No. 21-5711

In the Supreme Court of the United States

IRVING ALEXANDER RAMIREZ,

Petitioner,

v.

STATE OF CALIFORNIA,

Respondent.

ON PETITION FOR A WRIT OF CERTIORARI TO THE CALIFORNIA SUPREME COURT

BRIEF IN OPPOSITION

ROB BONTA
Attorney General of California
MICHAEL J. MONGAN
Solicitor General
LANCE E. WINTERS
Chief Assistant Attorney General
JAMES WILLIAM BILDERBACK, II
Senior Assistant Attorney General
HELEN H. HONG
Deputy Solicitor General
ALICE B. LUSTRE
Supervising Deputy Attorney General
ELIZABETH W. HEREFORD*
Deputy Attorney General
455 Golden Gate Avenue, Suite 11000
San Francisco, CA 94102-7004
(415) 510-3801
Elizabeth.Hereford@doj.ca.gov
**Counsel of Record*

CAPITAL CASE

QUESTION PRESENTED

Whether the California Supreme Court correctly held that the presence of uniformed officers in the courtroom during closing arguments did not deprive petitioner of a fair trial in violation of the Sixth and Fourteenth Amendments of the United States Constitution.

TABLE OF CONTENTS

TABLE OF AUTHORITIES

Page

CASES

TABLE OF AUTHORITIES
(continued)

Page

CONSTITUTIONAL PROVISIONS

STATEMENT

1. Petitioner Irving Alexander Ramirez was convicted and sentenced to death for the 2005 murder of San Leandro Police Officer Nels "Dan" Niemi. Pet. App. A 1, 8. The trial evidence showed that Officer Niemi responded to a loitering complaint at an apartment complex where petitioner and friends had gathered on the evening of July 25. *Id.* at 4, 8. As Officer Niemi checked identification cards, petitioner drew a handgun and shot the officer in the head. *Id.* at 4. Officer Niemi fell on his back to the ground. *Id.* Petitioner then stood over Officer Niemi and fired the gun until the clip was empty, shooting him a total of six times in the head, jaw, chest, abdomen, and thigh. *Id.* at 4-5, 8.

After the shooting, petitioner and others fled in a car and petitioner disposed of the murder weapon in a marsh. Pet. App. A 5. Petitioner told his girlfriend later that evening that he shot Officer Niemi because he feared "that if the police officer called in his name, he would be arrested, because he had two guns and drugs on him." *Id.* at 6. The next morning, petitioner's girlfriend directed police officers to the marsh where petitioner had disposed of evidence. *Id.* at 7-8. There, the police recovered two handguns, including the gun used to shoot Officer Niemi. *Id.* at 8.

2. At trial, petitioner did not contest responsibility for killing Officer Niemi, but disputed whether he committed the killing with the mental state required for a conviction of first degree murder. Pet. App. A 1.

Before jury proceedings began, petitioner filed a motion to exclude any uniformed police officers as spectators from the courtroom, arguing that their presence would affect his right to a fair trial. Pet. App. A 34. Petitioner argued in the motion that the presence of uniformed officers would present an "unacceptable risk . . . of impermissible factors" influencing the trial and moved to limit their presence under an "inherent[] prejudice" standard. Pet. App. C 4 (C.T. 617). [1] The trial court denied the motion, declining to "rule prospectively" that all uniformed police officers would be prohibited from entering the courtroom. Pet. App. A 34. The court nonetheless emphasized that it would not allow "any spectators to simply stand in the court" or authorize uniformed officers to line the back wall of the courtroom. *Id.* at 35. The court invited counsel to revisit the issue if the presence of uniformed police officers became "over done" at trial. *Id.*

On the morning of closing arguments, petitioner's counsel renewed his motion to preclude or limit the number of uniformed officers in the courtroom. Pet. App. A 35. That motion was made and considered off the record. *Id.* After the court instructed the jury, the trial judge invited petitioner's attorney to make a record on the motion. *Id.* Counsel observed that "there was some 17 or 18" uniformed police officers in the gallery during closing arguments and argued that their presence prejudiced petitioner. *Id.*

---

[1] C.T. refers to the Clerk's Transcript of the proceedings in the courts below. R.T. refers to the Reporter's Transcript.

