

UNITED STATES COURT OF APPEALS  
FOR THE NINTH CIRCUIT

FILED

MAY 26 2021

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

ARTHUR LOPEZ,

Plaintiff-Appellant,

v.

MANUEL A. RAMIREZ, Presiding Judge;  
CALIFORNIA COURT OF APPEALS 4TH  
DISTRICT DIVISION TWO,

Defendants-Appellees.

No. 20-55224

D.C. No. 5:18-cv-01835-VBF-  
MRW

Central District of California,  
Riverside

ORDER

Before: FERNANDEZ, BYBEE, and BADE, Circuit Judges.

Lopez's petition for panel rehearing (Docket Entry No. 28) is denied.

No further filings will be entertained in this closed case.

NOT FOR PUBLICATION

UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

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FEB 24 2021

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

ARTHUR LOPEZ,

Plaintiff-Appellant,

v.

MANUEL A. RAMIREZ, Presiding Judge;  
CALIFORNIA COURT OF APPEALS 4TH  
DISTRICT DIVISION TWO,

Defendants-Appellees.

No. 20-55224

D.C. No. 5:18-cv-01835-VBF-  
MRW

MEMORANDUM\*

Appeal from the United States District Court  
for the Central District of California  
Valerie Baker Fairbank, District Judge, Presiding

Submitted February 17, 2021\*\*

Before: FERNANDEZ, BYBEE, and BADE, Circuit Judges.

Arthur Lopez appeals pro se from the district court's judgment dismissing his 42 U.S.C. § 1983 action alleging that a California court rule violated his due process rights. We have jurisdiction under 28 U.S.C. § 1291. We review de novo

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\* 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).

Appendix A

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a dismissal under Fed. R. Civ. P. 12(b)(6). *Jachetta v. United States*, 653 F.3d 898, 903 (9th Cir. 2011). We affirm.

The district court properly dismissed Lopez's action because defendants are entitled to immunity, and to the extent Lopez seeks injunctive relief, his action is barred by the *Younger* abstention doctrine. *See Simmons v. Sacramento Cty. Superior Court*, 318 F.3d 1156, 1161 (9th Cir. 2003) (state courts, as an arm of state government, have Eleventh Amendment immunity); *Ashelman v. Pope*, 793 F.2d 1072, 1075 (9th Cir. 1986) (en banc) (judges are absolutely immune from damage liability for acts performed in their official capacities); *see also Younger v. Harris*, 401 U.S. 37, 43 (1971) (recognizing the longstanding public policy against federal court interference with state court proceedings).

The district court did not abuse its discretion in denying leave to amend because amendment would have been futile. *See Gordon v. City of Oakland*, 627 F.3d 1092, 1094 (9th Cir. 2010) (setting forth standard of review and grounds for dismissing without leave to amend).

Lopez's motion for extension of time to file a supplemental reply brief (Docket Entry No. 26) is denied.

**AFFIRMED.**

Appendix A

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9 **IN THE UNITED STATES DISTRICT COURT**  
10 **FOR THE CENTRAL DISTRICT OF CALIFORNIA**  
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13 ARTHUR LOPEZ,  
14 Plaintiff,  
15 v.  
16 MANUEL RAMIREZ, et al.,  
17 Defendants.  
18

Case No. ED CV 18-1835 VBF (MRW)

ORDER: (1) ACCEPTING FINDINGS  
AND RECOMMENDATIONS OF  
UNITED STATES MAGISTRATE  
JUDGE; AND (2) DISMISSING  
ACTION

19  
20 Pursuant to 28 U.S.C. § 636, the Court reviewed the Complaint, the  
21 records on file, and the Report and Recommendation of the United States  
22 Magistrate Judge. Further, the Court has engaged in a de novo review of  
23 those portions of the Report to which Plaintiff has objected. The Court  
24 accepts the findings and recommendation of the Magistrate Judge.

25 Further, the Court denies Plaintiff's motion to amend the complaint.  
26 (Docket # 62.) For the reasons stated in the Attorney General's opposition  
27 brief (Docket # 67), the proposed amendment does not overcome the Younger  
28

1 abstention and immunity issues discussed in the Report. Vartanian v. State  
2 Bar of California, \_\_\_ F. App'x \_\_\_, 2019 WL 6745407 at \*1 (9th Cir. Dec. 11,  
3 2019) (sovereign immunity not abrogated where public entity's alleged ADA  
4 violation "does not rise near to the level of implicating any fundamental right  
5 of access to the courts") (quotation omitted).

6 IT IS ORDERED that the action be dismissed without leave to amend.  
7 Document Nos. 38 and 45 (the original and amended motions to dismiss) are GRANTED.  
8 Document No. 62 (plaintiff's motion to amend) is DENIED.  
9 The case shall be TERMINATED (JS-6).

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DATE: February 19, 2020

*Valerie Baker Fairbank*  
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HON. VALERIE BAKER FAIRBANK  
SENIOR U.S. DISTRICT JUDGE

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8 **IN THE UNITED STATES DISTRICT COURT**  
9 **FOR THE CENTRAL DISTRICT OF CALIFORNIA**  
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11  
12 ARTHUR LOPEZ,  
13 Plaintiff,  
14 v.  
15 MANUEL A. RAMIREZ, et al.,  
16 Defendants.  
17

Case No. ED CV 18-1835 VBF (MRW)  
REPORT AND RECOMMENDATION  
OF UNITED STATES MAGISTRATE  
JUDGE

18  
19 This Report and Recommendation is submitted to the Honorable  
20 Valerie Baker Fairbank, Senior United States District Judge, pursuant to  
21 28 U.S.C. § 636 and General Order 05-07 of the United States District  
22 Court for the Central District of California.

23 **SUMMARY OF RECOMMENDATION**

24 Plaintiff sued the state appellate court and a sitting justice for  
25 civil rights violations based on a rule prohibiting his handwritten court  
26 filings. Principles of sovereign immunity and judicial immunity bar his  
27 civil action. It is recommended that Plaintiff's complaint be dismissed  
28 without leave to amend.

## **FACTS AND PROCEDURAL HISTORY**

According to the complaint in this action and Plaintiff's previous lawsuits in this district,<sup>1</sup> Plaintiff and his ex-wife have a difficult relationship. Plaintiff's ex-wife has a restraining order against him. In response, Plaintiff sought a restraining order against her in the local superior court. The court denied Plaintiff's petition. (Docket # 1 at 4.)

