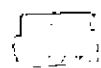


# APPENDIX

A



Filed: 1/26/22

**NOT TO BE PUBLISHED IN THE OFFICIAL REPORTS**

California Rules of Court, rule 8.1115(a), prohibits courts and parties from citing or relying on opinions not certified for publication or ordered published, except as specified by rule 8.1115(b). This opinion has not been certified for publication or ordered published for purposes of rule 8.1115.

IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA

SECOND APPELLATE DISTRICT

**COURT OF APPEAL - SECOND DIST.**

DIVISION SEVEN

**F I L E D**

Jan 26, 2022

DANIEL P. POTTER, Clerk

mgudiel Deputy Clerk

THE PEOPLE,

B314434

Plaintiff and Respondent,

(Los Angeles County  
Super. Ct. No. KA112598)

v.

EDGAR ARELLANO,

Defendant and Appellant.

APPEAL from a postjudgment order of the Superior Court of Los Angeles County, Juan Carlos Dominguez, Judge.

Affirmed.

Edgar Arellano, in pro. per., and Richard B. Lennon, under appointment by the Court of Appeal, for Defendant and Appellant.

No appearance by Plaintiff and Respondent.



( APPENDIX - A )

# APPENDIX

3

1 SUPERIOR COURT OF THE STATE OF CALIFORNIA  
2 FOR THE COUNTY OF LOS ANGELES  
3 DEPARTMENT EA-H HON. JUAN CARLOS DOMINGUEZ, JUDGE  
4  
5 THE PEOPLE OF THE STATE OF CALIFORNIA, )  
6 PLAINTIFF, )  
7 VS. ) NO. KA112598  
8 01-EDGAR ARELLANO, )  
9 DEFENDANT. )  
10  
11

12 REPORTERS' TRANSCRIPT OF PROCEEDINGS

13 JANUARY 13, 2017; JUNE 2, 2021

14  
15 APPEARANCES:

16 FOR THE PLAINTIFF: OFFICE OF THE DISTRICT ATTORNEY  
17 BY: BRENDAN J. SULLIVAN, DEPUTY  
211 WEST TEMPLE STREET, 12TH FLOOR  
LOS ANGELES, CALIFORNIA 90012

18 FOR THE DEFENDANT: OFFICE OF THE PUBLIC DEFENDER  
19 BY: TAMELA CASH-CURRY, DEPUTY  
210 WEST TEMPLE STREET, 19TH FLOOR  
LOS ANGELES, CALIFORNIA 90012

20  
21  
22  
23  
24  
25  
26  
27  
28

JACQUELINE HALL, CSR NO. 7951  
DEBRA KAY FORD, CSR NO. 12023  
OFFICIAL REPORTERS

( APPENDIX - B )

COURT OF APPEAL OF THE STATE OF CALIFORNIA  
SECOND APPELLATE DISTRICT

THE PEOPLE OF THE STATE OF CALIFORNIA, )  
PLAINTIFF-RESPONDENT, )  
VS. ) NO. KA112598  
01-EDGAR ARELLANO, )  
DEFENDANT-APPELLANT. )

APPEAL FROM THE SUPERIOR COURT OF LOS ANGELES COUNTY  
HONORABLE JUAN CARLOS DOMINGUEZ, JUDGE PRESIDING  
REPORTERS' TRANSCRIPT OF PROCEEDINGS ON APPEAL

JANUARY 13, 2017; JUNE 2, 2021

APPEARANCES:

FOR THE PLAINTIFF-RESPONDENT: STATE ATTORNEY GENERAL  
300 SOUTH SPRING STREET  
NORTH TOWER, SUITE 1701  
LOS ANGELES, CALIFORNIA 90013

FOR THE DEFENDANT-APPELLANT: IN PROPRIA PERSONA

FOR THE DEFENDANT-APPELLANT: IN PROPRIA PERSONA

**COPY**

AUG 24 2021

VOLUME 1 OF 1  
PAGES 1 THROUGH 361-600

DEBRA KAY FORD, CSR NO. 12023  
OFFICIAL REPORTER

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MAY NOT BE EXAMINED WITHOUT COURT ORDER		
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MARSDEN HEARING; CONFIDENTIAL -		
MAY NOT BE EXAMINED WITHOUT COURT ORDER		

## CHRONOLOGICAL WITNESSES

(NONE OFFERED.)

## ALPHABETICAL WITNESSES

(NONE OFFERED.)

## EXHIBITS

<u>PEOPLE'S</u>	<u>DESCRIPTION</u>	<u>MARKED</u>	<u>ADMITTED</u>
	(NONE OFFERED.)		
<u>DEFENSE</u>	<u>DESCRIPTION</u>	<u>MARKED</u>	<u>ADMITTED</u>
	(NONE OFFERED.)		
<u>COURT'S</u>	<u>DESCRIPTION</u>	<u>MARKED</u>	<u>ADMITTED</u>
	(NONE OFFERED.)		

1 CASE NUMBER: KA112598-01  
2 CASE NAME: PEOPLE VS. EDGAR ARELLANO  
3 POMONA, CALIFORNIA JANUARY 13, 2017  
4 DEPARTMENT EA-F HON. JACK P. HUNT, JUDGE  
5 REPORTER: JACQUELINE HALL, CSR NO. 7951  
6 TIME: A.M. SESSION  
7

8 APPEARANCES:

9 DEFENDANT EDGAR ARELLANO, PRESENT WITH  
10 COUNSEL, TAMELA CASH-CURRY, DEPUTY PUBLIC  
11 DEFENDER; JOHN URGO, DEPUTY DISTRICT  
12 ATTORNEY, REPRESENTING THE PEOPLE OF THE  
13 STATE OF CALIFORNIA.

14  
15 THE COURT: PEOPLE VERSUS EDGAR ARELLANO, CASE  
16 KA112598. THE DEFENDANT IS PRESENT IN CUSTODY WITH  
17 COUNSEL, DEPUTY PUBLIC DEFENDER TAMELA CASH-CURRY.

18 THE PEOPLE ARE REPRESENTED BY DEPUTY  
19 DISTRICT ATTORNEY JOHN URGO.

20 THE MATTER IS HERE FOR ARRAIGNMENT.

21 MS. CASH-CURRY, WAIVE READING OF THE  
22 INFORMATION, STATEMENT OF RIGHTS?

23 MS. CASH-CURRY: YES, YOUR HONOR.

24 THE COURT: HOW DOES YOUR CLIENT WISH TO PLEAD?

25 MS. CASH-CURRY: YOUR HONOR, THERE WILL BE A NO  
26 CONTEST PLEA TO COUNT 1 IN THIS MATTER AND AN ADMISSION OF  
27 THE STRIKE AND FIVE-YEAR PRIORS.

28 THE COURT: MR. ARELLANO, DO YOU UNDERSTAND THE

1 COURT WILL TREAT A NO CONTEST PLEA THE SAME AS A GUILTY  
2 PLEA AND YOU WILL BE FOUND GUILTY ON THAT PLEA?

3 THE DEFENDANT: YES, YOUR HONOR.

4 THE COURT: I HAVE TO ADVISE YOU THAT IF YOU ARE  
5 NOT A CITIZEN OF THE UNITED STATES A PLEA OF NO CONTEST TO  
6 THIS CHARGE WILL RESULT IN YOUR DEPORTATION, EXCLUSION  
7 FROM ADMISSION OR REENTRY TO THE UNITED STATES, AND DENIAL  
8 OF NATURALIZATION AND AMNESTY.

9 DO YOU UNDERSTAND THAT?

10 THE DEFENDANT: YES, YOUR HONOR.

11 THE COURT: THE CONDUCT CREDITS ARE 20 PERCENT,  
12 RIGHT?

13 MR. URGO: IT IS 85 PERCENT. IT IS 15 PERCENT,  
14 JUDGE. 85 PERCENT CASE.

15 THE COURT: PERSON PRESENT. OKAY.

16 MR. ARELLANO, I HAVE A DOCUMENT ENTITLED  
17 FELONY ADVISEMENT OF RIGHTS, WAIVER, AND PLEA FORM.

18 DID YOU READ AND UNDERSTAND THIS FORM?

19 THE DEFENDANT: I'M SORRY, SIR?

20 THE COURT: I HAVE A DOCUMENT ENTITLED FELONY  
21 ADVISEMENT OF RIGHTS, WAIVER, AND PLEA FORM.

22 DID YOU READ AND UNDERSTAND THE FORM?

23 THE DEFENDANT: YES, YOUR HONOR.

24 THE COURT: DID YOU GO OVER IT THOROUGHLY WITH YOUR  
25 LAWYER?

26 THE DEFENDANT: YES, YOUR HONOR.

27 THE COURT: DO YOU HAVE ANY QUESTIONS?

28 THE DEFENDANT: (NO RESPONSE.)

1 THE COURT: IF YOU DO, ASK YOUR LAWYER.

2

3 (CONVERSATION BETWEEN THE DEFENDANT  
4 AND COUNSEL.)

5

6 MS. CASH-CURRY: HE WANTS TO FINISH HIS CLASSES IN  
7 COUNTY JAIL. HE IS ENROLLED IN CLASSES.

8 THE COURT: BETTER TALK TO THE D.A.

9 MR. URGO: HE HAS TO BE SENTENCED TODAY.

10 THE COURT: DO YOU HAVE ANY OTHER QUESTIONS?

11 THE DEFENDANT: CAN I ASK YOU A QUESTION, SIR? I  
12 MEAN TO THE COURT.

13 THE COURT: SURE.

14 THE DEFENDANT: I MEAN, THE REASON WHY ALL THIS --  
15 I GET IN TROUBLE IS BECAUSE I HAVE A DRUG PROBLEM.

16 THE COURT: LOOK, YOU'VE BEEN IN AND OUT OF PRISON.  
17 YOU'VE HAD A NUMBER OF OPPORTUNITIES. I HEAR THIS EVERY  
18 DAY WHEN PEOPLE ARE SITTING THERE. NOW I WANT A PROGRAM  
19 BECAUSE I'M SITTING IN CUSTODY LOOKING AT A LOT OF YEARS.  
20 AS SOON AS YOU WALK OUT THAT DOOR YOU DON'T WANT A  
21 PROGRAM.

22 ALSO, AFTER I SENTENCE YOU I'LL SAY, YOU  
23 WANT ME TO SEND YOU TO DONOVAN OR CORCORAN? YOU'RE GOING  
24 TO SAY, NO, I WANT FIRE CAMP.

25 THE DEFENDANT: I WANT A LIFE IS WHAT I WANT. I  
26 WANT A LIFE.

27 THE COURT: THIS IS THE DEAL. THERE'S NOTHING I  
28 CAN DO ABOUT IT. YOU GOT THE STRIKES. IT IS UP TO THE

1 D.A. THEY HOLD THE CARDS.

2 THE DEFENDANT: YOUR HONOR, PLEASE, I'VE NEVER --

3 WHEN I TRY TO DO THE PROGRAMS IN JAIL IT'S  
4 JUST SUCH A RUCKUS IN THERE, IT'S SO CRAZY IN THERE, YOU  
5 CAN'T EVEN DO IT.

6 THE COURT: MS. CASH-CURRY, DO YOU WANT ME TO JUST  
7 SET IT FOR TRIAL?

8 THE DEFENDANT: NO, SIR, YOU DON'T HAVE TO SET IT  
9 FOR TRIAL.

10 MS. CASH-CURRY: WE'RE READY. THANK YOU, YOUR  
11 HONOR.

12 THE COURT: DO YOU WANT TO TAKE THE DEAL?

13 THE DEFENDANT: YES, YOUR HONOR.

14 THE COURT: ARE THESE YOUR INITIALS IN THE BOXES  
15 AND YOUR SIGNATURE AT THE TOP OF PAGE 4?

16 THE DEFENDANT: YES, YOUR HONOR.

17 THE COURT: DO YOU WAIVE AND GIVE UP ALL OF THE  
18 RIGHTS ON THE FORM?

19 THE DEFENDANT: YES, YOUR HONOR.

20 THE COURT: MR. URGO.

21 MR. URGO: MR. ARELLANO, AS A CONSEQUENCE OF YOUR  
22 PLEA YOU'LL BE SENTENCED TO STATE PRISON FOR 22 YEARS.  
23 UPON YOUR RELEASE YOU'LL BE PLACED ON PAROLE. IF YOU  
24 VIOLATE YOUR PAROLE YOU CAN BE REMANDED BACK IN CUSTODY  
25 FOR UP TO 180 DAYS FOR EACH VIOLATION.

26 ADDITIONALLY, A MANDATORY RESTITUTION FINE  
27 OF AT LEAST \$300 MUST BE IMPOSED.

28 YOU WILL BE REQUIRED TO PROVIDE SAMPLES FOR

1 A DNA DATABASE.

2 BECAUSE THIS IS A STRIKE OFFENSE, ANY  
3 FELONY YOU COMMIT IN THE FUTURE THE TERM OF IMPRISONMENT  
4 YOU'LL FACE IS 25 YEARS TO LIFE.

5 DO YOU UNDERSTAND THE CONSEQUENCES OF YOUR  
6 PLEA?

7 THE DEFENDANT: YES.

8 MR. URGO: ARE YOU ENTERING YOUR PLEA FREELY AND  
9 VOLUNTARILY AND BECAUSE YOU FEEL IT IS IN YOUR BEST  
10 INTEREST TO DO SO?

11 THE DEFENDANT: YES, SIR.

12 MR. URGO: DO YOU ALSO AGREE THAT RESTITUTION IN  
13 THIS CASE MAY BE CALCULATED AS TO ALL COUNTS, EVEN THOUGH  
14 YOU'RE NOT PLEADING GUILTY TO ALL?

15 THE DEFENDANT: YES, SIR.

16 MR. URGO: DO YOU WAIVE AND GIVE UP ALL RIGHTS,  
17 INTEREST OR CLAIMS YOU HAVE IN ANY OF THE PROPERTY THAT  
18 WAS SEIZED DURING THE COURSE OF THIS INVESTIGATION AND  
19 AGREE THAT THOSE ITEMS MAY BE EITHER RETURNED TO THE  
20 LAWFUL OWNERS OR OTHERWISE FORFEITED TO THE POLICE  
21 DEPARTMENT?

22 THE DEFENDANT: YES, SIR.

23 MR. URGO: COUNSEL STIPULATE THERE IS A FACTUAL  
24 BASIS FOR THE PLEA BASED ON THE PRELIMINARY HEARING  
25 TRANSCRIPT, THE PROBATION REPORT, AND THE ARREST REPORTS?

26 MS. CASH-CURRY: YES.

27 MR. URGO: MR. ARELLANO, TO COUNT 1, A VIOLATION OF  
28 SECTION 459 OF THE PENAL CODE, FIRST DEGREE RESIDENTIAL

1 BURGLARY WITH A PERSON PRESENT, HOW DO YOU PLEAD?

2 THE DEFENDANT: GUILTY.

3 MS. CASH-CURRY: NO CONTEST.

4 THE DEFENDANT: NO CONTEST.

5 MR. URG: DO YOU UNDERSTAND THAT WILL BE TREATED  
6 THE SAME AS A GUILTY PLEA?

7 THE DEFENDANT: YES.

8 MR. URG: DO YOU ADMIT THAT DURING THE COMMISSION  
9 OF COUNT 1 A PERSON WAS PRESENT, IN VIOLATION OF SECTION  
10 667.5(C) OF THE PENAL CODE?

11 THE DEFENDANT: YES, SIR.

12 MR. URG: DO YOU ADMIT SUFFERING ONE PRIOR FELONY  
13 CONVICTION ALLEGED UNDER SECTION 1170.12(A) THROUGH (D)  
14 AND SECTION 667(B) THROUGH (I) OF THE PENAL CODE, THAT  
15 PRIOR OCCURRING ON MAY 6TH, 1999, UNDER CASE NUMBER  
16 KA044287, FOR THE OFFENSE OF 459 OF THE PENAL CODE?