The trial court denied the motion, concluding that it "did not see any undue prejudice." Pet. App. A 35-36. The court reasoned that it had rearranged the seating so that the front row closest to the jurors did not contain any uniformed officers and the front row behind the bailiff was filled with petitioner's family members. *Id.* at 36. From the court's perspective, the seating arrangement made the uniformed officers less prominent and none of the officers otherwise drew attention. *Id.* The court also observed that it was "not a secret" that petitioner's case involved the killing of an officer, reducing any prejudicial effect of the officers' physical presence in the context of petitioner's case. *Id.*

During closing arguments, petitioner's attorney addressed the subject of the uniformed police officers with the jurors, asserting that the officers were "not here to send a message to anybody," and that the jurors should "reject," "resent," and "ignore" any influence they felt as a result of the officers' presence. Pet. App. A 36. The trial court also instructed the jurors to "decide what the facts are . . . based only on the evidence that has been presented to you in this trial. Do not let bias, sympathy, prejudice, or public opinion influence your decision." *Id.*

The jury convicted petitioner of first degree murder and found true two special circumstance allegations: that petitioner killed a police officer engaged in the lawful performance of his duties and that petitioner murdered an officer

to prevent or avoid lawful arrest. Pet. App. A 1. Following the penalty phase trial, the jury returned a verdict of death. *Id.* at 13.

3. The California Supreme Court affirmed the conviction and sentence. Pet. App. A 1. In a unanimous opinion, it held that the presence of uniformed officers as spectators in the courtroom during closing arguments did not deprive petitioner of a fair trial as guaranteed by the Sixth and Fourteenth Amendments of the United States Constitution. *Id.* at 39-49.

The court reasoned that it could evaluate whether "private-actor courtroom conduct" involving spectators was inherently prejudicial in the same way that this Court has evaluated various "state-sponsored courtroom practices," Pet. App. A 41—that is, by assessing whether the challenged conduct created an "'unacceptable risk . . . of impermissible factors coming into play'" during the trial, *id.* at 40 (quoting *Holbrook v. Flynn*, 475 U.S. 560, 570 (1986)). By evaluating petitioner's case for inherent prejudice, the court applied the framework that petitioner asked it to adopt.[2] And in conducting that inquiry, the court looked to "the scene presented to jurors," *id.* at 41-42

---

[2] Petitioner argued that the officers appeared at trial in their official capacities so that the inherent prejudice standard controlling "state-sponsored conduct" governed his claim. Appellant's Opening Br. 99 & n.35. Petitioner argued that the presence of uniformed officers as spectators under that standard presented an "unacceptable risk . . . of impermissible factors coming into play." *Id.*; *see generally id.* at 98-104; Appellant's Reply Br. 41. Respondent disputed whether the officers appeared in their official capacities when sitting in the courtroom as spectators, but argued that petitioner's claim failed under the "inherent prejudice" standard in any event. *See* Respondent's Br. 58.

(quoting *Flynn*, 475 U.S. at 572), evaluating the "level of prejudice attributable to a particular courtroom scene based on the 'totality of circumstances,'" *id.* at 42.

With respect to the presence of uniformed police officers as spectators, the court explained that the circumstances to be considered include the number of uniformed officers present, the location and grouping of the officers in the gallery, the ratio of uniformed officers to plainclothes spectators, the officers' conduct, the charged crime, the arguments of counsel, and the local community's relationship with law enforcement officers. Pet. App. A 42. It noted that the question is "'not whether jurors actually articulated a consciousness of some prejudicial effect, but rather whether "an unacceptable risk [was] presented of impermissible factors coming into play."'" *Id.* (quoting *Flynn*, 475 U.S. at 570).

Considering all those circumstances in the context of petitioner's case, the California Supreme Court concluded that petitioner failed to demonstrate that the presence of uniformed officers in the gallery was inherently prejudicial. Pet. App. A 42-43. The court acknowledged that 17 to 18 uniformed officers sat in the courtroom during closing arguments and recognized "'the threat that a roomful of uniformed . . . policemen might pose to a defendant's chances of receiving a fair trial.'" *Id.* at 43 (quoting *Flynn*, 475 U.S. at 570-571). At the same time, the court observed that the gallery in petitioner's case was full, and there was no evidence about the ratio of uniformed officers to non-uniformed

spectators. *Id.* The record thus did not reflect that the "number of uniformed officers alone had an outsized effect" on the trial proceedings. *Id.* at 44.

