¹: For The Record, Ltd. Transcribed
6 TRANSCRIBED: Paul Cook
7 TIME: 9:54 A.M.
8

9 (THE FOLLOWING PROCEEDINGS WERE HELD IN OPEN COURT:)
10
11 -----
12 October 24, 2019.
13

14 THE COURT: [00:00] [PEOPLE V. PAUL COOK BS142047, Appearances
15
16 ALFONSO ESTRADA: [00:18]: Good morning, Your Honor, Alfonso Estrada I'm appearing
17 on behalf Baldwin Park Unified School District Police Department, today.
18
19 PAUL COOK[00:00:19.28] Good Morning Your Honor, Paul cook representing itself.
20
21 THE COURT[00:00:22.09] Thank you and good morning to all. We're here today, I think the
22 matter has been put over, Mr. Cook to give you additional time to conduct whatever you
23 discovered, conduct whatever discovery you thought was pertinent to the citation in this case.
24 Since then, I believe Baldwin Park has filed an opposition to your motion to compel, and also
25 notice a change of venue. And of course, I believe there's also your demurrer that you wanted
26
27 -----
28 ¹ Link can be requested by this Court from the Los Angeles Superior Court Criminal Appellate
Division.

Transcription

1 to assert at this time. With respect to the venue motion, I seem to recall if I'm not mistaken,
2 that Judge Lopez, Lopez, Daniel Lopez, had ruled, denied your motion for change of venue
3 prior sometime prior to you filing a pursuant 170.6.

4

5 **PAUL COOK**[00:01:24.04] Your Honor he did. But I renewed that motion, and there's always a
6 motion to reconsider before.

7

8 **THE COURT**[00:01:30.03] Again, no, no, no. This is my court, not yours and I'm asking the
9 questions at the moment. So did he rule on your motion prior to you filing the affidavit?

10

11 **PAUL COOK**[00:01:44.20] Not prior to filing the affidavit.

12

13 **THE COURT**[00:01:46.19] Well, how can he file, how can he respond

14

15 **PAUL COOK**[00:01:49.17] Because here was thing, Your honor, I was trying to be heard by
16 Judge Lopez because I wanted to file the affidavit. But he would, he just ruled on all this stuff
17 before I was able to file that affidavit. So –

18

19 **THE COURT**[00:02:03.12] Okay.

20

21 **PAUL COOK**[00:02:04.19] So he didn't give me a chance to be heard correctly.

22

23 **THE COURT**[00:02:06.09] So he didn't rule [crosstalk 00:02:06.18] You can't speak at the same
24 time counsel.

25

26 **PAUL COOK**[00:02:11.06] Yes.

27

28 **THE COURT**[00:02:11.16] Because it's being recorded.

Transcription

1
2 **PAUL COOK**[00:02:13.03] Yes. Yes.

3
4 **THE COURT**[00:02:13.03] All right.

5
6 **PAUL COOK**[00:02:13.03] I understand.

7
8 **THE COURT**[00:02:13.27] So don't speak when I'm speaking. Understood?

9
10 **PAUL COOK**[00:02:16.03] I understand.

11
12 **THE COURT**[00:02:18.08] So my understanding is he did rule on your venue motion prior to
13 you filling the affidavit. Is that correct?

14
15 **PAUL COOK**[00:02:23.10] What I'm trying to say your honor –

16
17 **THE COURT**[00:02:25.01] Is it yes or no?

18
19 **PAUL COOK**[00:02:27.22] From? I would say no, because I didn't have the due process.

20
21 **THE COURT**[00:02:32.03] So the court will then rule also on your venue motion as well today.
22 So we have the venue motion, the motion to compel and your demurrer. Those are the three
23 substantive matters that determine every record is that accurate?

24
25 **PAUL COOK**[00:02:44.09] There's one more matter I'd like to add, Your Honor.

26
27 **THE COURT**[00:02:47.18] What's that?

28
Transcription

1 **PAUL COOK**[00:02:47.18] Which is what I've been trying to say. I would like to say that the
2 private counsel on my left is not allowed to be here today, they need to take a seat because this
3 is a criminal matter, as the case has been set under Penal Code 19.7.

4

5 **THE COURT**[00:03:00.15] Alright that request is denied. With respect to your venue motion,
6 you wish to be heard further, on your venue motion Mr. Cook?

7

8 **PAUL COOK**[00:03:07.25] Your Honor, may I please make the record for-

9

10 **THE COURT**[00:03:11.14] Counsel, I am asking you do wish to be heard further?