17 THE DEFENDANT: YES, SIR.

18 MR. URG: DO YOU ALSO ADMIT SUFFERING TWO PRIOR  
19 CONVICTIONS ALLEGED UNDER SECTION 667(A) (1) OF THE PENAL  
20 CODE, THE FIRST OCCURRING ON MAY 6TH, 1999, UNDER CASE  
21 NUMBER KA044287, FOR THE OFFENSE OF 459 OF THE PENAL CODE,  
22 AND THE SECOND ON JUNE 12TH, 2002, UNDER CASE NUMBER  
23 VA070097, FOR THE OFFENSE OF 459 OF THE PENAL CODE?

24 THE DEFENDANT: YES, SIR.

25 MR. URG: COUNSEL JOIN IN THE WAIVERS AND CONCUR  
26 IN THE PLEA?

27 MS. CASH-CURRY: I DO.

28 THE COURT: THE COURT ACCEPTS THE PLEA AND

1 ADMISSIONS. I FIND THE WAIVERS ARE KNOWINGLY,  
2 INTELLIGENTLY, AND UNDERSTANDINGLY MADE, THE PLEA AND  
3 ADMISSIONS ARE FREELY AND VOLUNTARILY GIVEN, THE DEFENDANT  
4 UNDERSTANDS THE NATURE OF THE CHARGE AND THE CONSEQUENCES  
5 OF THE PLEA AND ADMISSIONS.

6 BASED ON THE STIPULATION I FIND THERE IS A  
7 FACTUAL BASIS FOR THE PLEA. I FIND THE DEFENDANT GUILTY  
8 ON THE PLEA.

9 I ALSO MAKE ALL THE FINDINGS ABOVE MY  
10 SIGNATURE ON PAGE 4 OF THE WAIVER AND PLEA FORM.

11 MS. CASH-CURRY, WAIVE TIME FOR SENTENCING?  
12 MS. CASH-CURRY: TIME IS WAIVED, YOUR HONOR. NO  
13 LEGAL CAUSE. MY CLIENT HAS 239 ACTUAL DAYS CREDIT.

14 THE COURT: PARDON?

15 MS. CASH-CURRY: 239 DAYS ACTUAL.

16 THE COURT: CORRECT.

17 BASED ON THE AGREEMENT BETWEEN THE PARTIES  
18 THE COURT IS GOING TO IMPOSE THE FOLLOWING SENTENCE AS TO  
19 COUNT 1:

20 THE DEFENDANT IS SENTENCED TO THE HIGH TERM  
21 OF SIX YEARS IN THE STATE PRISON. THAT SENTENCE IS  
22 DOUBLED PURSUANT TO PENAL CODE SECTION 1170.12(A) THROUGH  
23 (D) FOR A SENTENCE OF 12 YEARS.

24 THE DEFENDANT IS SENTENCED TO AN ADDITIONAL  
25 TEN YEARS, FIVE YEARS FOR EACH OF THE 667(A)(1) PRIORS,  
26 FOR A TOTAL SENTENCE OF 22 YEARS.

27 THE DEFENDANT HAS CREDIT FOR 239 DAYS OF  
28 ACTUAL TIME, PLUS 35 DAYS CONDUCT CREDITS, FOR A TOTAL

1 CREDIT OF 274 DAYS.

2 THE DEFENDANT IS TO PAY A \$300 RESTITUTION  
3 FINE, A \$40 COURT OPERATIONS FEE, A \$30 CRIMINAL  
4 CONVICTION ASSESSMENT FEE, AND A \$10 CRIME PREVENTION FUND  
5 FINE. THE DIRECTOR OF THE DEPARTMENT OF CORRECTIONS MAY  
6 DEDUCT THOSE FROM THE DEFENDANT'S EARNINGS.

7 THE DEFENDANT IS TO PAY A \$300 PAROLE  
8 REVOCATION FINE. THAT FINE IS STAYED UNLESS PAROLE IS  
9 REVOKED.

10 THE COURT IS GOING TO RESERVE JURISDICTION  
11 OVER ACTUAL RESTITUTION.

12 SIR, YOU ARE NOT TO OWN, USE OR POSSESS ANY  
13 FIREARMS OR AMMUNITION FOR THE REST OF YOUR LIFE.

14 YOU ARE TO PROVIDE DNA SPECIMENS AND  
15 SAMPLES TO THE L.A. COUNTY SHERIFF'S DEPARTMENT PURSUANT  
16 TO PENAL CODE SECTION 296. WILLFUL REFUSAL TO PROVIDE  
17 SUCH SPECIMENS AND SAMPLES IS A CRIME.

18 PEOPLE'S MOTION AS TO REMAINING COUNTS AND  
19 ALLEGATIONS?

20 MR. URGO: MOVE TO DISMISS.

21 THE COURT: GRANTED.

22 THE DEFENDANT IS REMANDED TO THE CUSTODY OF  
23 THE SHERIFF FOR TRANSPORTATION TO THE DEPARTMENT OF  
24 CORRECTIONS.

25  
26 (PROCEEDINGS WERE CONCLUDED.)

27  
28 (THE NEXT PAGE NUMBER IS 301.)

1 CASE NUMBER: KA112598  
2 CASE NAME: PEOPLE VS. 01-EDGAR ARELLANO  
3 POMONA, CALIFORNIA WEDNESDAY, JUNE 2, 2021  
4 DEPARTMENT EA-H HON. JUAN CARLOS DOMINGUEZ, JUDGE  
5 REPORTER: DEBRA KAY FORD, CSR NO. 12023  
6 TIME: A.M. SESSION

7 APPEARANCES:

8 DEFENDANT, EDGAR ARELLANO, PRESENT WITH  
9 COUNSEL, TAMALA CASH-CURRY, DEPUTY  
10 PUBLIC DEFENDER; BRENDAN SULLIVAN,  
11 DEPUTY DISTRICT ATTORNEY, REPRESENTING  
12 THE PEOPLE OF THE STATE OF CALIFORNIA.

13

14 THE COURT: LET'S CALL THE MATTER OF EDGAR  
15 ARELLANO.

16 MR. ARELLANO IS PRESENT.

17 GOOD MORNING, SIR.

18 THE DEFENDANT: GOOD MORNING.

19 THE COURT: HE'S REPRESENTED BY COUNSEL, MS. TAMALA  
20 CASH-CURRY.

21 AND FOR THE PEOPLE? PLEASE STATE YOUR  
22 APPEARANCE.

23 MR. SULLIVAN: BRENDAN SULLIVAN. GOOD MORNING.

24 THE COURT: GOOD MORNING, MR. SULLIVAN.

25 ALL RIGHT. MR. ARELLANO, BACK IN FEBRUARY OF  
26 THIS YEAR, YOU FILED A MOTION THAT YOU WANTED TO RELIEVE  
27 YOUR ATTORNEY, MS. CASH-CURRY, AS YOUR ATTORNEY OF  
28 RECORD; THAT YOU NO LONGER WANTED HER TO REPRESENT YOU

1 BECAUSE THERE WAS A CONFLICT OF INTEREST. I DENIED IT  
2 WITHOUT PREJUDICE AT THAT TIME AND INDICATED THAT IT  
3 COULD BE RENEWED, IF YOU WISHED, AT THE TIME OF YOUR  
4 HEARING WHICH WAS THEN PLANNED FOR MARCH 16TH. BUT  
5 BECAUSE OF PANDEMIC AND SO ON AND SO FORTH, IT WAS MOVED  
6 TO TODAY'S DATE, AND THE FACT THAT YOU WERE NOT BROUGHT  
7 OUT FROM STATE PRISON.

8 NOW, MY FIRST QUESTION TO YOU IS, IS THIS  
9 SOMETHING THAT YOU STILL WOULD LIKE TO PURSUE?

10 THE DEFENDANT: YES, SIR. I WOULD LIKE TO PURSUE  
11 THE MOTION.

12 THE COURT: OKAY. THAT'S ENOUGH.

13 ALL RIGHT. THEN, MR. SULLIVAN, IF YOU CAN  
14 PLEASE STEP OUT.

15 MR. SULLIVAN: YES, YOUR HONOR.

16

17 (THE MARSDEN HEARING, PAGES 303 THROUGH  
18 315, HAS BEEN PREPARED UNDER SEPARATE  
19 COVER BY ORDER OF THE COURT; SAID  
20 TRANSCRIPT HAS BEEN LODGED WITH THE  
21 CLERK IN A SEALED ENVELOPE MARKED  
22 CONFIDENTIAL - MAY NOT BE EXAMINED  
23 WITHOUT A COURT ORDER.)

24

25

26

27

28

1 (THE DEPUTY DISTRICT ATTORNEY RETURNED  
2 TO THE COURTROOM AND THE PROCEEDINGS  
3 RESUMED AS FOLLOWS:)

4  
5 MR. SULLIVAN: HI, YOUR HONOR.

6 THE COURT: ALL RIGHT. MAY I HAVE THAT REMITTITUR  
7 BACK.

8 MR. SULLIVAN: YES. OF COURSE.

9 MAY I APPROACH?

10 THE COURT: YES.

11 ALL RIGHT. MR. SULLIVAN IS NOW BACK IN THE  
12 COURTROOM.

13 ALL RIGHT. AND MR. ARELLANO AND COUNSEL --  
14 AND I KNOW COUNSEL --

15 HAVE YOU READ THE REMITTITUR, MR. ARELLANO?

16 THE DEFENDANT: FROM THE APPELLATE COURT?

17 THE COURT: YES.

18 THE DEFENDANT: YES, I HAVE.

19 THE COURT: OKAY. ALL RIGHT.

20 THIS PART IS VERY IMPORTANT BECAUSE THE COURT  
21 OF APPEALS IS TRYING TO SEND YOU A MESSAGE. OKAY? IT  
22 SAYS HERE -- AND THIS IS IN THE DISPOSITION. IT SAYS,  
23 "THE ORDER DENYING ARELLANO'S POST JUDGMENT MOTION IS  
24 REVERSED. THE MATTER IS REMANDED WITH DIRECTIONS TO THE  
25 SUPERIOR COURT TO CONSIDER ARELLANO'S REQUEST" -- AND  
26 THIS IS THE IMPORTANT SENTENCE -- "IF HE ELECTS TO MAKE  
27 ONE TO REDUCE HIS SENTENCE BY DISMISSING ONE OR BOTH  
28 PRIOR SERIOUS FELONY ENHANCEMENTS PREVIOUSLY IMPOSED."

1 AND IF REQUESTED -- "AND IF A REQUEST IS MADE, TO FOLLOW  
2 THE PROCESS DESCRIBED IN THE SUPREME COURT IN STAMPS,"  
3 WHICH IS 9 CAL.5TH AT 685.

4 THE REASON THAT THE COURT OF APPEAL IS  
5 INDICATING THIS TO YOU IS BECAUSE YOU HAVE TO MAKE A  
6 DECISION. BECAUSE IT'S NOT AS SIMPLE AS JUST SIMPLY  
7 ASKING ME TO REDUCE YOUR PRIORS. AND I THINK THERE WAS  
8 ONE PRIOR ALLEGED. SO TO REDUCE YOUR SENTENCE -- TWO  
9 PRIORS ALLEGED. TO REDUCE YOUR PRIORS BY TEN YEARS AND  
10 OFF WE GO. THAT'S NOT THE WAY IT WORKS.

11 SEE, YOU WERE FACING A 25-YEAR TO LIFE  
12 SENTENCE.

13 THE DEFENDANT: (NODDED HEAD.)

14 THE COURT: YOUR ATTORNEY -- AND THAT'S AN  
15 INDETERMINATE SENTENCE. SHE WAS ABLE TO SECURE FOR YOU  
16 A DETERMINATE SENTENCE.

17 AN INDETERMINATE HAS A BEGINNING BUT IT HAS  
18 NO END. THE BOARD OF PAROLE -- THE BOARD OF PAROLE CAN  
19 KEEP YOU FOR THE REST OF YOUR LIFE. WITH A DETERMINATE  
20 SENTENCE -- AND I KNOW YOU PROBABLY KNOW ALL OF THIS --  
21 AT A CERTAIN DATE YOU ARE RELEASED AND YOU MUST BE  
22 RELEASED. I DON'T KNOW WHEN YOUR RELEASE DATE IS. I  
23 KNOW 22 YEARS IS A LONG TIME, BUT YOU DO HAVE A RELEASE  
24 DATE. AND THAT'S WHAT WAS NEGOTIATED FOR YOU BY  
25 MS. CASH-CURRY.

26 NOW, I WANT YOU TO LISTEN TO WHAT THE COURT  
27 SAID IN STAMPS. DID YOU READ STAMPS?

28 THE DEFENDANT: YES, I DID.

1           THE COURT:  OKAY.  SO YOU UNDERSTAND THAT AND I  
2  WON'T READ IT THEN.  BUT I WILL READ THIS PART.  AND  
3  THEY QUOTE PEOPLE V. ELLIS, WHICH IS 2019,  
4  43 CAL.APP.5TH AT 925.

5           IT SAYS, "GIVEN THAT DEFENDANTS IN A CRIMINAL  
6  CASE PRESUMABLY OBTAIN SOME BENEFIT FROM THE PLEA  
7  AGREEMENT, WE ANTICIPATE THAT THERE WILL BE DEFENDANTS  
8  WHO DETERMINE THAT, NOTWITHSTANDING THEIR ENTITLEMENT TO  
9  SEEK RELIEF BASED ON THE CHANGE IN THE LAW, THEIR  
10 INTERESTS ARE BETTER SERVED BY PRESERVING THE STATUS  
11 QUO.  THAT DETERMINATION, HOWEVER, LIES IN EACH INSTANCE  
12 WITH THE DEFENDANT."

13           THAT'S WHAT THE COURT OF APPEAL IS TELLING  
14 YOU.

15           "WHILE IT IS TRUE THAT DEFENDANT HAS  
16 CONSISTENTLY ARGUED ON APPEAL THAT SENATE BILL 1393  
17 SHOULD RETROACTIVELY APPLY TO HIM, HIS ARGUMENT HAS  
18 ALWAYS BEEN COUPLED WITH THE CLAIM THAT THE PROPER  
19 REMEDY SHOULD BE TO SIMPLY ALLOW THE TRIAL COURT TO  
20 REDUCE HIS SENTENCE BY FIVE YEARS WHILE OTHERWISE  
21 MAINTAINING THE REMAINDER OF THE PLEA AGREEMENT.  NOW  
22 THAT WE HAVE REJECTED THIS PROPOSED REMEDY, DEFENDANT'S  
23 CALCULUS IN SEEKING RELIEF UNDER SENATE BILL 1393 MAY  
24 HAVE CHANGED.  THE DEFENDANT SHOULD BE ALLOWED TO MAKE  
25 AN INFORMED DECISION WHETHER TO SEEK RELIEF ON REMAND."

26           IN ESSENCE, WHAT THEY'RE TELLING YOU, SIR, IF  
27 YOU -- IF I GRANT YOUR RELIEF, YOU'RE BACK TO SQUARE  
28 ONE.  YOU'RE BACK TO LOOKING AT 25 TO LIFE.  DO YOU

1 UNDERSTAND THAT?

2 THE DEFENDANT: YES, SIR.

3 THE COURT: BASED ON THAT, BEFORE I PROCEED, DO YOU  
4 WISH TO SPEAK TO YOUR ATTORNEY? BECAUSE IF -- AGAIN, I  
5 HAVEN'T HEARD FROM THE PROSECUTION. I DON'T KNOW WHAT  
6 THEY WOULD DO. BUT IF -- I JUST SIMPLY CANNOT SAY 1393  
7 APPLIES RETROACTIVELY TO MR. ARELLANO, WHICH IT DOES,  
8 ACCORDING TO THE COURT OF APPEAL OPINION, AND THAT HIS  
9 22-YEAR SENTENCE NOW BECOMES A 12-YEAR SENTENCE. THAT'S  
10 NOT THE WAY IT WORKS. BECAUSE THIS WAS A PLEA  
11 AGREEMENT. THIS WAS A CONTRACT. SO THEY SAY, WE  
12 WITHDRAW FROM THAT PLEA AGREEMENT AND, JUDGE, WE WANT TO  
13 SET THIS MATTER FOR TRIAL.