Moreover, the California Supreme Court credited the trial court for "specifically rearrang[ing] the seating so that uniformed officers would not sit in the row closest to the jury." Pet. App. A 45. Instead, petitioner's family members occupied the front row behind the bailiff and non-uniformed spectators filled the front row closest to the jurors. *Id.* at 38; Pet. App. C (R.T. 2612). The trial court witnessed no conduct from any of the spectators in the courtroom designed to intimidate jurors or to draw attention to the uniformed officers. *Id.* at 44-45. The trial court "expressly instructed" the jurors to decide the case "based only on the evidence that has been presented" and to ignore any "bias, sympathy, prejudice or public opinion." *Id.* at 45. And there was "no basis" to conclude that the jurors declined to follow the court's instructions. *Id.* at 46.

The California Supreme Court also reasoned that "there was a wide range of reasonable inferences that the jury could have drawn from the officers' presence" in the context of petitioner's trial, including that the officers attended closing arguments to support the victim's family, to show camaraderie for one another, or simply to watch "'an impressive drama' that is legal proceedings in a capital case." Pet. App. A 46.[3] Although the court

---

[3] Indeed, petitioner's counsel observed that it was "common practice" for

acknowledged a "risk of undue influence when a large number of uniformed police officers occupies a gallery," *id.* at 48, "under the particular circumstances of this case," *id.* at 48-49, the court could "[]not say that the risk of undue influence here was unacceptably high," Pet. App. B 1; *see also* Pet. App. A 46 (citing *Flynn*, 475 U.S. at 571 n.4). On that basis, the court held that petitioner had not established inherent prejudice. Pet. App. A 43, 49. And because petitioner did not contend that he suffered actual prejudice, the court concluded that petitioner had not established a constitutional violation. *Id.* at 47. But the court emphasized that its holding "should not dissuade trial courts, upon a motion and in appropriate circumstances, from ordering police officers observing a trial do so in civilian garb." *Id.* at 46 n.7.

ARGUMENT

Petitioner urges the Court to grant review in order to adopt a "per se rule" holding that all "spectator displays such as uniforms, buttons, and signs relevant to the case" are constitutionally "prohibited as inherently prejudicial." Pet. 8, 14. But he did not ask the California Supreme Court to evaluate his claim under such a per se rule. Nor does he identify any precedent supporting that rule. The approach most consistent with this Court's precedent and the great weight of lower-court authority examines the particular circumstances to determine if they were inherently prejudicial. And here, after considering

---

several fully-uniformed officers to attend the *pretrial* hearings, outside the presence of jurors, as spectators. Pet. App. C 1 (C.T. 614).

the totality of the circumstances in petitioner's case, the California Supreme Court properly held that the presence of uniformed police spectators in the gallery during closing arguments did not violate petitioner's rights under the Sixth and Fourteenth Amendments. Petitioner also argues that this case implicates a conflict among the lower courts about the proper standard for assessing Sixth Amendment challenges to spectator conduct. As explained below, however, this case would be an exceptionally poor vehicle for resolving any tension between the lower courts on that issue. And while lower courts did take "widely" divergent approaches on that subject before *Carey v. Musladin*, 549 U.S. 70, 76 (2006), each of the lower court decisions identified by petitioner that was issued after *Musladin* took a consistent approach—including the decision of the California Supreme Court below. That accords with the approach adopted by the substantial majority of lower courts examining spectator claims after *Musladin*.

1. A defendant "accused of a crime is entitled to have his guilt or innocence determined solely on the basis of the evidence introduced at trial, and not on grounds of official suspicion, indictment, continued custody, or other circumstances not adduced as proof at trial." *Taylor v. Kentucky*, 436 U.S. 478, 485 (1978). Certain activities "pose such a threat to the 'fairness of the factfinding process' that they are subjected to 'close judicial scrutiny.'" *Holbrook v. Flynn*, 475 U.S. 560, 568 (1986).