11

12 **PAUL COOK**[00:03:14.07] Yes, I do wish to be heard.

13

14 **THE COURT**[00:03:15.19] You may proceed.

15

16 **PAUL COOK**[00:03:16.24] On my venue motion I have submitted-

17

18 **THE COURT**[00:03:19.13] And I would suggest that you cover whatever that hasn't already
19 been covered in your briefs.

20

21 **PAUL COOK**[00:03:24.11] Well, Your Honor as I've as I mentioned, in the demurrer motion it
22 is more convenient as a --

23

24 **THE COURT**[00:03:32.07] Your venue motion. Did you say venue or demurrer?

25

26 **PAUL COOK**[00:03:34.29] The demurrer, your honor.

27

28 **THE COURT**[00:03:36.12] No, I'm talking about the venue motion right now.

Transcription

1 **PAUL COOK**[00:03:38.13] Yeah. The demurrer-

2
3 **THE COURT**[00:03:39.11] Do you wish to add anything further with respect to your request for
4 venue transfer?

5
6 **PAUL COOK**[00:03:42.25] Only that it's more convenient, your honor and West Covina has
7 always

8
9 **THE COURT**[00:03:45.19] Address in your pleading. Is there anything in addition to what you
10 already got into?

11
12 **PAUL COOK**[00:03:50.00] No, Your Honor.

13
14 **THE COURT**[00:03:51.01] Alright. The motion based upon the court's discretion will deny the
15 request for change of venue. The court believes that there are no facts of circumstances
16 proffered by Mr. Cook that would warrant the court to exercise its discretion in transferring the
17 matter from El Monte to West Covina. So that's been denied. With respect to your motion to
18 compel, I think you wanted to address that before your demurrer motion? Is that correct?

19
20 **PAUL COOK**[00:04:21.24] Yes, Your Honor. What I would like to do, as I mentioned last time
21 in the court hearing was that we were going we were going to discuss today the court was going
22 to discuss whether to calendar a demur. So I would like to calendar a demur-

23
24 **THE COURT**[00:04:33.23] I will address the demur today right after this motion. Well, we
25 would like to address your motion to propel right here and right now. So you wish to add
26 anything to that motion?

27
28 Transcription

1 **PAUL COOK**[00:04:44.25] I would like to say that I do need the discovery for the motion to
2 compel.
3

4 **THE COURT**[00:04:50.10] Well I'm sure counsel, you're also familiar with local rule 8.42 which
5 requires as a prop per to proffer to the court why it is relevant for you to compel the production
6 of either documents or witnesses. So I'll give you this opportunity at this time to proffer why
7 you think it's relevant for purposes of the citation in this case.
8

9 **PAUL COOK**[00:05:12.16] Right. So I was going to address that your honor for the demur. I'd
10 like to argue, which I can't argue sufficiently today, because I don't have enough of the evidence
11 of the matter of jurisdiction and authority that the school district has, in prosecuting this case.
12 A number of the requests in the document go to the authority, the school district has a duty
13 under Penal Code, I forget, penal code I believe, well education code 3800 A, B, and C. And if-
14

15 **THE COURT**[00:05:41.24] Counsel, if you say that your motion to compel, and the relevance of
16 whatever information you're seeking, is for purposes of your demur, your demur, as I
17 understand it, assumed to 1004 penal code is based upon the four corners of the document and
18 the citation. The citation in itself states cause of action, you can proceed. If it doesn't and I
19 grant you demur, if it does, then I deny your demur and you have to enter a plea. So why is your
20 motion to compel relevant to your position with respect to the four corners of the citation?
21

22 **PAUL COOK**[00:06:21.15] As mentioned the case law due in process under 1004 always allows
23 the defendant to demur on the grounds of jurisdiction your honor, whether the, whether the
24 prosecutor has authority to be trying the case and it and it is the defendants view that he
25 doesn't. So and the demur can also be granted, but I believe the court does have jurisdiction to
26 hear this case. So-

27 **THE COURT**[00:06:44.14] Anything else, counsel?
28

Transcription

1 **PAUL COOK**[00:06:45.06] Only that I have not received all the evidence for the demur to be
2 heard on due process and that the motion to compel should be issued or the demur should be
3 granted in terms of jurisdiction. Currently under 3800 A, under the Education Code, a chief of
4 police need a proper legitimate chief of police needs to be operating the police department.
5 Currently their chief of police has been suspended. They do not have the jurisdiction as of this
6 point to be prosecuting.