14 AND IF WE -- AND IF WE PROCEED TO TRIAL AND  
15 YOU LOSE AT TRIAL, THE LIKELIHOOD OF YOU GETTING A 25 TO  
16 LIFE YEAR SENTENCE IS VERY REAL. AND I SAY THIS BECAUSE  
17 YOU HAVE TWO PRIOR BURGLARY CONVICTIONS. YOU WERE A  
18 REGISTERED SEX OFFENDER AT THE TIME THAT YOU COMMITTED  
19 THIS THIRD BURGLARY. YOU WERE FOUND IN POSSESSION OF  
20 WOMEN'S UNDERGARMENTS BY THE POLICE.

21 SO THIS IS SOMETHING THAT YOU NEED TO REALLY  
22 ANALYZE AND SAY I BETTER HANG ON TO MY DEAL OR, HEY, I  
23 THINK I HAVE A GOOD CHANCE OF PREVAILING AT TRIAL; LET  
24 ME PROCEED TO THAT.

25 SO WITH THOSE -- WITH THAT IN MIND, I WOULD  
26 LIKE FOR YOU TO HAVE A FRANK DISCUSSION WITH YOUR  
27 ATTORNEY OR YOU CAN TELL ME NOW THAT YOU DO NOT WANT TO  
28 PROCEED WITH THIS AND WE CAN JUST END THE MATTER HERE.

1           THE DEFENDANT: I WOULD LIKE TO HAVE A FRANK  
2 CONVERSATION WITH MY ATTORNEY.

3           BUT, AGAIN, YOU KNOW, IN REGARDS TO, YOU  
4 KNOW, ME DISMISSING HER AND STUFF LIKE THAT, I DON'T  
5 KNOW IF I CAN HAVE THAT FRANK DISCUSSION WITH HER.

6           THE COURT: MS. CASH-CURRY IS A PROFESSIONAL. I  
7 DON'T BELIEVE THAT SHE HAS ANY PERSONAL ANIMUS TOWARDS  
8 YOU. SHE'S GOING TO DO HER JOB THAT SHE'S BEEN SWORN TO  
9 DO, AND SHE'S GOING TO GIVE YOU WHAT SHE BELIEVES TO BE  
10 THE BEST ADVICE THAT SHE CAN GIVE YOU BASED ON THE  
11 CIRCUMSTANCES.

12           THE DEFENDANT: OKAY.

13           THE COURT: AT THE SENTENCING, YOU WERE A LITTLE  
14 BIT HESITANT. AND SHE ASKED YOU -- BECAUSE I READ THE  
15 SENTENCING TRANSCRIPT. SHE ASKED YOU, "MR. ARELLANO,  
16 WOULD YOU LIKE TO PROCEED TO TRIAL?" AND YOU SAID, "NO,  
17 I DO NOT WANT TO PROCEED TO TRIAL. I WANT TO TAKE THIS  
18 AGREEMENT." AND THEN THAT'S WHEN YOU WERE SENTENCED TO  
19 THE 22 YEARS PURSUANT TO THE AGREEMENT THAT SHE AND THE  
20 PROSECUTOR CAME UP WITH AND WHICH THE COURT ACCEPTED.

21           NOW, YOU ARE SEEKING TO UNDO THAT AGREEMENT,  
22 IN ESSENCE, BY -- BY PERHAPS MISUNDERSTANDING. AND IT'S  
23 NOT YOUR FAULT BECAUSE IT'S CONFUSING BY THINKING, WELL,  
24 IF 1393 APPLIES RETROACTIVELY TO ME, I CAN KEEP -- I CAN  
25 UNDO PART OF THE AGREEMENT BUT KEEP THE REST OF THE  
26 AGREEMENT INTACT. THAT'S NOT THE WAY IT WORKS, UNLESS  
27 THE PROSECUTION AGREES. BUT IF THE PROSECUTION DOES NOT  
28 AGREE AND SAYS, NO, YOU KNOW, OUR AGREEMENT WAS WE -- WE

1 DIDN'T HAVE HIM PLEAD TO -- OVER TO -- DIDN'T HAVE HIM  
2 ADMIT TO A THIRD STRIKE, WHICH WOULD HAVE RENDERED HIM  
3 WITH A 25 TO LIFE SENTENCE, AND YOU HAD COMMITTED ONE  
4 PRIOR STRIKE SO HIS SENTENCE WOULD BE DOUBLED. THAT WAS  
5 THE AGREEMENT.

6 SO THIS IS SOMETHING THAT YOU NEED TO REALLY  
7 ANALYZE. BECAUSE IF YOU GO BACK -- THIS IS NOT -- THIS  
8 CASE IS NOT THAT OLD. IT'S 2016. I'M SURE THE  
9 WITNESSES ARE STILL AROUND AND THINGS OF THAT NATURE.  
10 SO THIS IS SOMETHING THAT YOU NEED TO REALLY THINK HARD  
11 ABOUT.

12 SO I'M GOING TO PUT THIS MATTER -- I MEAN,  
13 IT'S 10:30. WHENEVER YOU FOLKS ARE READY TO COME BACK,  
14 I'LL BE HERE.

15 THE DEFENDANT: IF I MAY, YOUR HONOR?

16 THE COURT: YES.

17 THE DEFENDANT: I DON'T FEEL THIS IS SOMETHING THAT  
18 CAN JUST BE TAKEN CARE OF WITHIN A COUPLE MINUTES.

19 THE COURT: NO, I DIDN'T SAY A COUPLE MINUTES.

20 THE DEFENDANT: YEAH. YEAH. WHAT I'M TRYING TO  
21 GET AT IS, IS THERE ANY WAY I CAN HAVE A CONTINUANCE?

22 THE COURT: NO, YOU'RE NOT GOING TO HAVE A  
23 CONTINUANCE, SIR. THIS IS A REALLY STRAIGHTFORWARD  
24 SITUATION.

25 THE DEFENDANT: YEAH. I --

26 THE COURT: EXCUSE ME. YOU KNOW WHAT THE EVIDENCE  
27 IS. YOU HAD MENTIONED EARLIER THAT SHE DIDN'T DO DUE  
28 DILIGENCE WITH ONE OF YOUR PRIORS. THAT'S AN IMPORTANT

1 CONCEPT. BUT YOU HAVE TO -- YOU HAVE TO -- THERE HAS TO  
2 BE -- IT HAS TO BE BASED IN REALITY.

3 THE DEFENDANT: RIGHT.

4 THE COURT: ONE OF THE PRIOR CONVICTIONS IS A 1999  
5 CONVICTION. THE OTHER ONE, I THINK, IS A 200-

6 MR. SULLIVAN: IT WAS A 2002.

7 THE COURT: YES, A 2002, WHICH I THINK IS THE ONE  
8 YOU ADMITTED TO. BUT UNLESS THE 1999 CONVICTION WAS NOT  
9 YOU, I DON'T KNOW WHAT DUE DILIGENCE IS -- OR THAT  
10 SOMEHOW THE EVIDENCE THAT IS -- THAT POINTS THAT IT WAS  
11 YOUR CONVICTION IS SOMEHOW FAULTY OR WHAT HAVE YOU, THEN  
12 YOU MAY BE SPINNING YOUR WHEELS. BUT THAT'S WHERE YOU  
13 HAVE TO -- BUT THAT'S AN IMPORTANT CONCEPT. BECAUSE IF  
14 YOU ONLY SUFFERED ONE PRIOR CONVICTION, THEN THAT'S AN  
15 IMPORTANT DISCUSSION THAT YOU NEED TO HAVE WITH YOUR  
16 ATTORNEY. OKAY? SO -- AND I'M NOT ASKING YOU TO  
17 MAKE -- I'M HERE UNTIL 4:30. YOU CAN HAVE UNTIL 4:00 TO  
18 MAKE YOUR DECISION.

19 MS. CASH-CURRY: I HAVE ANOTHER HEARING SO I KNOW  
20 THAT HE IS THE FIRST MATTER THAT I'VE TENDED TO THIS  
21 MORNING.

22 THE COURT: WELL, WHY DON'T YOU TALK TO HIM. IF HE  
23 NEEDS TO THINK IT OVERNIGHT, YOU CAN HAVE OVERNIGHT.  
24 OKAY?

25 MS. CASH-CURRY: OKAY.

26 THE COURT: IF HE -- IT'S A BIG DECISION THAT HE'S  
27 MAKING.

28 MS. CASH-CURRY: ABSOLUTELY.

1 THE COURT: IT'S A -- JUST IF HE WANTS TO PROCEED.

2 I'M NOT SAYING THAT I'M GOING TO GRANT YOUR  
3 REQUEST, BUT I JUST WANT YOU TO MAKE AN INFORMED  
4 DECISION ON WHICH YOU WANT TO PROCEED. BECAUSE IF I  
5 DECIDE THAT I WILL GRANT YOUR REQUEST, YOU KNOW WHERE  
6 YOU STAND.

7 MS. CASH-CURRY: YOUR HONOR, I JUST WANT TO SAY FOR  
8 THE RECORD -- BECAUSE I UNDERSTAND THE COURT'S POSITION,  
9 AND I APPRECIATE THE COURT GIVING MY CLIENT AN  
10 OPPORTUNITY TO HAVE FURTHER DISCUSSION WITH ME. BUT I  
11 DO WANT TO SAY FOR THE RECORD THAT IF MR. ARELLANO WERE  
12 TO SPEAK TO THE COURT RIGHT NOW, HE CAN INDICATE THAT I  
13 DID HAVE THIS CONVERSATION WITH HIM ALREADY.

14 THE COURT: OKAY.

15 MS. CASH-CURRY: SO, HOWEVER --

16 THE COURT: ALL RIGHT.

17 MS. CASH-CURRY: AND I HAD THAT CONVERSATION PRIOR  
18 TO US COMING BEFORE THE COURT. HOWEVER, SINCE THE COURT  
19 HAS NOW HAD SOME CONVERSATION IN THE PRESENCE OF THE  
20 PROSECUTOR, I'M HAPPY TO REVISIT THAT CONVERSATION WITH  
21 MR. ARELLANO. SO I WANT THE COURT TO BE AWARE THAT I'M  
22 OPEN TO HAVING FURTHER DISCUSSION WITH HIM IN CASE THERE  
23 WAS SOMETHING THAT I SAID EARLIER THAT HE DID NOT  
24 UNDERSTAND OR IN CASE THE COURT HAS SAID SOMETHING NOW  
25 UPON WHICH HE WISHES TO ASK ME QUESTIONS FOR, THAT HE  
26 DID NOT HAVE AN OPPORTUNITY TO DO SO EARLIER.

27 THE COURT: RIGHT. OKAY.

28 MS. CASH-CURRY: SO --

1 THE COURT: THANK YOU. I APPRECIATE IT.

2 MS. CASH-CURRY: THANK YOU.

3 MR. SULLIVAN: YOUR HONOR, FOR MY SCHEDULE, IS  
4 THERE A PARTICULAR TIME THAT YOU WANT ME TO COME BACK  
5 TODAY OR HOW SHOULD WE DO IT?

6

7 (MR. SULLIVAN AND MS. CASH-CURRY

8 CONFERRED SOTTO VOCE.)

9

10 THE COURT: I HAVE TO BELIEVE THAT DECISION --  
11 WELL, I'M NOT GOING TO PUT A TIME LIMIT ON IT. YOU TWO  
12 WORK IT OUT.

13 MR. SULLIVAN: OKAY.

14 THE COURT: I'M AVAILABLE WHENEVER YOU ARE.

15 MR. SULLIVAN: OKAY.

16 THE DEFENDANT: YOUR HONOR, WHEN WE WERE SPEAKING  
17 EARLIER WHEN THE D.A. WAS NOT IN HERE, IS THAT DONE AND  
18 OVER WITH?

19 THE COURT: I SAID WITHOUT PREJUDICE. AFTER YOU  
20 HAVE A DISCUSSION --

21 THE DEFENDANT: WE CAN GO BACK ON IT?

22 THE COURT: WITH MS. -- I HAVE A FEELING I KNOW  
23 WHAT SHE'S GOING TO TELL YOU. OKAY?

24 THE DEFENDANT: RIGHT.

25 THE COURT: AND ALWAYS KEEP IN MIND THAT AN  
26 ATTORNEY DOES NOT DO THEIR JOB JUST BY SIMPLY TELLING  
27 YOU WHAT YOU WANT TO HEAR.

28 THE DEFENDANT: RIGHT. RIGHT.

1           THE COURT:  OKAY?  THEY HAVE TO TELL YOU WHAT THEY  
2        THINK -- THEY DO THIS FOR A LIVING AND THEY KNOW THE  
3        FORUM THAT THEY'RE IN.  SO -- BUT IF THERE'S STILL  
4        SOMETHING YOU WOULD LIKE TO ADDRESS WITH REGARDS TO YOUR  
5        RELATIONSHIP WITH MS. CASH-CURRY, I'LL LISTEN TO IT  
6        AGAIN.

7           THE DEFENDANT:  YEAH, PLEASE.  I WASN'T TOO CLEAR  
8        AS TO WHAT THE FINAL HEARING OR DECISION WAS WITH  
9        REGARDS --

10          THE COURT:  I'M NOT REPLACING HER AT THIS TIME.  
11        SHE'S GOING TO CONTINUE FOR THE PURPOSES OF THE  
12        REMITTITUR.

13          THE DEFENDANT:  OKAY.

14          THE COURT:  SHE WILL CONTINUE TO BE YOUR ATTORNEY.

15          THE DEFENDANT:  WELL, THE REASON WHY IS BECAUSE I  
16        PUT A WRIT OF MANDATE TO THE APPELLATE COURT REGARDING  
17        THIS ISSUE.  AND I WOULD LIKE --

18          THE COURT:  REGARDING WHAT ISSUE?

19          THE DEFENDANT:  INEFFECTIVE -- REJECTING MY  
20        POSITION TO RENEW COUNSEL.

21          THE COURT:  WHAT DO YOU MEAN?  I HAVEN'T RULED ON  
22        IT YET.

23          THE DEFENDANT:  SO THAT WAS MY QUESTION.

24          THE COURT:  I SAID, FOR NOW -- I SAID I'VE DENIED  
25        IT WITHOUT PREJUDICE.  DO YOU UNDERSTAND WHAT THAT  
26        MEANS?

27          THE DEFENDANT:  YES.  THAT MEANS I CAN REVISIT IT.

28          THE COURT:  THAT'S RIGHT.  SO THERE HAS NOT BEEN A

1 FINAL DECISION. UNLESS I MAKE A FINAL DECISION, SHE'S  
2 GOING TO CONTINUE TO BE YOUR ATTORNEY AND THEN YOU CAN  
3 FILE YOUR WRIT. YOU CAN FILE AN APPEAL. YOU CAN FILE  
4 WHATEVER YOU WANT.

5 THE DEFENDANT: I APPRECIATE THAT, YOUR HONOR.  
6 THANK YOU FOR CLARIFYING THAT.

7 THE COURT: ALL RIGHT. VERY WELL.

8 HE DEFENDANT: THANK YOU, SIR.

9 MS. CASH-CURRY: THANK YOU, YOUR HONOR.

10 THE COURT: OKAY.

11

12 (UNRELATED MATTER HEARD.)

13

14 (AT 10:40 A.M. THE MATTER WAS ADJOURNED  
15 UNTIL 1:30 P.M. OF THE SAME DAY.)

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1 CASE NUMBER: KA112598  
2 CASE NAME: PEOPLE VS. 01-EDGAR ARELLANO  
3 POMONA, CALIFORNIA WEDNESDAY, JUNE 2, 2021  
4 DEPARTMENT EA-H HON. JUAN CARLOS DOMINGUEZ, JUDGE  
5 REPORTER: DEBRA KAY FORD, CSR NO. 12023  
6 TIME: P.M. SESSION  
7 APPEARANCES:

8 DEFENDANT, EDGAR ARELLANO, PRESENT WITH  
9 COUNSEL, TAMELA CASH-CURRY, DEPUTY  
10 PUBLIC DEFENDER; BRENDAN SULLIVAN,  
11 DEPUTY DISTRICT ATTORNEY, REPRESENTING  
12 THE PEOPLE OF THE STATE OF CALIFORNIA.