The Court has distinguished between cases involving state-sponsored activities and cases involving the conduct of spectators in the public gallery (like this one). *See, e.g.*, *Carey v. Musladin*, 549 U.S. 70, 75-76 (2006). With respect to state-sponsored conduct, the Court has examined whether the challenged practices are "so inherently prejudicial" that a defendant is "denied his constitutional right to a fair trial." *Flynn*, 475 U.S. at 570. In conducting that inquiry, a juror's "state[] of mind" (or other evidence of actual prejudice) is not dispositive. *Id.* Rather, the question is "whether 'an unacceptable risk is presented of impermissible factors coming into play.'" *Id.* (quoting *Estelle v. Williams*, 425 U.S. 501, 505 (1976)). The Court does not "presum[e]" that all state-sponsored conduct is "inherently prejudicial." *Id.* at 569. The inquiry instead commands a "case-by-case approach" to evaluate whether challenged conduct raises an unacceptable risk of impermissible factors influencing the outcome of a trial. *Id.* Applying that approach, the Court has held (for example) that compelling a defendant to be tried in jail attire against his will is inherently prejudicial, *Williams*, 425 U.S. at 508, but that the presence of four uniformed and armed officers to provide courtroom security is not inherently prejudicial, *Flynn*, 475 U.S. at 571. If "the challenged practice is not found inherently prejudicial," and the defendant does not separately establish actual prejudice, then "the inquiry is over." *Id.* at 572.

To date, this Court has not directly addressed "the effect on a defendant's fair-trial rights of . . . *spectator* conduct," or resolved whether the same

"inherently prejudicial" test applies in that context. *Musladin*, 549 U.S. at 76 (emphasis added). Most lower courts that have addressed that issue, however, have sought guidance from this Court's decision in *Flynn*, 475 U.S. 560. In that case, the Court rejected the view that the presence of identifiable state-sponsored security guards in the courtroom is always inherently prejudicial. *Id.* at 569. In light of "the variety of ways in which guards can be deployed," this Court held that "a case-by-case approach is more appropriate" than a presumption deeming that kind of state-sponsored conduct to be inherently prejudicial under all circumstances. *Id.* Consistent with that reasoning, lower courts "have consistently declined to hold that any particular category of spectator conduct is so inherently prejudicial that it necessarily deprives the defendant of a fair trial." *People v. Nelson*, 53 N.E.3d 691, 698 (N.Y. 2016).[4]

---

[4] *See, e.g.*, *State v. Davidson*, 509 S.W.3d 156, 196 (Tenn. 2016) ("After carefully reviewing applicable authorities, we conclude that a per se rule banning buttons is not appropriate. Instead, we extend the *Williams-Flynn* test to spectator conduct," under which trial courts "decide the issue on a case-by-case basis."); *Commonwealth v. Sanchez*, 36 A.3d 24, 47 (Pa. 2011) ("[T]he law does not support an assumption of inherent prejudice regarding private conduct, and appellant fails to develop sufficient argument to persuade us that such a presumption is warranted."); *Allen v. Commonwealth*, 286 S.W.3d 221, 229 (Ky. 2009) ("We decline, however, to conclude that the wearing of such clothing or buttons in the courtroom is so inherently unfair as always to constitute reversible error. Such a holding would cause a structural error to have occurred each time a potential juror caught a fleeting glimpse of a t-shirt or button bearing the likeness of a victim"); *State v. Lord*, 165 P.3d 1251, 1259 (Wash. 2007) ("[W]e reaffirm that there is no per se 'inherent prejudice [to] the defendant's right to fair trial from the wearing of buttons or other displays.'").

In line with that approach—and at petitioner's explicit request, *see* Appellant's Opening Br. 98-104; Appellant's Reply Br. 41—the California Supreme Court here reviewed the record for evidence of inherent prejudice. Pet. App. A 41. It examined the totality of circumstances and properly held that, on the record before it, those circumstances did not establish inherent prejudice. *See id.* at 42-49. In particular, the court considered the fact that the gallery was "full" at the time the uniformed officers observed closing arguments, *id.* at 43; that the trial court observed no conduct that drew attention to the uniformed officers, *id.* at 44; that the court took "attentive[]" and "proactive efforts" to rearrange the seating to distance the officers from the jury, *id.* at 45; and that the jurors had been instructed to ignore any "bias, sympathy, prejudice, or public opinion" in their deliberations, *id.* Based on those particular circumstances, the California Supreme Court concluded that the presence of uniformed police officers during arguments at petitioner's trial did not pose an unacceptable risk of impermissible factors influencing the outcome of trial. *Id.* at 43. And because petitioner did not contend that he suffered actual prejudice, the court concluded that petitioner had not established a constitutional violation. *Id.* at 47.