Plaintiff appealed the adverse decision to the California Court of Appeal. However, Plaintiff "has been unable to advance the appeal processes." (Docket # 1 at 5.) The reason: he submitted handwritten documents to the appellate court. According to court orders and materials attached to the complaint, California Rule of Court 8.40(a) requires materials filed in the state appellate court "either be produced on a computer or typewritten." In reliance on that rule, the court rejected Plaintiff's appellate submissions. Justice Ramirez (named as a defendant in the present action in his official capacity) issued two of the rejection orders for the court. (Docket # 1 at 12-14.)

Plaintiff initiated this action in federal court in August 2018. Plaintiff's complaint alleges that the state court and Justice Ramirez violated Plaintiff's due process and equal protection rights under the U.S. Constitution. Plaintiff seeks relief under 42 U.S.C. § 1983 (and possibly under § 1985 – his handwriting (Docket # 1 at 8) is difficult to read). Plaintiff specifically seeks an order from this Court directing the state court to accept his briefs or, in the alternative, for this federal court

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<sup>1</sup> The Court takes notice of well over two dozen civil rights actions that Plaintiff filed against police and educational entities in Orange County in recent years. The list is long, and need not be included in this Report. Most of these actions involve allegations regarding Plaintiff's driving and parking problems, negative interactions with school officials, and the criminal enforcement of domestic restraining orders against him.

1 to issue a restraining order against his ex-wife for five years. (Docket # 1  
2 at 7.) Plaintiff also seeks at least \$1 million in damages. (Docket # 1  
3 at 10.)

4 The assigned district judge (Judge Fairbank) granted Plaintiff's  
5 application to proceed in forma pauperis. (Docket # 11.) However,  
6 Judge Fairbank denied Plaintiff's applications for temporary restraining  
7 orders against the state court defendants. (Docket # 5, 12.) (The  
8 Ninth Circuit Court of Appeals dismissed his interlocutory appeal of  
9 those decisions. (Docket # 32.))

10 The assigned magistrate judge (Judge Wilner) subsequently took  
11 over pretrial case management of the action pursuant to  
12 Judge Fairbank's order and local practice. (Docket # 4.) Judge Wilner  
13 ordered service of the complaint on the defense. (Docket # 29.) The  
14 California Attorney General appeared for both named defendants. The  
15 Attorney General promptly moved to dismiss the action on various  
16 grounds. (Docket # 38, 45.) After the completion of briefing, Judge  
17 Wilner informed the parties that the action would be decided without a  
18 hearing pursuant to Local Rule.<sup>2</sup> (Docket # 40, 44, 48.)

19 **LEGAL ANALYSIS**

20 The Attorney General argues that the named defendants are  
21 immune from Plaintiff's claims on various grounds. Those contentions  
22 are correct, and mandate dismissal of the action.  
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27 <sup>2</sup> Plaintiff's objection to the state's amended notice of motion (corrected  
28 to reflect that Plaintiff is not in custody, and that the parties met-and-conferred  
regarding the motion) is overruled as frivolous and unintelligible. (Docket # 46.)



1           **Eleventh Amendment / Sovereign Immunity**

2           The Eleventh Amendment to the U.S. Constitution and general  
3 principles of sovereign immunity prohibit suing a state or state agency in  
4 federal court.

5           The literal terms of the constitutional text refer to lawsuits brought  
6 “by Citizens of another State” or of a foreign state. U.S. Constitution,  
7 Amend. XI. However, the U.S. Supreme Court “has consistently held that  
8 an unconsenting State is immune from suits brought in federal courts by  
9 her own citizens as well as by citizens of another State.” Edelman v.  
10 Jordan, 415 U.S. 651, 662-63 (1974) (emphasis added). The immunity of  
11 states from lawsuits is a “fundamental aspect of the sovereignty which the  
12 states enjoyed before the ratification of the Constitution and which they  
13 retain today.” Alden v. Maine, 527 U.S. 706, 713 (1999) (analyzing “the  
14 Constitution’s structure, its history,” and extensive Supreme Court  
15 precedent”).

16          Ample authority establishes that actions against state courts (like  
17 other arms of the state government) “are barred by the Eleventh  
18 Amendment.” Simmons v. Sacramento County Superior Court, 318 F.3d  
19 1156, 1161 (9th Cir. 2003) (collecting cases); Bishop v. Snohomish  
20 Superior Court, 569 F. App’x 497, 498 (9th Cir. 2014) (“Dismissal of  
21 Snohomish Superior Court was proper because the court is entitled to  
22 immunity under the Eleventh Amendment.”).

23          Plaintiff purports to sue the state appellate court for damages under  
24 federal civil rights laws. His claim is absolutely barred by basic  
25 application of sovereign immunity and Eleventh Amendment immunity  
26 principles. Edelman, 415 U.S. at 662-63; Alden, 527 U.S. at 713;  
27 Simmons, 318 F.3d at 1161. Plaintiff’s action against this component of  
28 the state government must be dismissed.

1           **Judicial Immunity**

2           Plaintiff named a sitting state appellate court justice as a defendant  
3 in this action.

4           To the extent that Plaintiff purported to sue Justice Ramirez in his  
5 “official capacity,” the action is barred by the principles laid out above. A  
6 lawsuit against someone in an “official capacity” is an action against the  
7 official’s office itself. However, such a party is not a “person” within the  
8 meaning of 42 U.S.C. § 1983 from whom a litigant may recover money  
9 damages. Will v. Michigan Dep’t of State Police, 491 U.S. 58, 70-71  
10 (1989).

11           Moreover, an action “against state officials in their official  
12 capacities” is, in reality, “a suit against the state of California” that is  
13 precluded by operation of sovereign immunity and the Eleventh  
14 Amendment. Holley v. California Dep’t of Corrections, 599 F.3d 1108,  
15 1111 (9th Cir. 2010).

16           But lawsuits against judges are also barred by principles of absolute  
17 immunity. “Judges and those performing judge-like functions are  
18 absolutely immune from damage liability for acts performed in their  
19 official capacities.” Ashelman v. Pope, 793 F.2d 1072, 1075 (9th Cir.  
20 1986) (en banc); Kenner v. United States, 689 F. App’x 558 (9th Cir.  
21 2017) (same).

22           The allegations in Plaintiff’s complaint clearly focus on Justice  
23 Ramirez’s actions (rejecting Plaintiff’s handwritten filings) in his  
24 official capacity as an appellate judge. On its face, Plaintiff’s claim  
25 against this Defendant is absolutely barred by judicial immunity.

26           **Injunctive Claims**

27           The complaint urges this federal court to enter injunctive relief in  
28 favor of Plaintiff either to (a) order Plaintiff’s handwritten documents to

1 be accepted for filing or (b) restrain Plaintiff's ex-wife from certain  
2 activities.