13  
14 THE COURT: ALL RIGHT. WE'RE BACK ON THE MATTER OF  
15 EDGAR ARELLANO.

16 MR. ARELLANO IS PRESENT. MS. TAMELA  
17 CASH-CURRY IS PRESENT, AND MR. SULLIVAN IS ALSO PRESENT  
18 FOR THE PEOPLE.

19 ALL RIGHT. NOW, AS TO THE FIRST QUESTION  
20 THAT WE HAVE TO ANSWER, IS MR. ARELLANO GOING TO PROCEED  
21 WITH HIS REQUEST?

22 MS. CASH-CURRY: ARE YOU -- ARE YOU INQUIRING ABOUT  
23 IS HE GOING TO PROCEED WITH HIS REQUEST TO ADDRESS THE  
24 COURT WITH A -- AS TO A MARSDEN?

25 THE COURT: NO. IS HE -- BECAUSE IF HE SAYS HE  
26 DOES NOT WANT TO PROCEED WITH HIS MOTION PURSUANT TO  
27 SB -- IS IT 1393?

28 MS. CASH-CURRY: YES.

1 THE COURT: THEN THE MARSDEN ISSUE IS MOOT.

2 MS. CASH-CURRY: HE DOES WISH TO PROCEED.

3 THE COURT: OKAY.

4 SO THEN I WOULD ASK MR. SULLIVAN TO STEP OUT.

5

6 (THE MARSDEN HEARING, PAGES 329 THROUGH  
7 341, HAS BEEN PREPARED UNDER SEPARATE  
8 COVER BY ORDER OF THE COURT; SAID  
9 TRANSCRIPT HAS BEEN LODGED WITH THE  
10 CLERK IN A SEALED ENVELOPE MARKED  
11 CONFIDENTIAL - MAY NOT BE EXAMINED  
12 WITHOUT A COURT ORDER.)

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1 (THE DEPUTY DISTRICT ATTORNEY RETURNED  
2 TO THE COURTROOM AND THE PROCEEDINGS  
3 RESUMED AS FOLLOWS:)

4  
5 THE COURT: ALL RIGHT. SO WE'RE BACK,  
6 MR. SULLIVAN -- OR WE'RE BACK AND SO IS MR. SULLIVAN.

7 MR. SULLIVAN: THANK YOU.

8 THE COURT: MS. CASH-CURRY, WOULD YOU LIKE TO BE  
9 HEARD ON THE DEFENDANT'S REQUEST? YES.

10 MS. CASH-CURRY: HOLD ON.

11 MY CLIENT WISHES TO SPEAK TO ME NOW.

12 THE COURT: YES.

13

14 (MS. CASH-CURRY AND HER CLIENT CONFERRED  
15 OFF THE RECORD.)

16

17 MS. CASH-CURRY: MY CLIENT WISHES TO MAKE A  
18 STATEMENT, YOUR HONOR --

19 THE COURT: YES.

20 GO AHEAD.

21 MS. CASH-CURRY: -- TO THE COURT BECAUSE I WANT TO  
22 MAKE SURE THAT IT IS HIS STATEMENT.

23 THE COURT: YES.

24 GO AHEAD, SIR.

25 THE DEFENDANT: YES, YOUR HONOR.

26 MY STATEMENT IS WHEN I CAME INTO COURT, THE  
27 PROSECUTOR, THE D.A., THE DEPUTY DISTRICT ATTORNEY,  
28 STATED THAT HE WANTED TO PROCEED WITH THE 25 TO LIFE.

1 AND I DIDN'T KNOW THAT UNTIL I GOT HERE RIGHT NOW. YOU  
2 KNOW? I MEAN, OUT OF HIS WORDS, OUT OF THE D.A.'S  
3 WORDS. YOU KNOW? AND THAT WOULD JUST BE A DEATH  
4 SENTENCE FOR ME. I'LL NEVER GET OUT OF PRISON TO SEE MY  
5 FAMILY. I JUST CAME HERE TODAY TO SEE MY FAMILY A  
6 LITTLE FASTER. THAT'S IT.

7 THE COURT: I UNDERSTAND PERFECTLY, SIR.

8 THE DEFENDANT: BECAUSE I LOVE THEM. YOU KNOW?  
9 I'M SORRY.

10 THE COURT: OKAY. I UNDERSTAND WHAT YOU'RE SAYING  
11 AND I HEAR YOU. AND I PERFECTLY UNDERSTAND YOUR DESIRE.

12 AGAIN, NO ONE IS CRITICIZING YOU FOR TRYING  
13 TO TAKE ADVANTAGE OF A PARTICULAR PIECE OF LEGISLATION  
14 THAT MAY BE BENEFICIAL FOR YOU, OF COURSE. THAT'S WHY  
15 IT'S THERE AND THAT'S AVAILABLE TO YOU.

16 WHAT I THINK WE'RE ALL COLLECTIVELY TRYING TO  
17 DO IS TO MAKE SURE THAT YOU DON'T ASK FOR SOMETHING THAT  
18 YOU, LATER ON, WISH YOU DIDN'T ASK FOR. BECAUSE IT'S  
19 NOT AS SIMPLE AS MANY FOLKS BELIEVE, THAT SB 1393  
20 REMOVES THE BAD STUFF BUT KEEPS THE GOOD STUFF. IT  
21 REMOVES EVERYTHING AND YOU'RE BACK TO SQUARE ONE.  
22 YOU'RE BACK TO WHERE YOU BEGAN. SO IF I GRANT YOUR  
23 REQUEST, YOU WILL BE BACK AS -- BACK BEFORE THE COURT  
24 AS -- IN THE EXACT SAME POSITION YOU WERE PRIOR TO YOUR  
25 PLEA, AND EVERYTHING'S ON THE TABLE.

26 NOW, MANY THINGS CAN HAPPEN BECAUSE TRIALS IN  
27 CRIMINAL CASES ARE DYNAMIC AND A LOT OF THINGS CAN  
28 HAPPEN EITHER IN YOUR FAVOR OR AGAINST YOUR FAVOR. NO

1       ONE CAN PREDICT IT. BUT IT IS YOU WHO MUST BE WILLING  
2       TO TAKE THAT RISK IF THAT'S WHAT YOU WANT TO DO. THAT'S  
3       WHY, AGAIN, IT IS IMPORTANT THAT YOU UNDERSTAND THE  
4       LANGUAGE OF THE COURT OF APPEAL WHEN THEY SAY THE MATTER  
5       IS REMANDED WITH DIRECTIONS TO THE SUPERIOR COURT --  
6       THAT'S ME -- TO CONSIDER ARELLANO'S REQUEST IF HE ELECTS  
7       TO MAKE ONE.

8           MS. CASH-CURRY: AND, YOUR HONOR, WHAT I'VE ASKED  
9       MY CLIENT TO STATE ON THE RECORD WAS WHAT HE STATED TO  
10       ME JUST MOMENTS BEFORE HE BEGAN ADDRESSING THE COURT.

11           WHAT HE STATED TO ME WAS, BASED ON THE  
12       CONVERSATION THAT WE HAD, HE DOES NOT WISH TO MOVE  
13       FORWARD AND HE WANTED TO KEEP THINGS AS IS.

14           AND I SAID, YOU NEED TO SAY THAT ON THE  
15       RECORD BECAUSE THERE'S BEEN A LOT OF BACK AND FORTH, AND  
16       I WANT YOU TO MAKE THAT STATEMENT.

17           SO THAT'S WHEN I ASKED THE COURT IF HE COULD  
18       ADDRESS THE COURT.

19           THE COURT: YES.

20           MS. CASH-CURRY: HE HAS NOT SAID THAT YET TO THE  
21       COURT.

22           THE COURT: NO, HE HASN'T.

23           MS. CASH-CURRY: HE HAS NOT OFFICIALLY SAID WHAT HE  
24       SAID TO ME WHEN I GOT UP TO GO AROUND TO HEAR HIM  
25       CLEARLY. SO I WANT TO MAKE SURE, AGAIN, THAT THIS IS  
26       MR. ARELLANO'S CHOICE AND DECISION BASED ON WHAT HE SAID  
27       TO ME, WHICH HE SAID WAS BASED ON THE CONVERSATIONS THAT  
28       HE HAD WITH ME EARLIER. SO I'M STILL WAITING FOR HIM TO

1 SAY WHAT HE SAID TO ME TO THE COURT SO THAT THE COURT  
2 HAS A DEFINITIVE ANSWER WITH REGARD TO WHETHER OR NOT HE  
3 WISHES TO PROCEED WITH THE REMITTITUR AND THE REQUEST  
4 THAT HE -- THAT WAS PREVIOUSLY BEFORE THE COURT.

5 THE COURT: AND BEFORE I HEAR YOU, MR. ARELLANO,  
6 UNDERSTAND THAT NOTWITHSTANDING THE FACT THAT YOUR  
7 ATTORNEY MAY HAVE GIVEN YOU CERTAIN ADVICE AND THE COURT  
8 HAS HAD SOME DISCUSSION WITH YOU TO MAKE SURE THAT YOU  
9 UNDERSTAND YOUR POSITION, YOU DON'T HAVE TO LISTEN TO  
10 MS. CASH-CURRY. YOU DON'T HAVE TO TAKE HER ADVICE. YOU  
11 DON'T HAVE TO CONSIDER WHAT I'VE SAID. YOU MAKE YOUR  
12 OWN DECISION BASED ON WHAT YOU WANT TO DO WITH YOUR CASE  
13 BECAUSE IT IS YOUR CASE.

14 MS. CASH-CURRY: EXACTLY.

15 THE COURT: AND YOU'VE ARTICULATED THE REASONS WHY  
16 YOU WANT TO -- YOU FILED A MOTION IN THE FIRST PLACE  
17 OBVIOUSLY AND IT'S -- ONCE AGAIN, IT'S UNDERSTANDABLE  
18 WHY YOU DID IT. ANYONE IN YOUR SHOES WOULD HAVE DONE  
19 THE SAME THING. OKAY?

20 SO WHAT IS IT THAT YOU WOULD LIKE TO DO, SIR?

21 THE DEFENDANT: WELL, YOU KNOW, WITH THE CARDS I'M  
22 BEING DEALT RIGHT NOW -- YOU DENIED MY MOTION TO REPLACE  
23 MY ATTORNEY.

24 SHE TOLD ME THAT THE DIRECTIVES BY THE LEAD  
25 DISTRICT ATTORNEY, GEORGE GASCON, ARE NOT GOING TO APPLY  
26 TO ME. YOU KNOW WHAT I MEAN? HIS DIRECTIVES ARE TO NOT  
27 HAND OUT ENHANCEMENTS BUT, ACCORDING TO HER, IT WOULD  
28 NOT APPLY TO ME.

1           THE COURT: BUT, SEE, HERE'S YOUR PROBLEM THOUGH.  
2 IT'S BECAUSE IF I -- THIS -- THE ISSUE WITH YOUR CASE --  
3 UNDERSTAND IT'S NOT THE FIVE-YEAR PRIORS. THAT'S NOT  
4 THE ISSUE. THE ISSUES IS WITH THE STRIKES. AND THE  
5 DISTRICT ATTORNEY'S OFFICE HAS BEEN ENJOYING, AT LEAST  
6 SO FAR BY A JUDGE OF THE SUPERIOR COURT, THAT THEY MUST  
7 PROCEED WITH STRIKES THAT HAVE ALREADY BEEN FILED. THEY  
8 CAN'T -- THEY CAN'T ASK THE COURT TO DISMISS AND MOST  
9 LIKELY THE COURTS WILL NOT DISMISS IT. SO UNDERSTAND  
10 NOTHING -- YOUR DANGER IS NOT THAT YOU WILL GET  
11 RESENTENCED AGAIN TO THE FIVE-YEAR PRIORS. THAT'S NOT  
12 YOUR DANGER. THE DANGER HERE IS THAT YOU WOULD BE  
13 THEN -- IF YOU ARE CONVICTED, BOTH OF YOUR PRIOR STRIKES  
14 ARE FOUND TO BE TRUE AND THAT THEY ARE STRIKE OFFENSES  
15 AND THAT YOU ARE THE PERSON WHO SUFFERED THOSE STRIKES,  
16 YOU WILL BE SENTENCED TO 25 YEARS TO LIFE.

17           BASED ON THE RECORD OF WHAT I SAW WHAT  
18 HAPPENED HERE IN THIS CASE -- I'M TALKING ABOUT THE  
19 YOUNG LADY, 3:00 IN THE MORNING IN A COLLEGE DORMITORY.  
20 YOU'RE IN HER ROOM. YOU'RE LATER FOUND IN THE BATHROOM.  
21 YOU ARE ARRESTED IMMEDIATELY WITH YOUR ZIPPER DOWN WITH  
22 WOMEN -- WITH THIS YOUNG LADY'S GARMENTS --  
23 UNDERGARMENTS AND FEMININE PADS IN YOUR POSSESSION,  
24 ACCORDING TO THE PRELIMINARY HEARING TRANSCRIPT, WHICH I  
25 READ. YOU WERE REQUIRED TO REGISTER AS A SEX OFFENDER.  
26 UNDERSTAND THAT THESE ARE FACTS THAT ARE NOT FAVORABLE  
27 TO YOU. THAT DOESN'T MEAN THAT -- AND I'M NOT TRYING TO  
28 PREDICT WHAT I WOULD DO WITH THESE FIVE-YEAR PRIORS. I

1 JUST WANT TO KNOW -- I WANT YOU TO UNDERSTAND, IF YOU  
2 PROCEED AND I GRANT WHAT YOU WANT, WHERE YOU STAND.  
3 SO -- SO I'M ATTEMPTING TO INFORM YOU FULLY THAT IF YOU  
4 GET WHAT YOU WANT, THE PROSECUTION GETS TO DO WHAT THEY  
5 WANT. BECAUSE IT WAS A PLEA AGREEMENT. YOU CAN'T JUST,  
6 AGAIN, CUT OUT THAT PART THAT YOU DON'T LIKE AND KEEP  
7 THE PART THAT YOU LIKE. BECAUSE YOU WOULD LIKE TO SAY,  
8 JUDGE, REDUCE MY SENTENCE BY 10 YEARS. I'LL KEEP THE  
9 6 YEARS TIMES TWO FOR 12 YEARS. MY TOTAL SENTENCE IS  
10 12 YEARS BUT JUST THROW AWAY THE -- THROW AWAY THE  
11 10 YEARS FOR THE FIVE-YEAR PRIORS UNDER SB 1393.  
12 EXERCISE YOUR DISCRETION AND DISMISS THOSE. I CAN'T DO  
13 THAT. THE STAMPS CASE DOES NOT ALLOW ME TO DO THAT EVEN  
14 IF I WANTED TO.

15 THE DEFENDANT: IF I MAY, YOUR HONOR?

16 THE COURT: YES.

17 THE DEFENDANT: SINCE THE DIRECTIVES ARE PENDING  
18 LITIGATION RIGHT NOW, IS THERE ANY WAY WE CAN WAIT ON  
19 THAT?

20 THE COURT: ABSOLUTELY NOT. YOU TELL ME NOW WHAT  
21 YOU WANT TO DO.

22 AND, AGAIN, I DON'T KNOW IF I SHOULD RULE ON  
23 HIS MOTION NOW AND THEN HE CAN APPEAL IT.

24 MR. SULLIVAN: WHICH MOTION? THE MARSDEN OR THIS  
25 ONE?

26 THE COURT: WELL, THE MARSDEN IS DONE.

27 MR. SULLIVAN: OKAY.

28 THE COURT: THE MOTION -- HIS MOTION TO PROCEED

1 WITH ASKING THE COURT TO STRIKE THE TWO PRIORS. HE SAID  
2 HE DOESN'T WANT IT. HE SAID HE DOES WANT IT NOW. HE'S  
3 INDICATING THAT HE DOES NOT WANT TO PROCEED. HE HAS NOT  
4 YET SAID THAT, BUT I THINK THAT THAT'S WHERE WE'RE  
5 LEADING TO.