7

8 **THE COURT**[00:07:11.18] Alright. Pursuant to Penal Code Section 959, and accusatory
9 pleading insufficient, if it can be understood from it, that it's filed in court having authority
10 which is this court with the name of the court, the defendant is named. The citation has your
11 name, that the offence charge is triable in the court, and it appears to be infractions under the
12 Vehicle Code, and then the offence was committed at some time prior to the filing of the
13 accused pleadings, seems to be the case. Based upon what appears to be the elements with
14 respect to 959 and 1004, there does not seem to be a valid basis for you to demur.
15 On that basis, your demur is denied and the court will order that, require that you enter a plea.
16 Furthermore, because the court is denying or striking your demurrer, there is no further basis
17 upon which you have mentioned on the record, requiring any further motion to compel the
18 discover part of part, so your motion to compel is also-

19

20 **PAUL COOK**[00:08:20.06] Your Honor, may I add one fact and be heard?

21

22 **THE COURT**[00:08:22.06] You can add anything to the records.

23

24 **PAUL COOK**[00:08:24.02] Yes. Your Honor. I did also ask under my informal discovery
25 request for evidence that's relevant to the substance of the law for the citation that's been cited,
26 the school district has not provided that as well.

27

28

Transcription

1 **THE COURT**[00:08:36.11] Alright. Again, you told the court that your motion to compel was
2 based upon your desire to demur to the citation in this case, and based upon the court's ruling
3 with respect to the demur, which has now been denied, it doesn't seem to be any further basis
4 upon which the court would grant your motion to compel.

5

6 **PAUL COOK**[00:08:58.07] Your, Honor.

7

8 **THE COURT**[00:08:59.02] So I don't know where else we would proceed on the motion to
9 compel.

10

11 **PAUL COOK**[00:09:03.11] Well, on the motion to compel there's other substantive matters that
12 have been requested, Your Honor, and I am adding that to the record and I'm asking the court
13 to -

14

15 **THE COURT**[00:09:12.04] So pursuant to local rule 8.42, what is your proffer with respect to
16 the letters and how it's relevant, let's say, to your defense?

17

18 **PAUL COOK**[00:09:17.23] Well for one I'm asking for my Michael Saunders last eye checkup,
19 this citation was done at night. We need to have, we need to check whether his vision was good
20 during that process.

21

22 **THE COURT**[00:09:28.29] This is the citing officer?

23

24 **PAUL COOK**[00:09:29.25] This is the citing officer. Correct, Your Honor. So that is that and
25 then we still have to see, I think there's basic foundations that needs to be established regarding
26 the officer such as his POST training, when he becomes a witness that has not been provided as
27 well. That is the basic foundation in criminal court when a defense attorney goes and questions

28

Transcription

1 the officer and we need to see other training that's required as a matter of foundation needs to
2 be light-

3

4 **THE COURT**[00:09:58.08] Counsel, the court will give you opportunity to conduct cross
5 examination. You can be vigorous in your cross examination regarding these issues at the time
6 of trial, and if at some point based upon your cross examination of the witness, the court feels
7 that some additional discovery is required and the matter needs to be put over until you have
8 obtained the discovery, the court will give you that opportunity.

9 But based upon your proffer that you're basically speculating with respect to the officer's vision,
10 or with respect to his training and experience, the court feels pursuant 8.42 that the proffer
11 made by Mr. Cook is insufficient.

12 So on that basis that request is denied.

13 At this time, I think I've ruled move on motions. If you would like to enter a plea, I would
14 assume and say a not guilty plea pursuant to trial.

15

16 **PAUL COOK**[00:10:48.00] I would like to add one more motion before we set it for trial Your
17 Honor and I would like to add, I would like to calendar a motion for disqualification of the
18 prosecutorial authority.

19

20 **THE COURT**[00:10:58.26] Well, you might already know this, but based upon 170.6 you only
21 have one crack at the apple and you've already filed paper on-

22

23 **PAUL COOK**[00:11:07.21] Not against you, Your Honor.

24

25 [Laughter from the audience.]

26

27 **THE COURT**[00:11:09.04] Okay.