3 Based on Plaintiff's allegations, it is apparent that his state court  
4 case is still ongoing. A federal court must abstain from interfering with  
5 the state judicial process. Younger v. Harris, 401 U.S. 37, 45 (1971).  
6 Younger abstention is warranted when "state proceedings: (1) are  
7 ongoing, (2) implicate important state interests, and (3) provide the  
8 plaintiff an adequate opportunity to litigate federal claims." Hirsh v.  
9 Justices of Sup. Ct. of Cal., 67 F.3d 708, 712 (9th Cir. 1995) (per curiam);  
10 S.P. ex rel. Parks v. Native Village of Minto, 443 F. App'x 264 (9th Cir.  
11 2011); Wolfe v. Strankman, 392 F.3d 358, 366 (9th Cir. 2004) (district  
12 court entitled to consider whether "any state court proceedings that  
13 warrant Younger abstention are pending before dismissing on that  
14 basis").

15 All of these factors are present. From the face of the pleadings, it is  
16 apparent that (at least at the time of filing) Plaintiff's state action was still  
17 pending in the appellate court – that's why he complained about the  
18 court's handwritten document bar. Plaintiff's request for a restraining  
19 order in the state action certainly presents an important interest. And  
20 Plaintiff appears to have a legitimate opportunity to pursue his challenge  
21 to the state court rule in that action or on appeal to the state supreme  
22 court. Hirsh, 67 F.3d at 712. Federal court abstention from the ongoing  
23 state case is appropriate under Younger.<sup>3</sup>

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24 <sup>3</sup> The Court declines to address the other arguments – likely legitimate  
25 and meritorious – that the Attorney General presents. The Court has real doubts  
26 about the underlying merits of Plaintiff's due process and equal protection arguments  
27 against the state court rule. This Court's own Local Rules require all documents to be  
28 printed or typed, or handwritten in a way that is "equally legible to printing."  
L.R. 11-3.1. The state rule is not meaningfully different, and does not facially

(continued...)

**No Leave to Amend**

Plaintiff's action should be dismissed without leave to amend. A pro se litigant should ordinarily be given an opportunity to amend and re-file a civil complaint. Lopez v. Smith, 203 F.3d 1122 (9th Cir. 2000).

However, a court is not required to allow leave to amend if the amendment: (1) prejudices the opposing party; (2) is sought in bad faith; (3) produces an undue delay in litigation; or (4) is futile. Bowles v. Reade, 198 F.3d 752, 758 (9th Cir. 1999); Dixon v. O'Connor, 542 F. App'x 561, 562 (9th Cir. 2013) (same).

The denial of leave to amend a complaint is reviewed on appeal for abuse of discretion. Bowles, 198 F.3d at 757; Gordon v. City of Oakland, 627 F.3d 1092, 1094 (9th Cir. 2010). It is not an abuse of discretion to deny leave to amend a complaint on futility grounds when the dismissal was based on absolute judicial immunity or sovereign immunity of the parties. Davis v. San Diego District Attorney, 765 F. App'x 409 (9th Cir. 2019) (11th Amendment); Moore v. Rosenblatt, 749 F. App'x 604 (9th Cir. 2019) (judicial immunity).

Plaintiff is not entitled to another opportunity to amend his complaint. The pleading facially names parties that are immune from suit. No change to the complaint can plausibly cure that defect; amendment is futile. Bowles, 198 F.3d at 758. Additionally, the Court

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discriminate against the poor or disabled as Plaintiff claims. Indeed, the state court's orders somewhat helpfully directed Plaintiff to his local library to obtain assistance in typing his papers. (Docket # 1 at 12.)

Moreover, the Court takes notice of California Rule of Court 8.380(b). That rule relieves prisoners seeking habeas corpus relief (who presumably have less access to resources than pro se civilian litigants) from the printed/typed submission requirement under Rule 8.40. Taken together, these points go a long way towards supporting the state's "rational relationship" / "rational basis" analyses of Plaintiff's perfunctory constitutional arguments. (Docket # 38-1 at 15-17.)

1 notes that Plaintiff's rambling response papers barely addressed the  
2 substance of some of the Attorney General's arguments, and essentially  
3 ignored others. (Docket # 44 at 9-10.) The defense would surely be  
4 prejudiced if it had to respond – perhaps in piecemeal, serial fashion – to  
5 another round of Plaintiff's ill-stated and implausible grievances.

6 **CONCLUSION**

7 IT IS THEREFORE RECOMMENDED that the District Judge issue  
8 an order: (1) accepting the findings and recommendations in this Report;  
9 (2) granting the defense's dismissal motion; and (3) dismissing the  
10 complaint without leave to amend.

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12 Dated: July 1, 2019



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14 HON. MICHAEL R. WILNER  
15 UNITED STATES MAGISTRATE JUDGE  
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8 **UNITED STATES DISTRICT COURT**  
9 **CENTRAL DISTRICT OF CALIFORNIA**  
10 **WESTERN DIVISION**  
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12 **ARTHUR LOPEZ,**

13 **Plaintiff,**

14 **v.**

15 **MANUEL A. RAMIREZ (Presiding Judge),**

16 **and**

17 **CALIFORNIA COURT OF APPEALS**  
18 **FOURTH DISTRICT DIVISION TWO,**

19 **Defendants.**  
20

**No. ED CV 18-01835-VBF-MRW**  
**FINAL JUDGMENT**

21 **Final judgment is hereby entered in favor of both defendants and against**  
22 **plaintiff Arthur Lopez. IT IS SO ADJUDGED.**  
23

24 **Dated: February 19, 2020**

25 *Valerie Baker Fairbank*

26 **Honorable Valerie Baker Fairbank**  
27 **Senior United States District Judge**  
28

*Appendix B*  
*vii*

## Appellate Courts Case Information

CALIFORNIA COURTS  
THE JUDICIAL BRANCH OF CALIFORNIA

## Search Results - 4th Appellate District Division 2

Change court

Search by Case Party

Last Name or Organization: Lopez

First Name: Arthur

&lt;&lt; Search screen

1 - 5 of 5 Records Found.

Click on the case number for more information about a case.