6 WHAT'S THE PEOPLE'S POSITION?

7 MR. SULLIVAN: WELL, AT LEAST FROM MY READING OF  
8 STAMPS, I MEAN, TO MAKE THE REQUEST THERE IS PROBABLY  
9 NOT THAT MUCH HARM. IF THE COURT DENIES IT, THEN HE'S  
10 IN THE SAME POSITION. BUT IF THE COURT GIVES AN  
11 INDICATED, WHICH STAMPS SEEMS TO BE IS PERMISSIBLE, THAT  
12 THE COURT WOULD NOT BE STRIKING -- OR THAT THE COURT  
13 WOULD STRIKE ONE OF THE FIVE-YEAR PRIORS, THEN HE, YOU  
14 KNOW, REALLY NEEDS TO DECIDE IF HE'S GOING TO DO THAT  
15 BECAUSE, AT LEAST FROM MY BRIEF -- THE PROBLEM WITH THIS  
16 CASE IS THAT HE IS VERY MEMORABLE, FOR WHATEVER REASON,  
17 AND THE PRIOR D.A. WHO HANDLED THIS AT PRELIMINARY  
18 HEARING IMMEDIATELY REMEMBERED HIM AND IMMEDIATELY  
19 REMEMBERED THE CASE FACTS FIVE YEARS LATER. BECAUSE  
20 ALLEGEDLY NOT ONLY DID THIS INCIDENT OCCUR WITH THE  
21 BURGLARY AND STEALING PANTIES AND FEMININE PRODUCTS BUT  
22 HE'S ENGAGED IN THIS BEHAVIOR BEFORE ON AT LEAST TWO  
23 PRIOR OCCASIONS. AND THEN I WAS INFORMED OF AN OCCASION  
24 IN WHICH HE ALLEGEDLY, I GUESS, POSED AS A DOCTOR AND  
25 TRIED TO SEXUALLY ASSAULT A PATIENT. SO THERE'S  
26 CONCERNS THAT THE BEHAVIOR IS SEXUALLY MOTIVATED, WHICH,  
27 WHEN THAT HAPPENS, THE CASE IS GOING TO END UP COMING TO  
28 MY UNIT WHICH SPECIALIZES IN SEX CRIMES. AND, YOU KNOW,

1 IN MY CONVERSATIONS IT APPEARS UNLIKELY THAT HE'S GOING  
2 TO BE GETTING AN OFFER THAT'S ANY LOWER THAN WHAT HE  
3 RECEIVED. AND IF THE NICKEL PRIORS ARE REMOVED, HE'S  
4 ALMOST ASSUREDLY LOOKING AT, YOU KNOW, HAVING THIS CASE  
5 FULLY LITIGATED.

6 THERE WAS NO INDICATION EITHER FROM MY HEAD  
7 DEPUTY OR THE D.A. THAT WAS PREVIOUSLY ASSIGNED THAT HE  
8 WOULD BE GETTING ANYTHING LESS.

9 SO I JUST THINK -- YOU KNOW, I'M VERY  
10 EMPATHETIC -- I AM -- TO HIS SITUATION. I UNDERSTAND  
11 IT'S AN ENORMOUS AMOUNT OF PRISON TIME TO SERVE.  
12 HOWEVER, HE'S FACING, YOU KNOW, AN EVEN LARGER AMOUNT OF  
13 TIME AND A LIFE TAIL ON THE CASE.

14 SO ULTIMATELY IT'S HIS DECISION, BUT I THINK  
15 IT'S BEST TO GO EYES WIDE OPEN WITH -- YOU KNOW, IF  
16 THERE'S AN INDICATED THAT THE COURT WOULD GRANT THIS,  
17 THEN IF THERE'S THE FULL REQUEST TO HAVE THEM STRICKEN  
18 HE'S LOOKING AT A FULLY REFILED CASE. AND WHETHER OR  
19 NOT IT CAN BE PROVEN OR NOT REMAINS TO BE DETERMINED.  
20 WE'D HAVE TO CONTACT WITNESSES AND PREPARE THE CASE  
21 AGAIN. BUT THE LIKELIHOOD OF HIM GETTING AN OFFER OR A  
22 SETTLEMENT ANYTHING LOWER THAN WHAT HE'S RECEIVED IS, IN  
23 MY EXPERIENCE FROM WHAT I'M SEEING HERE AND THE  
24 CONVERSATIONS WITH MY COLLEAGUES, INFINITESIMALLY SMALL.

25 THE COURT: ALL RIGHT. SO ARE YOU SUGGESTING THAT  
26 I GIVE AN INDICATED?

27 MR. SULLIVAN: I THINK THAT THE BEST THING TO DO  
28 PER STAMPS, AND ESPECIALLY FOR THE RECORD, WOULD BE

1 TO -- IF HE WANTS TO MAKE HIS REQUEST, HE CAN MAKE HIS  
2 REQUEST. THE COURT CAN DENY IT OR THE COURT COULD GIVE  
3 AN INDICATED THAT IT WOULD GRANT. AND IF HE DECIDES, IN  
4 LIGHT OF THAT INDICATED TO GRANT, THAT HE WANTS TO TAKE  
5 THAT OPPORTUNITY, THEN THE PEOPLE ARE GOING TO HAVE TO  
6 MOVE TO WITHDRAW THE PLEA AT THAT POINT. BUT IF HE  
7 WANTS TO, YOU KNOW, WITHDRAW HIS REQUEST AT THAT  
8 POINT -- I MEAN, IT'S UP TO HIM.

9 THE COURT: ALL RIGHT. SO YOU'RE SAYING THAT  
10 EITHER THE COURT SHOULD DENY IT OR INDICATE THAT HE'S  
11 GOING TO GRANT IT AND THEN GIVE HIM A CHANCE TO SAY --  
12 ASK IF HE WANTS TO PROCEED? I MEAN, IT'S A NICE  
13 GESTURE. I MEAN, BECAUSE --

14 MR. SULLIVAN: I THINK THAT --

15 THE COURT: -- THERE'S NO GUESSING GAME ON HIS  
16 PART.

17 MR. SULLIVAN: RIGHT. I THINK TO HAVE THE CLEANEST  
18 RECORD ON THE ISSUE AND PERHAPS TO GIVE MR. ARELLANO THE  
19 BEST PEACE OF MIND, THAT'S PERHAPS THE WAY THAT WE  
20 SHOULD HANDLE IT. AND, THAT WAY, HE CAN HAVE THE FULL  
21 BENEFIT OF A TYPE OF MOTION THAT HE'S MAKING HERE TODAY,  
22 KNOWING FULLY WELL THE CONSEQUENCES THAT COULD FLOW FROM  
23 IT. AND IT'S HIS LIFE AND HIS DECISION AND WHAT HE  
24 WANTS TO DO WITH THAT.

25 THE COURT: ALL RIGHT.

26 MS. CASH-CURRY, ANY -- I DON'T DISAGREE WITH  
27 WHAT HE SAID. AND I THINK IT'S IN MR. ARELLANO'S BEST  
28 INTEREST TO KNOW WHAT THE COURT'S -- HOW THE COURT'S

1 LEANING.

2 MS. CASH-CURRY: YOUR HONOR, I THINK MY POSITION  
3 IS, IS THAT -- ACCORDING TO THE COURT OF APPEAL ON THE  
4 REMITTITUR, BASICALLY IT SEEMS TO BE SAYING THAT THE  
5 COURT WOULD PROCEED WITH MAKING A RULING IF MR. ARELLANO  
6 ELECTS TO GO FORWARD WITH HIS REQUEST. THAT'S MY  
7 UNDERSTANDING AND THAT'S MY READING OF IT, AND THAT IS  
8 WHY I HAVE SPENT ALL MORNING SPEAKING WITH HIM ABOUT  
9 THAT. BECAUSE THE QUESTION IS NOT -- WE'RE NOT TO THE  
10 POINT WHERE THE JUDGE SHOULD BE GIVING A DECISION OR A  
11 RULING IF, IN FACT, HE DECIDES HE DOES NOT WANT TO MOVE  
12 FORWARD. HOWEVER, I DO UNDERSTAND THE COURT'S POSITION  
13 IN THIS PARTICULAR SITUATION BECAUSE WE HAVE BEEN WITH  
14 MR. ARELLANO FROM THE MORNING UNTIL NOW. AND I'VE  
15 SPOKEN TO HIM -- THIS IS THE FOURTH TIME TODAY. AND  
16 IT'S BEEN THE BACK AND FORTH AND BACK AND FORTH AND BACK  
17 AND FORTH. SO I DO AGREE THAT IF THE COURT FEELS THAT  
18 MAKING A RULING OR GIVING MR. ARELLANO AN INDICATED ON  
19 THE COURT'S RULING IS THE BEST WAY TO GIVE A CLEAN  
20 RECORD SO THAT, AFTER HE RECEIVES AN INDICATED, THEN HE  
21 CAN MAKE A DECISION. IF THAT'S THE WAY THE COURT WISHES  
22 TO PROCEED, I WOULD MERELY SAY THAT THAT'S NOT HOW I  
23 READ THE COURT OF APPEAL'S ORDER TO THE COURT WITH  
24 REGARD TO REVIEWING ITS POSITION. SO IT'S COMPLETELY UP  
25 TO THE COURT AS TO WHICH DECISION YOU DECIDE ON HOW TO  
26 MOVE FORWARD IN THIS CASE.

27 BUT I WILL SAY THAT I COMPLETELY UNDERSTAND  
28 THE NEED TO HAVE A VERY CLEAR RECORD INVOLVING

1 MR. ARELLANO AT THIS POINT.

2 THE COURT: RIGHT. AND I DO AGREE WITH YOU. I  
3 MEAN, THE COURT OF APPEAL DOESN'T DIRECT THE COURT TO  
4 GIVE HIM AN INDICATED. IT SIMPLY SAYS, IF HE ELECTS TO  
5 MAKE ONE -- THE POST JUDGMENT MOTION TO REDUCE HIS  
6 SENTENCE BY DISMISSING ONE OR BOTH OF THE PRIOR SERIOUS  
7 FELONY ENHANCEMENTS, IF A REQUEST IS MADE, THEN THE  
8 COURT IS TO FOLLOW THE PROCESS DESCRIBED BY THE SUPREME  
9 COURT IN STAMPS.

10 MY CONCERN IS THAT WE'LL BE SEEING  
11 MR. ARELLANO AGAIN BECAUSE HE'S GOING TO APPEAL THE FACT  
12 THAT I DENIED THE MARSDEN MOTION. AND IT MIGHT BE  
13 UNFAIR TO HIM BECAUSE HE'LL BE BOUNCING BACK AND FORTH  
14 WITHOUT REALLY KNOWING WHAT THE PROCESS IS -- OR WHAT  
15 THE COURT'S THOUGHTS ARE ON THIS CASE.

16 I CANNOT, HOWEVER, GIVE AN INDICATED SENTENCE  
17 UNTIL I HEAR FROM THE DEFENSE WHY I SHOULD GRANT -- IF  
18 HE, IN FACT, ELECTS TO DO THAT, TO GO FORWARD, WHY, IN  
19 FACT, SHOULD I EXERCISE MY DISCRETION.

20 SO, MR. ARELLANO, LET ME STICK TO WHAT THE  
21 COURT OF APPEALS -- FOR NOW, WHAT THE COURT OF APPEAL  
22 HAS DIRECTED ME TO DO.

23 WHAT IS YOUR REQUEST, SIR?

24 THE DEFENDANT: SINCE YOU DENIED MY MARSDEN  
25 HEARING, I DON'T FEEL I'M GETTING A FAIR HEARING.

26 THE COURT: OKAY. SO YOU -- SO YOU ARE -- YOU'RE  
27 NOT MAKING THE CHOICE NOT TO PROCEED BECAUSE YOU THINK  
28 IT WOULD BE IN YOUR BEST INTEREST NOT TO DO SO. IT'S

1 ONLY BECAUSE I DENIED YOUR MARSDEN MOTION?

2 THE DEFENDANT: YEAH.

3 THE COURT: ALL RIGHT. SO WE'RE GOING TO PROCEED.

4 I'LL HEAR FROM YOU, MS. CASH-CURRY.

5 MS. CASH-CURRY: THANK YOU, YOUR HONOR.

6 YOUR HONOR, WITH REGARD TO THE COURT'S --  
7 DISCRETION, THE COURT IS WELL AWARE THAT STAMPS DOES  
8 PERMIT THE COURT TO EXERCISE ITS DISCRETION IN  
9 DISMISSING THE PRIOR ENHANCEMENTS -- THE TWO FIVE-YEAR  
10 TERMS FOR THE PRIOR SERIOUS FELONY ENHANCEMENTS THAT  
11 WERE ADMITTED BY MR. ARELLANO IN HIS PLEA.

12 I WILL INDICATE TO THE COURT, YOUR HONOR,  
13 THAT I BELIEVE ONE WAS 1999 AND THE OTHER ONE WAS 2002.

14 THE COURT: CORRECT.

15 MS. CASH-CURRY: WE ARE -- AT THE TIME OF  
16 SENTENCING, WHICH WAS 2017, THE 2002 ONE WAS 15 YEARS  
17 OLD AND THE 19991 WAS --

18 THE COURT: 18 YEARS OLD.

19 MS. CASH-CURRY: -- 18 YEARS OLD.

20 WITH REGARD TO THOSE PARTICULAR INSTANCES  
21 YOUR HONOR, A SIGNIFICANT AMOUNT OF TIME HAD PASSED FROM  
22 THOSE DATES TO THE TIME OF THE OFFENSE THAT HE PLED TO,  
23 WHICH I BELIEVE THE DATE OF THE OCCURRENCE MAY HAVE BEEN  
24 IN 2016 BUT THE ACTUAL CONVICTION WAS NOT UNTIL 2017. A  
25 SIGNIFICANT AMOUNT OF TIME HAD PASSED.

26 MR. ARELLANO HAS INDICATED AND MAINTAINED  
27 THAT HIS TIME, FOR PURPOSES OF MITIGATION, THAT HE HAS  
28 SERVED SINCE THE DATE OF HIS PLEA AND HIS SENTENCING HAS

1 THE COURT GRANT HIS REQUEST.

2 I WILL SUBMIT ON THAT.

3 THE COURT: THANK YOU, COUNSEL.

4 PEOPLE?

5 MR. SULLIVAN: THANK YOU, YOUR HONOR.

6 I DON'T BELIEVE MR. ARELLANO IS AN  
7 APPROPRIATE CANDIDATE TO HAVE HIS PRIOR FIVE-YEAR  
8 CONVICTION ALLEGATION STRICKEN. NAMELY, THE OFFENSE IN  
9 THE INSTANT CASE THAT'S BEFORE THIS COURT WAS SEXUALLY  
10 MOTIVATED, AS I'VE RECOUNTED JUST A BIT AGO.

11 I'LL NOTE FOR THE RECORD THAT IT APPEARS THAT  
12 HE'S SPENT MOST OF THE TIME BETWEEN THESE OFFENSES IN  
13 PRISON. SO ON THE 1999 P.C. 459, THAT'S IN KA044287, HE  
14 WAS PLACED ON PROBATION IN THAT CASE. AND THEN IN 2002  
15 HE PICKS UP ANOTHER P.C. 459 AND RECEIVES FOUR YEARS IN  
16 PRISON. THE 2002 BURGLARY APPEARS TO BE GENERALLY  
17 FACTUALLY SIMILAR TO THE CASE THAT'S BEFORE THE COURT,  
18 IN THAT IT WAS ANOTHER, YOU KNOW, DORM ROOM BREAK-IN FOR  
19 WOMEN'S LINGERIE. AFTER THE FOUR-YEAR PRISON SENTENCE,  
20 THEN IN 2006, IN CASE KA073536, IT APPEARS THAT  
21 MR. ARELLANO RECEIVED A SIX-YEAR PRISON SENTENCE FOR  
22 WHAT APPEARS TO BE A P.C. 496. I BELIEVE THAT'S  
23 RECEIVING STOLEN PROPERTY. SO HE'S DONE A SIGNIFICANT  
24 AMOUNT OF CUSTODY TIME AT LEAST SINCE HIS 2002  
25 CONVICTION. AND I DON'T BELIEVE HE'S DEMONSTRATED THAT  
26 HE'S THE TYPE OF CANDIDATE FOR WHAT SHOULD BE A GRACIOUS  
27 ACT ON BEHALF OF THE COURT.