28

Transcription

1 **PAUL COOK**[00:11:09.04] Against, no not against you, against the prosecutorial authority,
2 whether the school district even has the authority to charge me so we need to file that with-
3

4 **THE COURT**[00:11:19.23] If the court had not given you sufficient time to file whatever
5 pretrial motions that you wanted to file prior to trial, the court would certainly give you that
6 opportunity to do so. But I think the last time you were here with – was that back on September
7 11th-

8
9 **PAUL COOK**[00:11:35.23] Your Honor, the fact-

10
11 **THE COURT**[00:11:38.06] So that means that you've had over a month to whatever additional
12 motions that you wanted to file up to this point, and if you haven't filed those motions, it's the
13 court's understanding of the current documentaries you had plenty of time to file whatever
14 motions and you have filed motions. So at this time, the court is not going to delay the setting
15 of the trial at this time.

16
17 **PAUL COOK**[00:12:00.01] Your Honor, I would then like to ask for a stay so that I can file an
18 interlocutory appeal regarding this.

19
20 **THE COURT**[00:12:08.05] That's going to be denied. [inaudible 00:12:10.18]

21
22 **PAUL COOK**[00:12:11.25] So I'm going to plead not guilty Your Honor.

23
24 **THE COURT**[00:12:13.26] And I guess it will be entered, what do you want to set up the trial?
25 You want to set it within the period or outside of the period?

26
27 **PAUL COOK**[00:12:20.10] Outside of the period is fine.

28
Transcription

1 **THE COURT**[00:12:21.28] Is there a particular date you'd want?

2

3 **PAUL COOK**[00:12:23.15] After Christmas would be good, Your Honor. Yes.

4

5 **THE COURT**[00:12:25.10] After Christmas. January.

6 **PAUL COOK**[00:12:31.13] End of January. I have a I'm going away. There might be potential

7 vacation plans during Christmas to January.

8

9 **THE COURT**[00:12:42.26] Well, hold on. I'll give you an opportunity to avoid the holidays. I

10 get that. And I'll be sensitive to that. We would have to set for some time in early January

11 because this is October 24. So if you're not sitting in November, December, we have to set it at

12 some point, so I'll give you early January.

13

14 **PAUL COOK**[00:13:01.13] Would it be possible just to have the second week of January? :

15

16 **Court Clerk:** [00:13:07.11] The only two days for January are January 13, on a Monday, or

17 January 24 on a Friday.

18

19 **THE COURT** [00:13:14.08] We'll do January the 13, 2019, 2020 at 830. Hearing department six

20 and . . . at 1:30. That's right for trial would be at 1:30. So you be here at 1:30. Don't come later.

21

22 **Paul Cook** [00:13:29.10] 1:30.

23

24 **THE COURT** [00:13:31.14] And we'll have the officer present at that time. Alirght, anytime.

25 Those who have been subpoenaed are excused. Anything else counsel was very well thank you.

26

27 **Court Clerk:** Thank you, your honor.

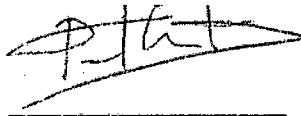
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Transcription

1 CERTIFICATE

2 I, Paul Cook, do hereby certify that the above pages constitute a full, true, and accurate
3 transcript, from electronic recording, transcribed by me. The transcript was prepared to the
4 best of my skill and ability.

5 Executed on October 30, 2020 at Baldwin Park, California 91706.

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7 
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9 Paul Cook

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Transcription

APPENDIX C

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FILED
Superior Court Of California
County Of Los Angeles

FEB 11 2020

Sherrill R. Carter, Executive Officer/Clerk
By  Deputy
Cynthia Esquivel

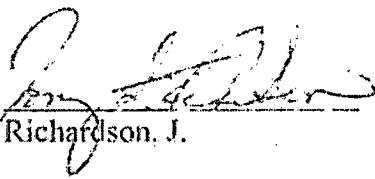
APPELLATE DIVISION OF THE SUPERIOR COURT
STATE OF CALIFORNIA, COUNTY OF LOS ANGELES

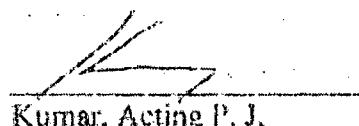
THE PEOPLE OF THE STATE OF CALIFORNIA, } No. BR 054820
Plaintiff and Respondent, } El Monte Trial Court
v. } No. BS42047
PAUL COOK, }
Defendant and Appellant. }
ORDER

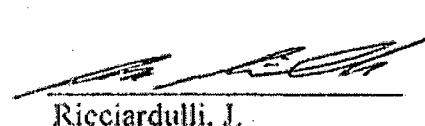
On January 17, 2020, the court directed the parties to submit briefs on the issue of whether this court has jurisdiction to hear the appeal filed by defendant in this infraction action. Defendant submitted a letter brief in which he addressed that issue. We conclude we do not have jurisdiction to hear an appeal on the issues defendant identified in his notice of appeal. First, to the extent defendant states the court denied his motions challenging the "prosecutorial authority" of the Baldwin Park Unified School District and to disqualify private counsel purportedly representing the school district, the record does not reveal that such motions were developed and made before the court and the court issued rulings concerning them. Second, as for the court overruling defendant's demurrer and denying his motions to compel certain discovery and for change of venue, such rulings are not directly appealable, as they are not taken from a final judgment of conviction or an order made after judgment affecting defendant's substantial rights. (Pen. Code, § 1466, subd. (b).) Therefore, the court dismisses defendant's appeal.