Court of Appeal Case Number	Trial Court Case Number	Case Caption
E071093	RIV1800376	Arthur Lopez v. Cheryl Lopez
E070899	RIC1802970	Arthur Lopez v. Cheryl Lopez
E070663	RIC1802970	Arthur Lopez v. Cheryl Lopez
E070307	RIV1800376	Arthur Lopez v. Cheryl Lopez
E069559	RIV1701781	Arthur Lopez v. Cheryl Lopez

viii Appendix X

## Appellate Courts Case Information

**CALIFORNIA COURTS**  
THE JUDICIAL BRANCH OF CALIFORNIA

4th Appellate District Division 2

Change court

## Docket (Register of Actions)

Arthur Lopez v. Cheryl Lopez  
Case Number E071093

Date	Description	Notes
08/14/2018	Notice of appeal lodged/received.	dtd Aug 7, 2018; Arthur Lopez
08/14/2018	Application for waiver of filing fee filed.	from appellant
08/14/2018	To court.	fee waiver
08/14/2018	Order waiving filing fee.	re appellant
08/20/2018	Appellant's notice designating record on appeal filed in trial court on:	Aug 16, 2018
08/20/2018	Received copy of document filed in trial court	Orange County Sheriff's instructions for service of notice of appeal, filed Aug 16, 2018
08/21/2018	Order filed.	Appellant is informed that handwritten documents will not be accepted. <u>Clerk of this court is to reject any handwritten documents.</u> "[D]ocuments filed in a reviewing court may be either produced on a computer or typewritten and must comply with the relevant provisions of rule 8.204(b)." (Cal. Rules of Court, rule 8.40(a).)
08/23/2018	Civil case information statement filed.	
08/28/2018	Dismissal order filed.	Orders denying reconsideration are not appealable. Rather, an appeal should be taken as to the underlying judgment or order. It appears that appellant has an active appeal from the underlying order pending in case number E070307. Consequently, this appeal is dismissed.
09/04/2018	Motion filed.	For stay of appeal; By appellant
09/05/2018	To court.	Appellant's motion for stay.
10/29/2018	Order on motion filed.	Appint's mtn for stay of briefing filed Sep 4, 2018, denied. Because the appeal was dismissed on Aug 28, 2018, clk of this crt to issue the remittitur forthwith.
10/29/2018	Remittitur issued.	
10/29/2018	Case complete.	
11/15/2018	Mail returned, unable to forward.	copy of remittitur to appellant

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## Appellate Courts Case Information

**CALIFORNIA COURTS**  
THE JUDICIAL BRANCH OF CALIFORNIA

4th Appellate District Division 2

Change court

## Docket (Register of Actions)

Arthur Lopez v. Cheryl Lopez  
Case Number E070899

Date	Description	Notes
07/17/2018	Notice of appeal lodged/received.	dtd Jul 11, 2018; Arthur Lopez
07/18/2018	Default notice sent-appellant notified per rule 8.100(c).	
07/30/2018	Application for waiver of filing fee filed.	
07/31/2018	Order waiving filing fee.	
07/30/2018	Civil case information statement filed.	
08/06/2018	Order filed.	Applt is directed to serve/file a signed, file-stamped copy of the judgment of dismissal with the clerk of this court, on or before 15 days from the date of this order.
08/08/2018	Appellant's notice designating record on appeal filed in trial court on:	Aug 7, 2018
08/21/2018	Received copy of document filed in trial court	Orange County Sheriff's Department Service Instructions
08/23/2018	To court.	no response to court's order of Aug 6, 2018
08/23/2018	Filed document entitled:	Applt's response to order/Extension of time requested
08/24/2018	Order filed.	<u>Applt is informed that no handwritten documents will be accepted. Clk is directed to reject any handwritten documents.</u>
08/24/2018	To court.	response/ext
08/29/2018	Order filed.	Applt is directed to serve/file a file-stamped copy of the judgment of dismissal on or before 15 days from the date of this order
09/04/2018	Motion filed.	For stay of appeal; By appellant
09/05/2018	Received:	Judgment of dismissal filed Aug 24, 2018
09/05/2018	To court.	Judgment of dismissal w/copy of order dtd Aug 29, 2018.
09/05/2018	To court.	Appellant's motion for stay of appeal.
09/06/2018	Record on appeal filed.	C-1. (34 pages)
10/05/2018	Order filed.	Applt's mtn for stay of briefing is denied. Judgment of dismissal due w/in 7 days.
11/01/2018	Dismissal order filed.	Appeal dismissed for failure to comply with court's orders Aug 29, 2018 and Oct 5, 2018.
12/24/2018	Mail returned, unable to forward.	Nov 1, 2018 dismissal order addressed to appellant; attempted-not known
01/07/2019	Remittitur issued.	
01/07/2019	Case complete.	

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X Appendix X

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## Appellate Courts Case Information

**CALIFORNIA COURTS**  
THE JUDICIAL BRANCH OF CALIFORNIA

4th Appellate District Division 2

Change court

**Docket (Register of Actions)**

Arthur Lopez v. Cheryl Lopez  
Case Number E070663

Date	Description	Notes
06/11/2018	Notice of appeal lodged/received.	Dtd Jun 6, 2018; Arthur Lopez
06/11/2018	Notice of appeal lodged/received.	Amended dtd Jun 6, 2018; Arthur Lopez
06/11/2018	Application for waiver of filing fee filed.	Appellant
06/11/2018	Order waiving filing fee.	
06/11/2018	Appellant's notice designating record on appeal filed in trial court on:	Jun 7, 2018
06/28/2018	Default notice sent; no case information statement filed, or statement incomplete.	(notice mailed to both parties)
07/11/2018	Returned document for non-conformance.	<u>CCIS-cannot accept handwritten docs. attach order/judgment to service copy.</u>
07/11/2018	Civil case information statement filed.	
07/13/2018	Dismissal order filed.	Appeal dismissed as untimely from the Feb 21, 2018 order. Other orders attached to the civil case information statement are not appealable.
09/04/2018	Received:	Motion for stay of appeal; By appellant
09/05/2018	To court.	Appellant's motion for stay.
10/05/2018	Order on motion filed.	Appellant's Sep 4, 2018, motion for stay is denied Appellant has provided no legal authority for the staying of an appeal. Because appeal was dismissed on Jul 13, 2018, clerk of this court is to issue the remittitur forthwith.
10/05/2018	Remittitur issued.	
10/05/2018	Case complete.	