Petitioner asks the Court to reject that approach and replace it with a "per se rule" holding that all "spectator displays such as uniforms, buttons, and signs relevant to the case [are] inherently prejudicial." Pet. 8, 14. But he did not ask the state court to adopt a per se rule. *Supra* pp. 2, 4 & n.2; *see also*

Appellant's Opening Br. 96 ("Appellant's motion at trial and claim on appeal is not so broad or absolute."). And he does not identify any precedent that actually supports his preferred rule, or any other persuasive reason for adopting it. As the lower courts have recognized, "[a] per se rule of reversal is inappropriate in the context of spectator displays . . . because such displays may vary widely." *See Nelson*, 53 N.E.3d at 700; *cf. Chandler v. Florida*, 449 U.S. 560, 575 (1981) ("absolute constitutional ban" not justified when challenged conduct did not "invariably and uniformly" impair fundamental fairness at trial). Under petitioner's approach, the momentary presence of a spectating officer (no matter how fleeting) would be deemed inherently prejudicial and require reversal—even though inherent prejudice "rarely occurs and 'is reserved for extreme situations.'" *Woods v. Dugger*, 923 F.2d 1454, 1459 (11th Cir. 1991).

2. Petitioner also contends that this Court's review is warranted because lower courts have applied "widely" divergent tests to defendants' spectator-conduct claims. Pet. 10. While that was undoubtedly a fair characterization of lower-court authority *before* this Court's 2006 decision in *Carey v. Musladin*, 549 U.S. at 76 (noting that "lower courts have diverged widely"), petitioner fails to acknowledge that "*Musladin*, in effect, wiped the slate clean," *United States v. Farmer*, 583 F.3d 131, 149 (2d Cir. 2009). Every lower-court decision cited by petitioner that was issued *after Musladin* (Pet. 11) examined the record for inherent prejudice using the same approach employed in *Williams*

and *Flynn*.[5] And in those cases where the defendant argued that the challenged conduct was actually prejudicial, the courts also examined the record for evidence of actual prejudice after holding that the conduct was not inherently prejudicial. *Cf. Flynn*, 475 U.S. at 572 ("[I]f the challenged practice is not found inherently prejudicial and if the defendant fails to show actual prejudice, the inquiry is over.").[6] The California Supreme Court conducted an identical analysis in the proceedings below. Pet. App. A 39-47. The great weight of lower-court authority from that time period is in accord.[7]

---

[5] *See Farmer*, 583 F.3d at 150 ("On these facts, we cannot conclude that 'what [the jurors] saw was so inherently prejudicial as to pose an unacceptable threat to [the] defendant's right to a fair trial'"); *Overstreet v. State*, 877 N.E.2d 144, 158-159 (Ind. 2007) ("We are guided by the United States Supreme Court's recognition that certain courtroom practices are inherently prejudicial because they deprive the defendant of a fair trial by creating an unacceptable risk of impermissible factors coming into play."); *State v. Iromuanya*, 806 N.W.2d 404, 432 (Neb. 2011) ("We conclude that there is no reasonable probability that the spectators' wearing of memorial buttons created an unacceptable threat to [the defendant's] right to a fair trial. But our conclusion here does not mean that spectators' memorial displays could never reach such a level."); *Allen*, 286 S.W.3d at 229 ("[W]e reject a contention that the t-shirts created a situation of overwhelmingly inherent prejudice.").

[6] *See, e.g.*, *Allen*, 286 S.W.3d at 229 ("Since no veniremember stated that the t-shirts would affect service as a juror, Allen has not suffered any demonstrable prejudice.").

[7] *See, e.g.*, *Davidson*, 509 S.W.3d at 196 ("[W]e extend the *Williams-Flynn* test to spectator conduct. . . . A trial court should not allow buttons to be worn if they are so inherently prejudicial as to pose an unacceptable threat to the defendant's right to a fair trial or when the defendant establishes actual prejudice."); *Sanchez*, 36 A.3d at 47 ("To obtain relief on a claim that the trial court abused its discretion in responding to spectator conduct at trial, appellant must show that the spectator's actions caused actual prejudice or were inherently prejudicial."); *State v. Johnson*, 951 A.2d 1257, 1271 (Conn.