28 I'LL NOTE FOR THE RECORD THAT, IN THE INSTANT

1 CASE THAT'S BEFORE THE COURT, THERE ARE SOME FACTS THAT  
2 ARE CONCERNING OUTSIDE OF THE SEXUAL NATURE OR  
3 MOTIVATION BEHIND THE OFFENSE; NAMELY, THAT THE  
4 DEFENDANT TOOK STEPS TO CONCEAL HIS IDENTITY THAT ARE  
5 SOMEWHAT SOPHISTICATED. FOR INSTANCE, WHEN POLICE  
6 RECOVERED A SET OF AUDI KEYS FROM HIS POCKET, HE DENIED  
7 HAVING A CAR. AND WHEN THE POLICE LOCATED AN AUDI WITH  
8 PAPER PLATES -- WHEN THE POLICE SUBSEQUENTLY LOCATED AN  
9 AUDI THAT MATCHED THE KEYS, THE AUDI, I GUESS, HAD PAPER  
10 FAKE PLATES OVER THE ACTUAL LICENSE PLATES. WHEN THEY  
11 OPENED THE CAR, THEY LOCATED THE DEFENDANT'S WALLET  
12 INSIDE. THEY ALSO LOCATED THE DEFENDANT'S PHONE WHICH  
13 HAD NUMEROUS VIDEOS OF THE DEFENDANT WALKING UP TO  
14 UNSUSPECTING FEMALES AND RECORDING WHAT I GUESS IN  
15 COLLOQUIAL TERMS WOULD BE AN UPSKIRT SHOT OF THEIR  
16 UNDERWEAR AND IT DID NOT APPEAR THAT THEY WERE AWARE OR  
17 CONSENTED TO THAT CONDUCT.

18 SO I'LL LEAVE THE COURT WITH THAT.

19 THE COURT: THE 496; HAVE YOU ANY INFORMATION AS TO  
20 THAT? WHAT WERE THE ITEMS?

21 MR. SULLIVAN: ONE MOMENT, YOUR HONOR.

22 THE COURT: BECAUSE I LOOKED THROUGH MY FILE, AND I  
23 DON'T FIND A PROBATION REPORT THERE. THAT PROBATION  
24 REPORT WOULDN'T CONTAIN THAT INFORMATION IN ANY EVENT.

25 MR. SULLIVAN: OKAY. I HAVE IT RIGHT HERE.

26 SO THE 2006 RECEIVING STOLEN PROPERTY CASE  
27 APPEARS TO BE EMANATING FROM A PAROLE SEARCH OF THE  
28 DEFENDANT IN WHICH OFFICERS RECOVERED VARIOUS PERSONAL

1 IDENTIFYING INFORMATION OF A FEMALE, NAMELY A POMONA  
2 COLLEGE I.D. CARD, AND THEN THERE WAS MAILBOX KEYS AND  
3 PINK LEATHER HEART-SHAPED KEY CHAINS.

4 THEY SUBSEQUENTLY CONTACTED THAT INDIVIDUAL  
5 AND SHE INDICATED THAT SHE HAD BEEN A VICTIM OF A  
6 BURGLARY AT THE CAMPUS DORM SOMETIME EARLIER. SO IT  
7 APPEARS THAT THEY CHARGED HIM WITH RECEIVING STOLEN  
8 PROPERTY AS OPPOSED TO A MORE SERIOUS OFFENSE.

9 THE COURT: THANK YOU.

10 ALL RIGHT. WELL, THE COURSE OF CONDUCT BY  
11 MR. ARELLANO IS PRETTY DISTURBING. IN THE INSTANT  
12 CASE -- NOW THAT I HEAR ABOUT THE 496 AND THE OTHER  
13 SITUATIONS THAT THE DISTRICT ATTORNEY HAS DESCRIBED,  
14 THIS GENTLEMAN IS TARGETING FEMALES AT A CAMPUS. THIS  
15 WAS THE CLAREMONT COLLEGES. THIS IS A LOCATION WHERE  
16 THESE YOUNG LADIES HAVE A RIGHT TO FEEL SAFE. HIS  
17 APPROACH TO THESE CRIMES ARE SOPHISTICATED, AND THEY  
18 INVOLVE A CERTAIN DEGREE OF PLANNING. HE WAS CONVICTED  
19 IN 1999. HE WAS GRANTED PROBATION. THAT DIDN'T SEEM TO  
20 ABATE HIS CONDUCT BECAUSE IN 2002 HE IS, ONCE AGAIN,  
21 CONVICTED OF A BURGLARY. HE NOW GOES TO STATE PRISON.  
22 THAT DOESN'T STOP HIS CONDUCT BECAUSE HE IS ARRESTED IN  
23 2006. IN 2006 -- AND I WAS INTERESTED TO SEE WHAT --  
24 THE ITEMS THAT HE RECEIVED AS STOLEN PROPERTY BECAUSE I  
25 SUSPECTED THAT IT WAS GOING TO BE SOMETHING OF THIS  
26 NATURE. I HAD NO IDEA. THAT'S WHY I ASKED. BUT I  
27 SUSPECTED THAT IT WAS EITHER WOMEN'S CLOTHING OR  
28 SOMETHING TO DO WITH BURGLARIES AND FEMALES AND CAMPUS

1 DORMS AND THOSE TYPES OF THINGS.

2 IN THIS CASE THE VICTIM -- AND WE'RE TALKING  
3 ABOUT THE CASE THAT HE WAS SENTENCED TO THE 22 YEARS.  
4 THE VICTIM WAS ASLEEP IN HER ROOM. THIS IS A FEMALE  
5 ALONE IN HER ROOM. IT WAS 3:00 IN THE MORNING. SHE'S  
6 AWAKENED BY A NOISE, AND SHE SEES A MAN BY THE FRONT  
7 DOOR OF HER DORM. AND THE MAN LEAVES. SHE AT SOME  
8 POINT CALLS CAMPUS SECURITY. CAMPUS SECURITY FINDS  
9 MR. ARELLANO HIDING IN THE BUSHES. WHEN THEY ASKED HIM  
10 TO STAND UP, ONE OF THE OFFICERS TESTIFIED AT THE  
11 PRELIMINARY HEARING THAT HIS FRONT ZIPPER WAS DOWN AND  
12 THAT HE HAD ITEMS THAT WERE FEMALE ITEMS, A SPORTS BRA,  
13 PANTIES, AND FEMININE PADS AND THOSE TYPES OF THINGS.

14 THE VICTIM IN THIS CASE IDENTIFIED THOSE  
15 ITEMS AS BEING HERS AND THAT THEY WERE IN A HAMPER IN  
16 HER ROOM.

17 THEY SPOKE TO ANOTHER INDIVIDUAL, WHO --  
18 ANOTHER FEMALE WHO WAS IN THE BATHROOM. I GUESS THERE'S  
19 A BATHROOM IN THE DORMS THAT BOTH MALE AND FEMALE CAN  
20 USE. AND SHE WAS IN THERE. THIS OTHER YOUNG LADY WAS  
21 IN THERE WASHING HER HANDS AND SAW THE DEFENDANT INSIDE  
22 THE BATHROOM, LOOKING AT HER. SHE RECOGNIZED THAT HE  
23 WAS NOT ONE OF THE STUDENTS. HE WAS AN OLDER GENTLEMAN.  
24 HE WAS NOT PART OF THE SCHOOL. I THINK THAT THAT WAS  
25 ALL OF THE INTERACTION.

26 AND NOW THE DISTRICT ATTORNEY INDICATES TO ME  
27 THAT THEY FOUND A CELL PHONE WITH CERTAIN THINGS IN THE  
28 CELL PHONE AND AN ATTEMPT TO CONCEAL HIS IDENTITY BY

1 TAPING OVER OR BLOCKING THE LICENSE PLATE. SO THERE IS  
2 A LOT OF THOUGHT THAT GOES BEHIND THIS.

3 AND THESE ARE VERY, VERY TROUBLING OFFENSES.  
4 BEFORE SB 1393, THE FIVE-YEAR PRIOR ENHANCEMENTS WERE  
5 MANDATORY AND THE REASON FOR THAT, I SUSPECT, IS THAT IF  
6 SOMEONE HAS BEEN TO STATE PRISON THEY SHOULD BE -- AND  
7 STILL CONTINUE WITH THEIR CONDUCT UNABATED, THEY SHOULD  
8 BE PUNISHED MORE HARSHLY THAN SOMEONE WHO -- THE FIRST  
9 TIME THEY GO TO STATE PRISON ON A VIOLENT FELONY OR A  
10 SERIOUS OR VIOLENT FELONY.

11 IS THIS SERIOUS AND VIOLENT OR JUST VIOLENT?

12 MR. SULLIVAN: FOR THE BURGLARY?

13 THE COURT: NO. THE BURGLARY IS WITH PERSON  
14 PRESENT AS WELL BUT THE 667(A) -- IS IT JUST VIOLENT  
15 FELONIES?

16 MR. SULLIVAN: IT HAS TO BE VIOLENT.

17 THE COURT: VIOLENT FELONY; RIGHT.

18 SO IN THIS PARTICULAR CASE, AS I INDICATED,  
19 IN MY PERSONAL OPINION, MR. ARELLANO IS EXTREMELY  
20 FORTUNATE THAT HE RECEIVED THE SENTENCE THAT HE  
21 RECEIVED.

22 THIS WAS A ONE CASE -- A ONE-WITNESS CASE.  
23 SHE TESTIFIED ALREADY AT THE PRELIMINARY HEARING.  
24 STRAIGHTFORWARD, NOTHING COMPLICATED ABOUT IT. HE WAS  
25 FOUND WITHIN MOMENTS OF THE EVENT OCCURRING. ANOTHER  
26 YOUNG LADY SAW HIM IN THE -- IN THE RESTROOM, WHERE HE  
27 SHOULDN'T HAVE BEEN, AT 3:00 IN THE MORNING. HE'S FOUND  
28 WITH ITEMS BELONGING TO THE VICTIM IN THIS CASE. AND

1 HIS PRIORS INDICATE THAT HE HAS THIS PROCLIVITY.

2 SO I THINK HE WAS EXTREMELY FORTUNATE THAT  
3 THEY DID NOT PROCEED WITH A THIRD-STRIKE CASE.

4 IT'S NOT FOR ME TO COMMENT WHETHER THE  
5 AGREEMENT WAS APPROPRIATE OR NOT UNDER THE  
6 CIRCUMSTANCES, BUT THAT WAS -- THE PEOPLE MADE THAT  
7 OFFER. MR. ARELLANO ACCEPTED IT. IT WAS A NEGOTIATED  
8 PLEA. IT WAS SOMETHING THAT MR. ARELLANO AGREED TO AND  
9 I THINK THAT THE 22-YEAR SENTENCE IN THIS CASE IS AN  
10 APPROPRIATE SENTENCE AND THAT THE TEN-YEAR PRIORS -- THE  
11 FIVE YEARS FOR EACH OF THE PRIORS THAT HE ADMITTED ARE  
12 ALSO APPROPRIATE. THIS IS NOT A CASE -- AND I FORGOT TO  
13 MENTION HE WAS SUPPOSED TO BE REGISTERING OR WASN'T  
14 REGISTERING AS A SEX OFFENDER AT THE TIME THAT THIS  
15 OFFENSE OCCURRED. SO THAT TEN-YEAR PRIOR FOR THE TWO  
16 SEPARATE PRIOR CONVICTIONS ARE APPROPRIATE IN THIS CASE.  
17 I DON'T SEE ANY REASON WHY THE COURT SHOULD EXERCISE ITS  
18 DISCRETION IN STRIKING THOSE.

19 NOTWITHSTANDING THE FACT THAT IF THE COURT  
20 DID DO SO, IT WOULD EXPOSE MR. -- IT WOULD EXPOSE  
21 MR. ARELLANO TO A SENTENCE OF 25 YEARS TO LIFE. BUT  
22 THAT'S NOT MY CONCERN.

23 MY CONCERN IS WHETHER OR NOT I SHOULD  
24 EXERCISE DISCRETION UNDER SB 1393, AND THE COURT  
25 RESPECTFULLY DECLINES TO DO SO. SO THE SENTENCE WILL  
26 REMAIN AS -- THE ORIGINAL SENTENCE WILL REMAIN SO IT'S  
27 22 YEARS IN THE STATE PRISON. SO THE MOTION IS  
28 RESPECTFULLY DENIED.

1 NOW, YOU CAN APPEAL BOTH OF THESE DECISIONS,  
2 THE MARSDEN AND THE COURT'S DENIAL OF YOUR SB 1393. DO  
3 YOU UNDERSTAND THAT?

4 THE DEFENDANT: YES, YOUR HONOR.

5 THE COURT: ALL RIGHT. GOOD LUCK TO YOU.

6 THE DEFENDANT: IF I MAY, SIR?

7 THE COURT: YOU MAY.

8 THE DEFENDANT: CAN I REQUEST FOR THE TRANSCRIPTS  
9 OF TODAY, JUST FOR MY APPEAL?

10 THE COURT: ONCE YOU FILE YOUR APPEAL, YOU'LL GET  
11 IT.

12 THE DEFENDANT: OKAY. I APPRECIATE THAT.

13 THE COURT: ALL RIGHT.

14 THE DEFENDANT: THANK YOU.

15 THE COURT: THANK YOU.

16 MR. SULLIVAN: THANK YOU, YOUR HONOR.

17 MS. CASH-CURRY: THANK YOU.

18 THE COURT: THANK YOU.

19

20 (AT 3:22 P.M. THE PROCEEDINGS WERE  
21 CONCLUDED.)

22

23

24

25

26

27

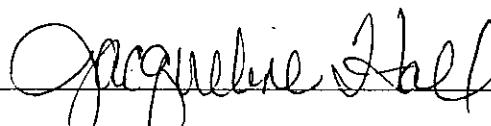
28

1 SUPERIOR COURT OF THE STATE OF CALIFORNIA  
2 FOR THE COUNTY OF LOS ANGELES  
3 DEPARTMENT EA-F HON. JACK P. HUNT, JUDGE  
4

5 THE PEOPLE OF THE STATE OF CALIFORNIA, )  
6 PLAINTIFF, ) NO. KA112598-01  
7 VS. )  
8 EDGAR ARELLANO, ) REPORTER'S  
9 DEFENDANT. ) CERTIFICATE  
10 \_\_\_\_\_ )  
11

12 I, JACQUELINE HALL, OFFICIAL REPORTER OF THE  
13 SUPERIOR COURT OF THE STATE OF CALIFORNIA, FOR THE COUNTY  
14 OF LOS ANGELES, DO HEREBY CERTIFY THAT I DID CORRECTLY  
15 REPORT THE PROCEEDINGS CONTAINED HEREIN AND THAT THE  
16 FOREGOING PAGES, 1 THROUGH 8-300, COMPRIZE A FULL, TRUE  
17 AND CORRECT TRANSCRIPT OF THE PROCEEDINGS AND TESTIMONY  
18 TAKEN IN THE ABOVE-ENTITLED MATTER ON JANUARY 13, 2017.