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## Appellate Courts Case Information

CALIFORNIA COURTS  
THE JUDICIAL BRANCH OF CALIFORNIA

4th Appellate District Division 2

Change court

## Docket (Register of Actions)

Arthur Lopez v. Cheryl Lopez  
Case Number E070307

Date	Description	Notes
04/12/2018	Notice of appeal lodged/received.	dtd Apr 10, 2018; Arthur Lopez
04/12/2018	Default notice sent-appellant notified per rule 8.100(c).	
04/24/2018	Application for waiver of filing fee filed.	Appellant
04/24/2018	Order waiving filing fee.	
04/27/2018	Default notice sent; no case information statement filed, or statement incomplete.	
04/30/2018	Civil case information statement filed.	
05/02/2018	Appellant's notice designating record on appeal filed in trial court on:	Apr 30, 2018
07/30/2018	Requested - extension of time	entitled "Request for a 60 day extension to the opening brief...and request for stay on briefing schedule"
08/07/2018	To court.	Rqst for extns of time to file AOB & stay briefing schedule
08/09/2018	Denied - extension of time.	to file AOB as premature and rqst for a stay of the appeal is denied.
08/16/2018	Requested - extension of time	
08/17/2018	To court.	Rqst for extns of time re: transcript reimbursement fund
08/23/2018	Default notice received-appellant notified per rule 8.140(a)(1).	
08/23/2018	To court.	Ntc of entry of default
08/23/2018	Order filed.	Appint is informed that no further handwritten documents will be accepted. Rqst for a 90-day extns is denied. Appint is to take one of the actions listed in CRC, rule 8.130(c)(2)(A)-(E) on or before 10 days from the date of this order. Clk of superior court is directed to issue an affidavit informing this court if appint does not timely comply.
09/04/2018	Motion filed.	For stay of appeal; By appellant
09/05/2018	To court.	Appellant's motion for stay.
09/05/2018	Certificate of county clerk filed.	Appint has failed to comply w/this court's Aug 23, 2018 order.
09/05/2018	To court.	Certificate of county clerk re appint's failure to comply w/this court's Aug 23, 2018 order.

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10/05/2018	Order filed.	Appint's Sep 4, 2018 mtn for stay of briefing is denied. Appint is directed to comply with this court's Aug 23, 2018 order on or before 7 days from this order.
10/16/2018	Default notice received- appellant notified per rule 8.140(a)(1).	Appint has failed to comply with this court's Oct 5, 2018 order
10/16/2018	To court.	Ntc of entry re failure to comply w/court's Oct 5, 2018 order
11/02/2018	Dismissal order filed.	
11/14/2018	Mail returned, unable to forward.	Appellant's copy of dismissal order
01/04/2019	Remittitur issued.	
01/04/2019	Case complete.	

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## Appellate Courts Case Information

CALIFORNIA COURTS  
THE JUDICIAL BRANCH OF CALIFORNIA

4th Appellate District Division 2

Change court ↕

## Docket (Register of Actions)

Arthur Lopez v. Cheryl Lopez  
Case Number E069559

Date	Description	Notes
11/30/2017	Notice of appeal lodged/received.	dtd Nov 22, 2017; Arthur Lopez
11/30/2017	Default notice sent-appellant notified per rule 8.100(c).	mailed to parties
12/05/2017	Appellant's notice designating record on appeal filed in trial court on:	dtd Nov 30, 2017
12/05/2017	Application for waiver of filing fee filed.	
12/07/2017	Order waiving filing fee.	
12/11/2017	Motion filed.	<u>Appint's request for waiver to cover sheriff service of documents and pro-se entry of handwritten pleadings</u>
12/11/2017	Received:	CCIS
12/12/2017	To court.	Appint's mtn for fee waiver to cover sheriff service of documents and pro-se entry of handwritten pleadings, CCIS
12/20/2017	Filed document entitled:	Request for extension to Dec 18, 2017 for court reporter transcript application for fee waiver
12/21/2017	Order filed.	Appellant's request for fee waiver to cover sheriff's service of docs is denied without prejudice. Appellant to file proof of restraining order which purportedly prevents him from serving docs on respondent by mail, on or before 10 days from the date of this order. Appellant notified that his CCIs will not be approved or filed until it is served and request for extension of time re the RT will not be ruled upon until it has been served on respondent. Appellant to have a copy of CCIS and REX served on resp and file POS on or before 20 days. <u>Appellant's request for permission to file handwritten docs is denied.</u> Any further docs filed in this court must comply with CRC 8.40(a).
12/21/2017	Default notice received-appellant notified per rule 8.140(a)(1).	dtd Dec 1, 2017 <i>handwritten docs. is denied "</i>
12/26/2017	Returned document for non-conformance.	Appellant's declaration and supporting documentation in support of fee waiver to encompass sheriff fees for service of process and court documents - per court order filed Dec 21, 2017 documents may not be submitted <u>handwritten</u> , on a U.S. District Court form, lacking service
12/28/2017	Received document entitled:	Appint's declaration and supporting documentation in support of fee waiver to encompass sheriff fees for service of process and court documents
12/28/2017	To court.	Appint's declaration and supporting documentation in support of fee waiver to encompass sheriff fees for

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		service of process and court documents
01/02/2018	To presiding justice for signature.	proposed order
01/02/2018	Civil case information statement filed.	
01/04/2018	Order filed.	Appint's req for waiver of the fee to have the Orange County Sheriff's Department's fees for service of process is denied. Instead, the clk of this crt will forward copies of all documents filed by appint to resp; however, appint must present an extra copy of each filed document for mailing by this crt. The clk of this crt directed to forward copies of the CCIS, req for extn for rpt's trans filed Dec 20, 2017 and appint's declaration and supporting documents filed Dec 28, 2017 to resp. Appint is reminded that this crt will not accept handwritten documents. Appint is granted an extn to comply with CRC, rule 8.130(b)(1), (3) on or before 15 days from the date of this order. Appint should make arrangements w/the sup crt regarding service of documents filed in that crt.
01/04/2018	Note:	Copies of the CCIS rec'd on Dec 11, 2017, extn request filed Dec 20, 2017 and appint's declaration rec'd Dec 28, 2017 mailed to respondent per Jan 4, 2018 court order.
01/08/2018	Received:	POS re CCIS (served by Sheriff's Civil Division- Orange County)
04/06/2018	Notice to reporter to prepare transcript.	Dtd Apr 4, 2018
04/16/2018	Record on appeal filed.	C-1, R-1 (99 pgs)
04/16/2018	Letter sent advising record on appeal has been filed.	
05/22/2018	Received copy of Supreme Court filing.	California Supreme Court; Petition for Writ of Mandate by appit
05/24/2018	Returned document for non-conformance.	AOB extension request; <u>handwritten document</u>
05/29/2018	Order filed.	On court's own mtn, the court takes judicial ntc of the fact that appit's petition for writ of mandate filed in the California Supreme Court (S248959) as denied on May 29, 2018. Appit is granted an ext to serve/file the AOB on or before 30 days from the date of this order.
05/29/2018	Requested - extension of time	
06/01/2018	Supreme Court order filed re:	dtd May 29, 2019; S248959 Petition for writ of mandate/prohibition is denied and request for stay is denied.
06/08/2018	Service copy of petition for review received.	Appellant in pro per
06/25/2018	Requested - extension of time	and Req for Stay of Briefing
06/25/2018	To court.	EOT
06/27/2018	Order filed.	Appits req for stay of briefing is denied w/o prejudice. Appits req for ext to file AOB to Aug 29, 2018 is denied. Instead, AOB is due on or before Jul 29, 2018. No further ext.
07/09/2018	Received copy of Supreme Court filing.	Plaintiff's Request for Stay Statement in Support
07/30/2018	Requested - extension of time	