1 We do not exercise our discretion to treat defendant's appeal as a writ petition because
2 we do not find the record to be adequate or developed for such consideration, nor do we find
3 that extraordinary circumstances exist warranting such treatment. (*H.D. Arnaiz, Ltd. v. County*
4 *of San Joaquin* (2002) 96 Cal.App.4th 1357, 1366-1367 [appellate court power to treat
5 nonappealable order as petition for writ of mandate should be exercised only in unusual and
6 extraordinary circumstances].)

7 We deferred ruling on an application and motions defendant filed on January 6 and 14,
8 2020 pending our decision on the jurisdiction issue discussed above. The January 6, 2020
9 application to certify this matter for transfer is denied, as it is moot based on this court's
10 dismissal of the appeal. Additionally, defendant offers no reason for doing so, and transfer is
11 not necessary to secure uniformity of decision or to settle an important question of law. (Cal.
12 Rules of Court, rule 8.1005(b)(3).) The January 6, 2020 motions to augment and for judicial
13 notice and the January 14, 2020 motion for reconsideration of this court's January 7, 2020 order,
14 denying defendant's motion for stay are denied as moot, given the dismissal of defendant's
15 appeal.

16 
17 Richardson, J.
18

19 
20 Kumar, Acting P. J.
21

22 
23 Ricciardulli, J.
24

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APPENDIX D

IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA

SECOND APPELLATE DISTRICT

DIVISION FIVE

COURT OF APPEAL - SECOND DIST.

F I L E D

Mar 06, 2020

DANIEL P. POTTER, Clerk

kdominguez Deputy Clerk

THE PEOPLE OF THE STATE OF
CALIFORNIA,

Plaintiff and Respondent,

v.

PAUL COOK,

Defendant and Appellant.

B304502

(Super. Ct. No. BS42047-1908)

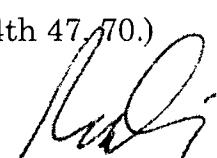
(App. Div. No. BR054820)

(Tony Richardson, Sanjay Kumar,
Alex Ricciardulli, Judges)

O R D E R

THE COURT:

The court read and considered the petition to transfer filed February 26, 2020, the appellate division file transferred to this court on March 2, 2020, and the amicus curiae brief filed by the National Motorists Association on March 3, 2020. The petition is denied. (Cal. Rules of Court, rule 8.1002; Pen. Code, §§ 1424, subd. (b)(2), 1466, subd. (b); *People v. Vasquez* (2006) 39 Cal.4th 47, 70.)



RUBIN, P.J.



BAKER, J.



KIM, J.

AX-020

APPENDIX E

AX-021

APPENDIX F

SUPREME COURT
FILED

JUN 10 2020

Jorge Navarrete Clerk

S262406

Deputy

IN THE SUPREME COURT OF CALIFORNIA

En Banc

PAUL COOK, Petitioner,

v.

APPELLATE DIVISION OF THE SUPERIOR COURT OF LOS ANGELES COUNTY,
Respondent;

THE PEOPLE, Real Party in Interest

The request for judicial notice is denied.

The petition for peremptory writ of mandate, prohibition, or other extraordinary
relief and application for stay are denied.

CANTIL-SAKAUYE

Chief Justice

AX-024

APPENDIX G

SUPREME COURT
FILED

JUL 24 2020

Jorge Navarrete Clerk

Court of Appeal, Second Appellate District, Division Five - No. B305668 ^{Deputy}

S262338

IN THE SUPREME COURT OF CALIFORNIA

En Banc

PAUL COOK, Petitioner,

v.

APPELLATE DIVISION OF THE LOS ANGELES SUPERIOR COURT, Respondent;

THE PEOPLE, Real Party in Interest.

The request for judicial notice is denied.

The petition for review and application for stay are denied.

CANTIL-SAKAUYE

Chief Justice

AX-026