19  
20 DATED THIS 16TH DAY OF AUGUST, 2021.  
21  
22  
23

24   
25 JACQUELINE HALL, CSR NO. 7951  
26 OFFICIAL REPORTER  
27  
28

1 SUPERIOR COURT OF THE STATE OF CALIFORNIA  
2 FOR THE COUNTY OF LOS ANGELES  
3 DEPARTMENT EA-H HON. JUAN CARLOS DOMINGUEZ, JUDGE  
4  
5 THE PEOPLE OF THE STATE OF CALIFORNIA, )  
6 PLAINTIFF, )  
7 VS. ) NO. KA112598  
8 01-EDGAR ARELLANO, ) REPORTER'S  
9 DEFENDANT. ) CERTIFICATE  
10  
11  
12  
13  
14  
15  
16  
17  
18

I, DEBRA KAY FORD, OFFICIAL REPORTER OF THE  
SUPERIOR COURT OF THE STATE OF CALIFORNIA, FOR THE COUNTY  
OF LOS ANGELES, DO HEREBY CERTIFY THAT THE FOREGOING PAGES,  
301 THROUGH 361-600, COMPRIZE A FULL, TRUE, AND CORRECT  
TRANSCRIPT OF THE PROCEEDINGS HELD IN THE ABOVE ENTITLED  
MATTER ON JUNE 2, 2021.

DATED THIS 19TH DAY OF AUGUST, 2021.

20  
21   
22 DEBRA KAY FORD, CSR NO. 12023  
23 OFFICIAL REPORTER  
24  
25  
26  
27  
28

COURT OF APPEAL OF THE STATE OF CALIFORNIA  
SECOND APPELLATE DISTRICT

THE PEOPLE OF THE STATE OF CALIFORNIA, )  
                                                  )  
                                                  )  
PLAINTIFF-RESPONDENT, )  
                                                  )  
                                                  )  
VS.                                          ) NO. KA112598  
                                                  )  
01-EDGAR ARELLANO, )  
                                                  )  
                                                  )  
DEFENDANT-APPELLANT. )  
                                                  )  
                                                  )

---

APPEAL FROM THE SUPERIOR COURT OF LOS ANGELES COUNTY  
HONORABLE JUAN CARLOS DOMINGUEZ, JUDGE PRESIDING  
REPORTERS' TRANSCRIPT ON APPEAL

MARSDEN HEARING

JUNE 2, 2021

(VOLUME 1, PAGES 303 THROUGH 315, INCLUSIVE)

CONFIDENTIAL - MAY NOT BE EXAMINED WITHOUT COURT ORDER

APPEARANCES:

FOR THE PLAINTIFF-RESPONDENT: STATE ATTORNEY GENERAL  
                                                  300 SOUTH SPRING STREET  
                                                  NORTH TOWER, SUITE 1701  
                                                  LOS ANGELES, CALIFORNIA 90012

FOR THE DEFENDANT-APPELLANT: IN PROPRIA PERSONA  
                                                  NORTH COUNTY CORRECTIONAL  
                                                  FACILITY  
                                                  2934 THE OLD ROAD  
                                                  CASTAIC, CALIFORNIA 91384

**COPY**

DEBRA KAY FORD, CSR NO. 12023  
OFFICIAL REPORTER

1 CASE NUMBER: KA112598  
2 CASE NAME: PEOPLE VS. 01-EDGAR ARELLANO  
3 POMONA, CALIFORNIA WEDNESDAY, JUNE 2, 2021  
4 DEPARTMENT EA-H HON. JUAN CARLOS DOMINGUEZ, JUDGE  
5 REPORTER: DEBRA KAY FORD, CSR NO. 12023  
6 TIME: A.M. SESSION

7  
8 (A MARSDEN HEARING WAS HELD IN OPEN  
9 COURT, IN THE PRESENCE OF MR. EDGAR  
10 ARELLANO, THE DEFENDANT, MS. TAMELA  
11 CASH-CURRY, COUNSEL FOR DEFENDANT, THE  
12 COURT, AND COURT STAFF AS FOLLOWS:)

13  
14 THE COURT: ALL RIGHT. MR. ARELLANO, THE  
15 PROSECUTOR HAS STEPPED OUT OF THE COURTROOM. IN THE  
16 COURTROOM IS ONLY THE COURT STAFF.

17 THE PROCEEDINGS WILL BE RECORDED BY THE COURT  
18 REPORTER. HOWEVER, THEY WILL BE SEALED AT THE  
19 CONCLUSION OF THIS HEARING. OKAY? SO YOU MAY SPEAK  
20 FREELY.

21 THE DEFENDANT: OKAY, SIR.

22 THE COURT: ALL RIGHT.

23 NOW, THE FIRST QUESTION I HAVE IS THAT -- YOU  
24 SAY THERE IS A CONFLICT OF INTEREST BETWEEN YOURSELF AND  
25 MS. CASH-CURRY. WHAT IS THAT CONFLICT?

26 THE DEFENDANT: WELL, THE CONFLICT, SIR, IS THAT I  
27 STILL HAVE PENDING APPEAL LITIGATION IN THE  
28 UNITED STATES DISTRICT COURT FOR THE CENTRAL DISTRICT OF

1 CALIFORNIA, CASE NO. CV 20-03115-DMG (DFM).

2 THE COURT: OKAY.

3 THE DEFENDANT: AND THAT CASE STILL HASN'T BEEN  
4 SETTLED. AS TO THE DISPOSITION ON THAT, THEY PULLED A  
5 CITE -- THEY PULLED A CITE FROM THE CASE, AND THEY LEFT  
6 IT ACTIVE, PENDING WHAT HAPPENS IN THIS CASE RIGHT HERE.

7 THE COURT: OKAY. SO DOES YOUR APPEAL IN THE  
8 DISTRICT COURT INVOLVE THE REPRESENTATION THAT YOU  
9 RECEIVED BY MS. CASH-CURRY?

10 THE DEFENDANT: THAT IS CORRECT, SIR.

11 THE COURT: OKAY. AND IT IS STILL PENDING?

12 THE DEFENDANT: IT'S STILL PENDING, YES. I  
13 APOLOGIZE. I HAD THE PAPERWORK IN STATE PRISON. BUT ON  
14 THE TRANSPORT UP HERE, THEY ONLY LIMITED ME TO HOW MANY  
15 PAPERS I CAN BRING. SO I DON'T HAVE IT WITH ME, BUT I  
16 HAVE THE CASE NUMBER IF YOU WOULD LIKE TO LOOK AT IT.  
17 BUT THAT'S WHAT IT STATES.

18 THE COURT: IT SAYS THEY'RE WAITING --

19 THE DEFENDANT: RIGHT.

20 THE COURT: -- FOR?

21 THE DEFENDANT: FOR WHAT HAPPENS IN THIS COURT.

22 THE COURT: BUT YOU ARE ALLEGING THAT -- WELL, YOUR  
23 CONFLICT OF INTEREST NOW IS BECAUSE YOU FILED SOMETHING  
24 AGAINST HER BASICALLY INDICATING THAT SHE DIDN'T  
25 REPRESENT YOU ADEQUATELY.

26 THE DEFENDANT: YEAH. GROUND NUMBER ONE ON THAT  
27 APPEAL IS AGAINST DEPUTY PUBLIC DEFENDER TAMELA  
28 CASH-CURRY FOR FAILING TO CONDUCT A REASONABLE PRETRIAL

1 INVESTIGATION ON ONE OF MY PRIOR CASES WHICH WOULD HAVE  
2 AFFECTED MY SENTENCING AND THE WHOLE CASE IN GENERAL.

3 THE COURT: WELL, PERHAPS; NOT NECESSARILY BECAUSE  
4 ONE OF YOUR PRIORS WAS STRICKEN. YOU UNDERSTAND THAT?

5 THE DEFENDANT: RIGHT. RIGHT. RIGHT.

6 THE COURT: SO YOU STILL WOULD HAVE BEEN LEFT KIND  
7 OF IN THE SAME BOAT BUT MAYBE WITH A BETTER BARGAINING  
8 POSITION. I DO AGREE.

9 THE DEFENDANT: RIGHT. RIGHT. RIGHT.

10 THE COURT: OKAY. BUT -- SO THAT'S THE CONFLICT  
11 THAT EXISTS, BUT YOU'RE ALLEGING ISSUES PRIOR TO YOUR  
12 PLEA?

13 THE DEFENDANT: CORRECT, SIR.

14 THE COURT: OKAY.

15 THE DEFENDANT: DURING MY TRIAL.

16 THE COURT: OKAY.

17 THE DEFENDANT: AND I --

18 THE COURT: HOLD ON.

19 THE DEFENDANT: YES.

20 THE COURT: LET'S JUST STAY WITH THIS FOR A SECOND.

21 I ASSUME YOU'RE NOT HIRING YOUR OWN ATTORNEY?

22 THE DEFENDANT: WELL, ACCORDING TO THE PETITION --

23 THE COURT: WELL, JUST ANSWER THE QUESTION. DON'T  
24 SAY "ACCORDING TO THE PETITION." IT'S A LOT EASIER IF  
25 YOU AND I JUST HAVE A CONVERSATION.

26 THE DEFENDANT: RIGHT. I UNDERSTAND.

27 THE COURT: SO IT'S JUST A SIMPLE ANSWER -- OR A  
28 SIMPLE QUESTION THAT'S EITHER "YES" OR "NO." ARE YOU

1 PLANNING TO HIRE YOUR OWN ATTORNEY?

2 THE DEFENDANT: NO, SIR.

3 THE COURT: OKAY. SO YOU WANT ANOTHER  
4 COURT-APPOINTED ATTORNEY?

5 THE DEFENDANT: CORRECT.

6 THE COURT: MS. CASH-CURRY, WHAT DO YOU SAY WITH  
7 REGARDS TO THE FACT THAT THERE IS A PENDING APPEAL IN  
8 WHICH HE ALLEGES INEFFECTIVE ASSISTANCE OF COUNSEL, YOU  
9 BEING THE COUNSEL? BUT, ACCORDING TO MR. ARELLANO, THEY  
10 WANT TO WAIT, WHAT HAPPENS IN THIS CASE? WELL, WHAT  
11 HAPPENS TODAY HERE WITH THE CALIFORNIA COURT OF APPEAL  
12 REMITTITUR BEFORE THEY CONTINUE THE CASE. THAT QUITE  
13 DOESN'T MAKE SENSE TO ME BECAUSE WE'RE TALKING ABOUT TWO  
14 DIFFERENT THINGS.

15 HE'S ALLEGING THAT YOU DID NOT REPRESENT HIM  
16 APPROPRIATELY PRIOR TO HIS PLEA. THE CALIFORNIA COURT  
17 OF APPEAL'S REMITTITUR DEALS WITH HIS REQUEST, WHICH I  
18 DENIED -- OR ACTUALLY JUDGE SIRNA, I BELIEVE, THAT  
19 DENIED HIS REQUEST TO STRIKE ONE OF THE PRIORS OR THE  
20 FIVE-YEAR PRIORS OR -- I'LL REREAD THE REMITTITUR IN  
21 JUST A MOMENT. I DO SO MANY OF THESE. I FORGET  
22 EXACTLY.

23 BUT YOU WANT TO, IN ESSENCE, UNDO THE PLEA  
24 AGREEMENT, WHICH IS WHAT THE COURT OF -- THE CALIFORNIA  
25 COURT OF APPEALS HAS DIRECTED THIS COURT TO CONSIDER.

26 SO I'M NOT SURE IF THAT MAKES SENSE BECAUSE  
27 ONE THING HAS NOTHING TO DO WITH THE OTHER.

28 MS. CASH-CURRY: YOUR HONOR, IF I MAY?

1 THE COURT: YES.

2 MS. CASH-CURRY: I WOULD JUST ASK -- YOU INQUIRED  
3 OF ME, WHAT MY POSITION IS WITH REGARD TO THE FACT THAT  
4 MR. ARELLANO HAS INDICATED THAT HE HAS, ON APPEAL,  
5 ALLEGED INEFFECTIVE ASSISTANCE OF COUNSEL AND THAT THAT  
6 APPEAL IS PENDING.

7 THAT'S A CORRECT STATEMENT OF WHAT HE JUST  
8 SAID, IS THAT --

9 THE COURT: THAT'S THE WAY I UNDERSTAND IT.

10 MS. CASH-CURRY: OKAY.

11 I NEED A MOMENT TO MAKE A PHONE CALL.

12 THE COURT: OKAY. VERY WELL.

13

14 (THERE WAS A PAUSE IN THE PROCEEDINGS.)

15

16 THE COURT: BACK ON THE ARELLANO MATTER.

17 MR. ARELLANO IS PRESENT. MS. CASH-CURRY HAS  
18 RETURNED TO THE COURTROOM.

19 AND YOU MAY PROCEED.

20 MS. CASH-CURRY: THANK YOU, YOUR HONOR.

21 YOUR HONOR, BASED ON THE COURT'S INQUIRY OF  
22 ME AS TO WHERE I STOOD WITH REGARD TO HOW TO PROCEED  
23 TODAY WITH REGARD TO THE REMITTITUR AND THE INFORMATION  
24 THAT WAS PROVIDED BY MR. ARELLANO, I WILL INDICATE TO  
25 THE COURT THAT I DID SPEAK WITH OUR APPELLATE  
26 DEPARTMENT AND THE CASE NUMBER THAT MR. ARELLANO  
27 PROVIDED FOR THE CASE IN THE DISTRICT COURT CASE  
28 NUMBER -- THAT CASE WAS DISMISSED ON MARCH 29, 2021,

1 WITHOUT PREJUDICE AND -- BASICALLY SAYING THAT  
2 MR. ARELLANO DID NOT EXHAUST ALL OF HIS STATE REMEDIES  
3 BEFORE FILING THE WRIT OF HABEAS AT THE DISTRICT COURT.  
4 SO THAT'S WHERE THAT CASE LIES CURRENTLY.

5 THE COURT: OKAY.

6 MS. CASH-CURRY: BASED ON THAT INFORMATION, I AM  
7 READY TO PROCEED WITH THE REMITTITUR TODAY, AND THAT'S  
8 JUST -- YOU KNOW, THAT'S MY POSITION.

9 THE COURT: ALL RIGHT.

10 SO BASICALLY THEN, MR. ARELLANO, IF YOU  
11 UNDERSTOOD WHAT SHE INDICATED, YOUR CASE IS DISMISSED;  
12 NO LONGER PENDING.

13 THE DEFENDANT: IF --

14 THE COURT: HOLD ON.

15 THE DEFENDANT: IF I MAY, SIR?

16 THE COURT: YES, YOU MAY.

17 THE DEFENDANT: SHE SAID THAT I DIDN'T EXHAUST SOME  
18 OF THE CLAIMS.

19 THE COURT: NO. NO. NO. LISTEN.

20 THE DEFENDANT: I MEAN, WHAT --

21 THE COURT: MR. ARELLANO, YOU HAVE TO LISTEN, SIR,  
22 BECAUSE YOU HAVE A LOT OF KNOWLEDGE BUT SOMETIMES YOU  
23 KIND OF GO OFF ON A TANGENT AND I NEED TO KEEP YOU  
24 FOCUSED. IT'S NOT THAT I DON'T WANT TO HEAR YOU.

25 THE DEFENDANT: I UNDERSTAND.

26 THE COURT: AND I UNDERSTAND THIS IS OF THE UTMOST  
27 IMPORTANCE TO YOU, BUT SHE DID NOT SAY THAT.

28 THE -- THE --

1 MS. CASH-CURRY: THE MAGISTRATE.

2 THE COURT: THE MAGISTRATE WHO HEARD YOUR HABEAS  
3 CORPUS RULED. SHE'S GOT NOTHING TO DO WITH THAT.  
4 NEITHER DO I AND NEITHER DO YOU.

5 THE DEFENDANT: RIGHT.

6 THE COURT: THAT WAS THEIR RULING. THE RULING WAS  
7 THEY'RE GOING TO DISMISS YOUR WRIT OF HABEAS CORPUS  
8 WITHOUT PREJUDICE. THAT MEANS THAT YOU CAN RENEW IT AT  
9 A FUTURE TIME --

10 THE DEFENDANT: RIGHT.

11 THE COURT: -- PENDING WHAT HAPPENS HERE, IF YOU  
12 WISH TO RENEW IT.

13 THE DEFENDANT: CORRECT.

14 THE COURT: THAT'S IT. SO THERE IS NO PENDING CASE  
15 RIGHT NOW. IT'S DISMISSED, AND IT WILL NEVER RESUME  
16 UNLESS THERE IS A BASES FOR YOU TO REFILE YOUR WRIT OF  
17 HABEAS CORPUS AND THEN THEY WILL DETERMINE WHETHER OR  
18 NOT YOU HAVE A VALID BASIS FOR DOING THAT. BUT AS OF  
19 RIGHT NOW, THERE IS NO PENDING CASE IN THE FEDERAL  
20 SYSTEM, PERIOD.