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08/08/2018	To court.	EOT
08/09/2018	Petition for review denied in Supreme Court.	dtd Aug 8, 2018; S250265 Petition for review and application for stay are denied.
08/13/2018	Granted - extension of time.	Applt's req for stay is denied. AOB due on or before Aug 30, 2018
09/04/2018	Motion filed.	For stay of briefing; By appellant
09/05/2018	To court.	Appellant's motion for stay of briefing.
10/05/2018	Order filed.	Applt's mtn for stay of briefing is denied. AOB due w/in 15 days. No further ext.
10/23/2018	Appellant notified re failure to timely file opening brief.	Plaintiff and Appellant: Arthur Lopez Pro Per
11/08/2018	Appeal dismissed for failure to file opening brief.	
11/15/2018	Mail returned, unable to forward.	Ntc to applt dtd Oct 23, 2018
01/10/2019	Remittitur issued.	
01/10/2019	Case complete.	

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Appendix X



SUPERIOR COURT OF CALIFORNIA  
COUNTY OF RIVERSIDE

ARTHUR LOPEZ,

Petitioner,

- and -

CHERYL LOPEZ,

Respondent.

CASE NO. RIV1800123

REPORTER'S TRANSCRIPT OF ORAL PROCEEDINGS

BEFORE THE HONORABLE GAIL O'RANE  
February 9, 2018

APPEARANCES:

For the Petitioner:

ARTHUR LOPEZ  
In Propria Persona

For the Respondent:

CHERYL LOPEZ  
In Propria Persona

Reported by:

KATHY DAVID, CSR No. 12575

**ORIGINAL**

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1 RIVERSIDE, CALIFORNIA; FEBRUARY 9, 2018

2 BEFORE THE HONORABLE GAIL A. O'RANE, JUDGE

3 THE COURT: Calling No. 50, the Lopez and Lopez matter,  
4 RIV1800123.

5 Are you Arthur Lopez?

6 MR. LOPEZ: Yes, ma'am.

7 THE COURT: Have you been sworn in?

8 MR. LOPEZ: I was.

9 THE COURT: And Cheryl Lopez?

10 MS. LOPEZ: Yes.

11 THE COURT: Have you been sworn in?

12 MS. LOPEZ: No.

13 THE COURT: Raise your right hand and face the clerk.

14 THE CLERK: Do you solemnly state that the testimony  
15 you shall give in this matter shall be the truth, the whole  
16 truth, and nothing but the truth, so help you God?

17 MS. LOPEZ: I do.

18 THE COURT: All right. Mr. Lopez, did you receive the  
19 response filed by Ms. Lopez?

20 MR. LOPEZ: In the last couple of days, Your Honor.

21 THE COURT: You are entitled to get it two days ahead  
22 of time.

23 MR. LOPEZ: I did.

24 THE COURT: You can have a seat.

25 MR. LOPEZ: I prefer to stand. I have a bad back.

26 THE COURT: Sure. All right. So are you ready to go  
27 forward, Mr. Lopez, as well?

28 MR. LOPEZ: Yes.

APPENDIX 'y'  
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1 THE COURT: Let me tell you why this was denied. It  
2 has been heard twice. It got heard previously in this court in  
3 RIV1701781. It was denied by Judge Domnitz. You don't get to  
4 get a second bite at the apple on the same facts.

5 MR. LOPEZ: They are not the same facts.

6 THE COURT: It's the same facts. I looked at it.

7 MR. LOPEZ: They are not.

8 THE COURT: I compared the thickness of the files on  
9 both of them. It's the same facts. You filed it in the civil  
10 harassment court, and they told you the same thing. One,  
11 improper court; two, this was heard with Judge Domnitz. There is  
12 no difference.

13 MR. LOPEZ: There was an assault with a fork that was  
14 never mentioned in the first request for a restraining order in  
15 this court. It was introduced in the civil harassment  
16 restraining order because that's where I was directed. Judge  
17 O.G. Magno stated that it did belong in family court.

18 THE COURT: It was heard before.

19 MR. LOPEZ: He recused himself.

20 THE COURT: He put the matter over here. I know what  
21 happened in the civil court. I know what happened here in the  
22 domestic violence court previously.

23 MR. LOPEZ: He cited Family Code 6211.

24 THE COURT: Sir, it's the same facts. There is nothing  
25 different.

26 MR. LOPEZ: The fork assault was not mentioned in this  
27 court.

28 THE COURT: Tell me about the fork assault then. What

APPENDIX 'y'  
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1 happened with the fork?

2 MR. LOPEZ: She assaulted me while I had my baby in my  
3 arms.

4 THE COURT: This is something that happened in criminal  
5 court. This whole thing was heard in criminal court; am I  
6 correct?

7 MR. LOPEZ: No.

8 THE COURT: What was heard in criminal court?

9 MR. LOPEZ: The matter of -- first of all, the false  
10 allegations that she made that I was exonerated on.

11 THE COURT: Tell me what happened.

12 MR. LOPEZ: I'm telling you.

13 THE COURT: You are commenting on the evidence. I  
14 don't need you to do that because we have two parties in here. I  
15 don't need you to go back and forth saying it's false allegations  
16 and she put false allegations on you. I just need to hear what  
17 happened in the actual trial.

18 MR. LOPEZ: In the trial, I was found not guilty.

19 THE COURT: What were the allegations?

20 MR. LOPEZ: In the trial, I was found not guilty of  
21 three charges.

22 THE COURT: What were the allegations?

23 MR. LOPEZ: Two of domestic violence as to the  
24 respondent, and the third was endangerment of a child, and child  
25 abuse on my son. I was exonerated as well. The remaining  
26 charges that are on appeal are the misdemeanors where I spanked  
27 my daughter on her left shoulder.

28 THE COURT: During this fight that you guys had, you

Appendix 'y'

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1 are saying she assaulted you with a fork?