Citing two state court cases from Nebraska and Kentucky, petitioner argues that a few cases decided after *Musladin* relied exclusively on an actual prejudice test. *See* Pet. 11 (contending that *Iromuanya*, 806 N.W. 2d at 431, applied "actual prejudice test to spectators wearing victim memorial buttons," and that *Allen*, 286 S.W.3d at 229, applied "actual prejudice test"). But each of the cases cited by petitioner assessed the record under the same inherent prejudice standard employed in *Williams* and *Flynn* when analyzing claims involving spectator conduct. *See Iromuanya*, 806 N.W.2d at 432 (concluding there was "no reasonable probability that the spectators' wearing of memorial buttons created an unacceptable threat to Iromuanya's right to a fair trial"); *Allen*, 286 S.W.3d at 229 & n.23 (citing *Flynn* and holding that challenged t-shirts did not create "a situation of overwhelmingly inherent prejudice").

2008) ("a defendant who claims that a courtroom situation or environment rendered the jury incapable of being impartial has the burden of demonstrating either that the environment was inherently prejudicial or, in the alternative, that it caused actual prejudice"); *Lord*, 165 P.3d at 1262 ("On review, complaints regarding courtroom conduct under the supervision of trial courts require reversal only when a court is presented with an unacceptable risk. The requisite unacceptable risk of inherent prejudice to reverse requires more than the mere presence of photo buttons worn by grieving family members and spectators."); *see also Parker v. State*, 462 S.W.3d 559, 567-568 (Tex. Ct. App. 2015) ("Courts across the nation have applied the *Holbrook* test to spectator conduct involving emotional outbursts, wearing buttons or clothing with written messages, wearing buttons or clothing with the victim's image, wearing ribbons, and wearing identifiable law enforcement uniforms."); *Long v. State*, 151 So.3d 498, 501 (Fla. Dist. Ct. App. 2014) ("a defendant claiming he was denied a fair trial must show 'either actual or inherent prejudice'").

To be sure, a few state court decisions that were issued after *Musladin* (but are not cited by petitioner) appear to have relied exclusively on the actual prejudice standard in reviewing Sixth Amendment challenges to certain spectator displays.[8] But it is unclear whether that analytical approach made any difference to the outcome in those cases. And even if this Court were inclined to address the question of whether Sixth Amendment claims involving spectator conduct should be reviewed exclusively for actual prejudice, this case would be an especially poor vehicle for doing so. As noted above, the petitioner in this case *asked* the court below to analyze his claim under the inherent prejudice standard, *supra* pp. 2, 4 & n.2; he cannot seriously contend, at this juncture, that the court erred by applying the requested standard. Moreover, the lower court applied both "the standard of inherent prejudice articulated in *Williams* and *Flynn*," Pet. App. A 41, and the "actual prejudice" standard, *id.* at 47. After holding that, under the particular circumstances of this case, the presence of uniformed police officers in the gallery during closing arguments was not inherently prejudicial, *see id.* at 41-47, the court reasoned that

---

[8] *See, e.g.*, *State v. Harris*, 486 P.3d 576, 585 (Kan. 2021) ("Harris argues the challenged courtroom event inherently prejudiced him. But an inherent prejudice test is applicable only to state-sponsored practices."); *Nelson*, 53 N.E.3d at 699 ("[A] per se rule requiring reversal whenever a spectator displays a photograph of a deceased victim during trial is untenable . . . We further decline to apply the *Williams* and *Flynn* framework to hold that such displays are necessarily so inherently prejudicial that they require reversal and a new trial in every case."); *Davis v. State*, 268 P.3d 86, 100 (Okla. Crim. App. 2012) ("The inherent prejudice test used in *Williams* and *Flynn* has not been applied to private-actor or spectator conduct. . . . Therefore, Appellant must show actual prejudice.").

"[b]ecause defendant does not contend that there was actual prejudice, we conclude that defendant has not shown that he was denied a fair trial," *id.* at 47. So even if this Court were to hold that one standard or the other should exclusively govern this type of claim, petitioner would not prevail in either event.

CONCLUSION

The petition for a writ of certiorari should be denied.

Respectfully submitted,

ROB BONTA
Attorney General of California
MICHAEL J. MONGAN
Solicitor General
LANCE E. WINTERS
Chief Assistant Attorney General
JAMES WILLIAM BILDERBACK, II
Senior Assistant Attorney General
HELEN H. HONG
Deputy Solicitor General
ALICE B. LUSTRE
Supervising Deputy Attorney General

/s/ *Elizabeth W. Hereford*

ELIZABETH W. HEREFORD
Deputy Attorney General

November 18, 2021