2 MR. LOPEZ: That was before.

3 THE COURT: It was a different incident?

4 MR. LOPEZ: Yes.

5 THE COURT: Tell me about that incident. I recall  
6 reading that.

7 MR. LOPEZ: It's a lot of information.

8 THE COURT: I will go back and look at the other one  
9 because if I see the fork incident --

10 MR. LOPEZ: I know it's not, Your Honor.

11 THE COURT: Tell me what happened with the fork.

12 MR. LOPEZ: In that matter --

13 THE COURT: Tell me when it occurred.

14 MR. LOPEZ: Circa 2014. We lived in a travel trailer  
15 by her choosing. We were watching TV. My son slept in the same  
16 sleeping area that I did. He was with me. He was only two years  
17 old. The TV was in front of us. As we're laying down in this  
18 resting area, she was washing dishes and goes on a tirade and  
19 tantrum and starts being verbally abusive. I tried to squelch  
20 it. We're in small living quarters. The children didn't need to  
21 be exposed to that. She turns around with the fork and comes  
22 towards me, facing me, and I pulled up my legs and pushed her  
23 away.

24 THE COURT: So tell me from 2014 to 2018, what has  
25 happened? Why are you here now? Let me finish. You are now  
26 talking about an incident that happened in 2014. We're now in  
27 2018. Why are you here? What has happened recently that has not  
28 been litigated?

Appendix 'y'  
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1 MR. LOPEZ: It is -- first of all, I did bring these  
2 issues up.

3 THE COURT: Listen to my question. What has happened  
4 recently that has brought you here that has not already been  
5 litigated, because you are talking to me about an incident that  
6 happened in 2014. What has she done that has not been litigated  
7 previously in the RIV matter?

8 MR. LOPEZ: Here is a copy of a canceled check that was  
9 made out to me where the respondent cashed it without my knowing  
10 and without my signature.

11 THE COURT: How do I know that?

12 MR. LOPEZ: There is a statement here from the remitter  
13 of the check.

14 THE COURT: How do I know she did it?

15 MR. LOPEZ: Her signature is on it.

16 THE COURT: How do I know that's her signature?

17 MR. LOPEZ: She is here to confirm it for you, and I  
18 recognize the signature.

19 THE COURT: Okay.

20 MR. LOPEZ: Can I introduce that as evidence, please?

21 THE COURT: She has to see it first.

22 MR. LOPEZ: I have a copy for her as well.

23 MS. LOPEZ: It's from our previous landlord. He  
24 abandoned the lease agreement that we had, and I put my name, and  
25 I put "deposit only," and my bank cashed it.

26 THE COURT: And they gave you the money?

27 MS. LOPEZ: Yes.

28 THE COURT: Did you give him the money back?

Appendix 'y'  
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1 MS. LOPEZ: No.

2 THE COURT: What did you do with the money?

3 MS. LOPEZ: Take care of my four kids.

4 THE COURT: Okay. Sir, that's a criminal matter.

5 MR. LOPEZ: Exactly.

6 THE COURT: This isn't criminal court. This is civil  
7 court.

8 MR. LOPEZ: It's a criminal restraining order. It all  
9 stems from evidence that --

10 THE COURT: That's the other court. This is a domestic  
11 violence restraining order calendar. The only incidents that you  
12 talked to me about that happened that is of note to this Court is  
13 she may have tried to point a fork at you back in 2014. I asked  
14 you what brought you back here recently? You tell me potentially  
15 she may have cashed a check that she wasn't supposed to cash.  
16 She says yes, she cashed it, and took the money, and it was for  
17 deposit. That's not domestic violence.

18 MR. LOPEZ: It comes from the residence. I just  
19 learned on January 25 -- I will give you more facts.

20 THE COURT: That's not domestic violence.

21 MR. LOPEZ: In September or August of this past year,  
22 while at my residence with my parents in Corona, she sends her  
23 family -- her brother-in-law, her sister, and her mother -- and  
24 they block my car.

25 THE COURT: Was she there?

26 MR. LOPEZ: She was not there.

27 THE COURT: This is about her.

28 MR. LOPEZ: She is going to tell you that.

Appendix 'y'  
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1 THE COURT: Did you send them there to block him in?  
2 MS. LOPEZ: I didn't send them to block him in.  
3 THE COURT: Go ahead.  
4 MR. LOPEZ: She is the causation of these issues, Your  
5 Honor.  
6 THE COURT: I need them here to tell me that. You  
7 can't tell me they were sent by her. Number 1, you can't tell me  
8 what they said. That's hearsay. Number 2, I don't know that.  
9 MR. LOPEZ: She is not disputing it. It's in my  
10 request for the restraining order.  
11 THE COURT: She sent them there to do what?  
12 MR. LOPEZ: She sent them there to -- according to the  
13 mother, I had to surrender.  
14 THE COURT: You tell me what happened when they got  
15 there. What did you see when they got there?  
16 MR. LOPEZ: Upon learning about that --  
17 THE COURT: No. No. No. It's not what you learned.  
18 When they pulled up, where were you?  
19 MR. LOPEZ: Inside the house.  
20 THE COURT: What did you see?  
21 MR. LOPEZ: When I came out, I was -- I came out. My  
22 car was blocked.  
23 THE COURT: Okay.  
24 MR. LOPEZ: I greeted her mother warmly and hospitably.  
25 She made a demand for property.  
26 THE COURT: You can't tell me what the mom said.  
27 That's hearsay.  
28 MR. LOPEZ: The causation is --

Appendix y

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1 THE COURT: There is no causation.

2 MR. LOPEZ: It is because --

3 THE COURT: No, sir.

4 MR. LOPEZ: The pictures were demanded by her.

5 THE COURT: You can't tell me what somebody else said  
6 to you. That's hearsay because that person is not here to tell  
7 me that.

8 MR. LOPEZ: Ma'am, if they conspire to interfere with  
9 my peace and quiet and the only purpose for coming to my home and  
10 being hostile is by her direction, she is an accomplice to that.

11 THE COURT: What has she done recently that has not  
12 already been heard by another court?

13 MR. LOPEZ: By the way, as to the other court, I never  
14 had a chance to have a trial with Judge Domnitz. He stopped me.  
15 He said that we were done, and he said that this was not the  
16 proper venue.

17 THE COURT: I don't know what happened there. All I  
18 know is I got a denied restraining order. If that one comes  
19 back, certainly you get a rehearing on that, if it comes back  
20 from the appellate court. Right now, all I have is that case was  
21 heard.

22 MR. LOPEZ: The minute order doesn't say that.

23 THE COURT: But --

24 MR. LOPEZ: She has presented these responses to the  
25 restraining order request with untruths, and I've submitted it.

26 THE COURT: This is not about her untruths. This is  
27 about what happened, and why you need a restraining order.

28 MR. LOPEZ: I need a restraining order because she

Appendix y  
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1 continues to slander me. It's criminal slander.

2 THE COURT: When did she slander you?

3 MR. LOPEZ: Her response makes reference to me punching  
4 my daughter.

5 THE COURT: Her response does not get to be considered.  
6 Why did you file the restraining order, initially? Her response  
7 is her response to your filing a restraining order. She is  
8 entitled to put whatever she wants if she believes that I need to  
9 know that information in response to your restraining order. You  
10 can't now ask for a restraining order because she put something  
11 in her response that you believe is untrue. That's her truth to  
12 this court. What brought you here before her response that has  
13 not been heard?

14 MR. LOPEZ: I spent 37 days in custody because of a  
15 false allegation that she made to the Newport Beach Police  
16 Department.

17 THE COURT: How are you going to prove that other than  
18 you telling me --

19 MR. LOPEZ: I'm going to answer the question.

20 THE COURT: No. I need to finish, sir. Other than you  
21 telling me that you got exonerated, and, basically, you didn't do  
22 those things, then -- here is the thing: She made allegations.  
23 The police made a determination that they were going to file a  
24 report on that and refer it to the DA. The DA did their own  
25 investigation, and they made the determination not to file  
26 charges.

27 If they thought that she had made the charges up, guess  
28 what? She would be charged with filing a false report. Period.

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1 It can't be her because you have got two other folks trying to  
2 verify, and verified it, in order to file charges. If they  
3 believe after all the investigation and the trial that she went  
4 through that she made it up versus a jury that couldn't make a  
5 decision and they didn't meet their burden, then how do I now  
6 jump and leap to the conclusion that there are false allegations  
7 when the cops sent something, the DA sent something, and the  
8 Court allowed it to happen, for you to have a trial?

9 MR. LOPEZ: I'm going to respond to that.

10 THE COURT: Go ahead.

11 MR. LOPEZ: It was a long question. I will try my best  
12 to give you answers to all of it.

13 THE COURT: They weren't all questions. It was how are  
14 you going to tell me that the DA filing and the cops writing a  
15 report, that this was false allegations on her part? How can you  
16 prove that?

17 MR. LOPEZ: I'm going to try to answer that. I'm going  
18 to show you the proof.

19 THE COURT: Okay. Are these the same things that were  
20 filed previously and heard? You thought there were false  
21 allegations, and you attached all the information from the  
22 previous trial. It's the same thing that was heard before.

23 MR. LOPEZ: I'm trying to give you the answer.

24 THE COURT: Sir, it's the same thing from before.

25 MR. LOPEZ: Whether it's the same, I've established  
26 that the first time around, but we didn't have a trial.

27 THE COURT: Now, I'm looking at the minute order since  
28 you said that, and it doesn't say that. It says, "On 11-22, the

Appendix 'y'  
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1 Court has read and considered the request for the domestic  
2 violence restraining order. The Court does not find this to be  
3 domestic violence. The restraining order is denied." It doesn't  
4 say anything about jurisdiction. It says it's denied because the  
5 Court doesn't find this to be domestic violence.

6 MR. LOPEZ: We're moving on to another topic.

7 THE COURT: No, we're not moving on to another topic  
8 because it was discussed at the previous hearing. That one I  
9 specifically read in your previous restraining order that you  
10 filed in the RIV1701781 case.

11 MR. LOPEZ: That minute order does not give all the  
12 facts.

13 THE COURT: You have to give me the facts, sir.

14 MR. LOPEZ: I'm trying to.

15 THE COURT: You have to pull the transcript.

16 MR. LOPEZ: Ma'am --

17 THE COURT: You have to pull the transcript to show me  
18 that he said lack of jurisdiction versus a no domestic violence  
19 restraining order.

20 MR. LOPEZ: Right. That's part of the appeal.

21 THE COURT: Until the appeal comes through in your  
22 favor, all I have in front of me is that this matter was heard.  
23 A judge determined there was no domestic violence. I'm not  
24 hearing the same matter again.

25 MR. LOPEZ: These are different facts, Your Honor.

26 THE COURT: No, they are not.

27 MR. LOPEZ: I haven't answered the question.

28 THE COURT: They are not different facts.

Appendix 'y'  
x x x

1 MR. LOPEZ: They are. You don't -- you wouldn't let me  
2 answer. Let me tell you this, Ms. O'Rane --

3 THE COURT: Yes. It's Judge.

4 MR. LOPEZ: The reply to the respondent on the last  
5 matter wasn't received until after the hearing. I never had a  
6 chance to introduce the additional facts that are now here. They  
7 weren't heard.

8 THE COURT: I don't know that.

9 MR. LOPEZ: I'm telling you. That is my testimony.

10 THE COURT: Sir, no. No. The answer is no. No more  
11 on that issue. Do you have anything new?

12 MR. LOPEZ: Yes.

13 THE COURT: What is new, sir?

14 MR. LOPEZ: This is new. This is conflicting testimony  
15 from the respondent and her friend that the officer did not act  
16 on it, and he's part of a federal civil rights litigation,  
17 currently. The officer did not do his job. He interfered with  
18 my civil rights.

19 THE COURT: How is that her fault?

20 MR. LOPEZ: It's in her own handwriting. Her friend's  
21 testimony is completely different and conflicting than what she  
22 stated in the writing.

23 THE COURT: What does her friend's testimony have to do  
24 with her?

25 MR. LOPEZ: The issue is civil slander that we're  
26 discussing.

27 THE COURT: Then you sue her in civil court.

28 MR. LOPEZ: I know that.

Appendix 'g'  
xxx

1 THE COURT: I can't find a restraining order against  
2 her because she filed charges where the DA filed and took you to  
3 trial.

4 MR. LOPEZ: No. What you are giving me or what you  
5 should consider giving me is a restraining order to protect me  
6 from her continued criminal acts towards me.

7 THE COURT: What are the continued criminal acts, sir?

8 MR. LOPEZ: Here is the evidence.

9 THE COURT: What is the continued criminal acts?

10 MR. LOPEZ: I mentioned it.

11 THE COURT: Tell me.

12 MR. LOPEZ: I can introduce this into evidence.

13 THE COURT: Tell me what the criminal acts are. I'm  
14 asking you a question.

15 MR. LOPEZ: Criminal slander.

16 THE COURT: Previously we talked about that.

17 MR. LOPEZ: We haven't talked about this. This was in  
18 response to her reply, which wasn't received until after the  
19 hearing.

20 THE COURT: Sir, did you get to talk?

21 MR. LOPEZ: I'm talking.

22 THE COURT: At the previous hearing, you read her  
23 response, right?

24 MR. LOPEZ: No. There was no response until after the  
25 hearing.

26 THE COURT: So then, guess what? The judge didn't  
27 consider it.

28 MR. LOPEZ: He didn't consider anything. That's why

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Appendix y

**Additional material  
from this filing is  
available in the  
Clerk's Office.**