21 THE DEFENDANT: YEAH.

22 THE COURT: OKAY? THAT'S INACCURATE INFORMATION.

23 SHE IS READY TO PROCEED ON THE REMITTITUR.  
24 THE REMITTITUR BASICALLY TELLS US TO -- OR IT TELLS ME  
25 AND ACTUALLY IT'S TELLING YOU TO CONSIDER A VERY  
26 IMPORTANT DECISION THAT YOU NEED TO MAKE. OKAY?  
27 BECAUSE YOU NEED TO MAKE THIS DECISION BECAUSE YOUR  
28 DECISION HERE IS NOT WITHOUT CONSEQUENCE. AND SOMETHING

1 THAT YOU HAVE TO WISH FOR, THAT YOU ASK FOR -- YOU HAVE  
2 TO BE CAREFUL OF WHAT YOU ARE ASKING FOR.

3 THE DEFENDANT: (NODDED HEAD.)

4 THE COURT: BECAUSE IT MAY BACKFIRE ON YOU.

5 THE DEFENDANT: (NODDED HEAD.)

6 THE COURT: OKAY?

7 SO I AM GOING TO -- FOR THE PURPOSES OF THE  
8 MARSDEN HEARING FOR -- STRIKE THAT. FOR THE PURPOSES OF  
9 THE REMITTITUR, DO YOU HAVE ANYTHING THAT YOU WOULD LIKE  
10 TO SAY TO THE COURT IN LIGHT OF THE FACT THAT THERE'S NO  
11 LONGER A CONFLICT BECAUSE THAT MATTER HAS BEEN  
12 DISMISSED? THE HABEAS MATTER IN THE FEDERAL COURT HAS  
13 BEEN DISMISSED.

14 THE DEFENDANT: IF I MAY, YOUR HONOR?

15 THE COURT: YEAH.

16 THE DEFENDANT: I'M SORRY TO BACKTRACK HERE.

17 THE COURT: GO AHEAD.

18 THE DEFENDANT: BUT --

19 THE COURT: I DON'T WANT TO HEAR ABOUT THE TRIAL.  
20 I WANT TO HEAR ABOUT THE REMITTITUR. THAT'S ALL WE'RE  
21 DOING HERE ON THIS ISSUE OF THE REMITTITUR.

22 THE DEFENDANT: OKAY. I'M SORRY. I WAS GOING TO  
23 BACKTRACK TO MY MOTION TO DISMISS MY ATTORNEY.

24 THE COURT: NO. WELL, BUT THAT -- THAT MOTION IS  
25 NOW MOOT.

26 THE DEFENDANT: WELL, I --

27 THE COURT: HOLD ON.

28 IF YOU ARE SAYING THAT SHE IMPROPERLY

1 REPRESENTED YOU AT THE TRIAL LEVEL OR UP TO THE -- YOUR  
2 PLEA AGREEMENT, THAT'S NOT WHAT WE'RE DOING HERE. WE'RE  
3 JUST LOOKING AT THE REMITTITUR. OKAY? THE REMITTITUR  
4 SIMPLY IS ASKING ME TO CONSIDER WHETHER OR NOT I  
5 SHOULD -- YOU ASKED THAT THE PRIOR -- THE FIVE-YEAR  
6 PRIOR BE STRICKEN. THAT'S WHAT YOU ASKED.

7 THE DEFENDANT: CORRECT.

8 THE COURT: OKAY? THAT WAS DENIED. YOU APPEALED  
9 IT. THE COURT OF APPEAL SENT IT BACK BASED ON THE FACT  
10 THAT THERE WAS -- THE CASE OF PEOPLE V. STAMPS THAT WAS  
11 DECIDED. I DON'T KNOW IF IT WAS DECIDED JUST PRIOR TO  
12 YOUR APPEAL OR DURING THE TIME THAT YOUR APPEAL WAS  
13 BEING DECIDED.

14 BUT THERE'S A LOT OF THINGS THAT WE NEED TO  
15 DISCUSS BEFORE YOU AGREE THAT YOU WANT TO PROCEED WITH  
16 THIS. AND MAYBE YOU NEED TO HEAR WHAT I HAVE TO SAY AND  
17 AT THAT POINT YOU NEED TO DISCUSS IT WITH YOUR ATTORNEY.

18 BUT WITH RESPECT TO THE REMITTITUR, I DON'T  
19 SEE THAT THERE IS -- THAT YOU WOULD BE BETTER SERVED BY  
20 ANY OTHER ATTORNEY WHO HANDLED YOUR CASE FROM THE  
21 BEGINNING. AND IF THERE'S ANYTHING THAT YOU -- IF  
22 THERE'S NOTHING THAT YOU CAN TELL ME THAT -- THAT  
23 SOMEHOW PREVENTS OR ESTABLISHES THAT MS. CASH-CURRY HAS  
24 NOT BEEN DOING AN ADEQUATE JOB WITH RESPECT TO THE  
25 REMITTITUR, WHICH -- IN ALL REALITY THERE'S NOT MUCH  
26 THAT CAN BE DONE ON HER PART OTHER THAN MAKING AN  
27 ARGUMENT IF WE GET TO THAT POINT. UNLESS YOU TELL ME  
28 THAT THERE'S SOMETHING LACKING HERE, I AM GOING TO DENY

1       YOUR MOTION TO SUBSTITUTE COURT-APPOINTED COUNSEL.

2       THE DEFENDANT: IF I MAY, YOUR HONOR?

3       THE COURT: YOU MAY.

4       THE DEFENDANT: WELL, YEAH, THAT'S WHAT I WAS GOING  
5       TO GET AT. YOU KNOW, EVER SINCE -- I GOT THE LETTERS  
6       HERE FROM THE APPELLATE COURT, FROM MY APPELLATE  
7       ATTORNEY, STATING THAT MY CASE WAS REMANDED BACK TO THIS  
8       SUPERIOR COURT FOR CONSIDERATION. AND, YOU KNOW, AFTER  
9       THE LETTER THAT STATES YOU NEED TO GET A HOLD OF  
10      MS. TAMARA CASH-CURRY, SHE'S THE ONE THAT'S GOING TO  
11      REPRESENT YOU, I HAVE BEEN TRYING TO GET A HOLD OF  
12      MS. CASH-CURRY SINCE FEBRUARY. I HAVE A COUPLE DAYS  
13      HERE. ONE WAS FEBRUARY 12. THE OTHER ONE WAS  
14      FEBRUARY 19. I CALLED HER CELL PHONE. I CALLED HER  
15      RECEPTIONIST'S OFFICE, AND THEY'VE ALWAYS TOLD ME SHE'S  
16      NOT AVAILABLE.

17      MS. CASH-CURRY: NOT MY CELL PHONE. YOU DON'T HAVE  
18      THAT NUMBER.

19      THE DEFENDANT: OKAY. I HAVE TWO NUMBERS HERE. I  
20      HAVE (909) 868-6422 AND I HAVE (909) 868-6400.

21      MS. CASH-CURRY: NEITHER OF THOSE ARE MY CELL  
22      PHONE. THOSE ARE MY OFFICE NUMBERS.

23      THE DEFENDANT: OKAY. I APOLOGIZE. THAT'S WHAT  
24      THEY TOLD ME.

25      THE COURT: ALL RIGHT.

26      THE DEFENDANT: NOW, AS OF MAY OF LAST MONTH OF  
27      THIS YEAR, I TRIED CALLING -- SINCE I WASN'T ABLE TO GET  
28      A HOLD OF HER, I GOT A HOLD OF THE LOS ANGELES OFFICE

1 DOWNTOWN L.A. I CALLED THEM, STATING, "YOU KNOW WHAT?  
2 I HAVE A HEARING COMING UP. CAN YOU PLEASE LET ME KNOW  
3 WHO MY ATTORNEY IS." THEY TOLD ME THAT THEY COULDN'T  
4 GIVE ME ANY INFORMATION BECAUSE I WAS NO LONGER BEING  
5 REPRESENTED BY THE --

6 THE COURT: ALTERNATE PUBLIC DEFENDER.

7 THE DEFENDANT: THE PUBLIC DEFENDER'S OFFICE.

8 THE COURT: ARE YOU WITH THE ALTERNATE?

9 MS. CASH-CURRY: (SHOOK HEAD.)

10 THE COURT: NO. YOU'RE WITH THE PUBLIC DEFENDER.

11 MS. CASH-CURRY: (NODDED HEAD.)

12 THE DEFENDANT: AND THEY COULDN'T TELL ME WHAT MY  
13 COURT DATE WAS. I ASKED THEM WHAT THE HEARING WAS FOR  
14 AND THEY'RE ALL, "WE CAN'T TELL YOU THAT." AND I'M,  
15 LIKE, "OKAY. SO WHAT AM I SUPPOSED TO DO NOW?" THEY  
16 TOLD ME TO CALL THEM BACK A WEEK BEFORE THE HEARING AND  
17 THAT THEY SHOULD HAVE SOME INFORMATION. I CALLED BACK,  
18 AND THEY TOLD ME THE SAME THING. THEY TOLD ME TO CALL  
19 THE POMONA OFFICE. I CALLED THE POMONA OFFICE. THEY  
20 WERE, LIKE, "WE KNOW YOU'RE IN DEPARTMENT H, BUT WE  
21 DON'T KNOW WHO'S GOING TO REPRESENT YOU."

22 SO THE POINT I'M TRYING TO MAKE, YOUR HONOR,  
23 IS THAT IT SEEMS TO BE THE SAME PATTERN AS WHEN I WAS  
24 GOING TO TRIAL. SHE'S NOWHERE TO BE FOUND. I CAN'T GET  
25 A HOLD OF HER. SHE DOESN'T GET A HOLD OF ME. I HAVEN'T  
26 GOTTEN ONE LETTER FROM HER. I'VE GOTTEN MORE LETTERS  
27 FROM MY APPELLATE ATTORNEY THAN I DO FROM HER. AND  
28 THAT'S VIOLATING MY SIXTH AMENDMENT RIGHT TO HAVE A

1 COMPETENT ATTORNEY SO I CAN ASK HER QUESTIONS SO THAT WE  
2 CAN PRESENT MY CASE IN THE MOST FAVORABLE LIGHT TO YOU,  
3 SIR.

4 THE COURT: OKAY. WELL, THE THING IS THIS.

5 WITH REGARDS TO THE REMITTITUR, I DON'T KNOW  
6 WHAT THE POLICY IS WITH REGARDS TO AN INDIVIDUAL WHO'S  
7 BEEN CONVICTED AND HAS BEEN ASSIGNED AN APPELLATE  
8 ATTORNEY; IF, DURING THAT INTERIM, THE PUBLIC DEFENDER  
9 CONTINUES TO REPRESENT A DEFENDANT. I BELIEVE THAT IT  
10 DOES NOT.

11 ON THE REMITTITUR, I BELIEVE THAT, THEN, THE  
12 PUBLIC DEFENDER, THE PRIOR COUNSEL, WOULD REPRESENT YOU  
13 AT THIS HEARING.

14 BUT, ONCE AGAIN, THE CONVERSATION THAT YOU  
15 NEED TO HAVE WITH MS. CASH-CURRY IS ONE THAT CANNOT  
16 BE -- IN MY OPINION, IS NOT ONE THAT CAN BE DONE BY  
17 MAIL. I SUPPOSE IT COULD. BUT THIS IS THE DISCUSSION  
18 THAT YOU NEED -- YOU HAVE TO HAVE A FRANK DISCUSSION ON  
19 THIS REMITTITUR WITH HER AND IT SHOULD BE FACE-TO-FACE.

20 I'M GOING TO DENY YOUR MARSDEN MOTION AT THIS  
21 TIME.

22 I'M GOING TO INVITE THE PROSECUTOR TO COME  
23 BACK IN BECAUSE I THINK YOU NEED TO HEAR WHAT I HAVE TO  
24 SAY, AND YOU THEN NEED TO, IN MY OPINION, HAVE A  
25 DISCUSSION WITH MS. CASH-CURRY. AND THEN, IF YOU STILL  
26 WISH TO PROCEED WITH THE MARSDEN AFTER THAT, I WILL  
27 CERTAINLY LISTEN TO YOU. BUT I THINK --

28 MS. CASH-CURRY: YOU MEAN, WITH THE REMITTITUR?

1           THE COURT:  PARDON?

2           MS. CASH-CURRY:  IF YOU STILL WISH TO PROCEED WITH  
3           THE REMITTITUR AFTER THAT?

4           THE COURT:  NO.  WITH -- IF HE -- AFTER HE SPEAKS  
5           WITH YOU, IF HE STILL DESIRES TO RELIEVE YOU, THEN I  
6           WILL HEAR IT.

7           MS. CASH-CURRY:  OKAY.

8           THE COURT:  BUT I THINK WE'RE PUTTING THE CART  
9           BEFORE THE HORSE.

10           I THINK YOU NEED TO UNDERSTAND WHERE YOU ARE  
11           SITUATED AND WHY YOU ARE IN SOMEWHAT OF A PERILOUS  
12           SITUATION BY BRINGING THIS MOTION.  OKAY?

13           SO WOULD YOU PLEASE ASK THE PROSECUTOR TO  
14           COME BACK IN, SOMEONE.

15           THE CLERK:  I'LL GET HIM.

16           MS. CASH-CURRY:  I CAN GET HIM.

17           THE CLERK:  THANK YOU.

18

19           (MARSDEN HEARING CONCLUDED BUT RECALLED  
20           IN P.M. SESSION.)

21

22

23

24

25

26

27

28

COURT OF APPEAL OF THE STATE OF CALIFORNIA  
SECOND APPELLATE DISTRICT

THE PEOPLE OF THE STATE OF CALIFORNIA, )  
                                                  )  
                                                  )  
PLAINTIFF-RESPONDENT, )  
                                                  )  
                                                  )  
VS.                                          ) NO. KA112598  
                                                  )  
                                                  )  
01-EDGAR ARELLANO, )  
                                                  )  
                                                  )  
DEFENDANT-APPELLANT. )  
                                                  )  
                                                  )

---

APPEAL FROM THE SUPERIOR COURT OF LOS ANGELES COUNTY  
HONORABLE JUAN CARLOS DOMINGUEZ, JUDGE PRESIDING  
REPORTERS' TRANSCRIPT ON APPEAL

MARSDEN HEARING

JUNE 2, 2021

(VOLUME 1, PAGES 329 THROUGH 341, INCLUSIVE)

CONFIDENTIAL - MAY NOT BE EXAMINED WITHOUT COURT ORDER

APPEARANCES:

FOR THE PLAINTIFF-RESPONDENT: STATE ATTORNEY GENERAL  
300 SOUTH SPRING STREET  
NORTH TOWER, SUITE 1701  
LOS ANGELES, CALIFORNIA 90012

FOR THE DEFENDANT-APPELLANT: IN PROPRIA PERSONA  
NORTH COUNTY CORRECTIONAL  
FACILITY  
2934 THE OLD ROAD  
CASTAIC, CALIFORNIA 91384

**COPY**

DEBRA KAY FORD, CSR NO. 12023  
OFFICIAL REPORTER

1 CASE NUMBER: KA112598  
2 CASE NAME: PEOPLE VS. 01-EDGAR ARELLANO  
3 POMONA, CALIFORNIA WEDNESDAY, JUNE 2, 2021  
4 DEPARTMENT EA-H HON. JUAN CARLOS DOMINGUEZ, JUDGE  
5 REPORTER: DEBRA KAY FORD, CSR NO. 12023  
6 TIME: P.M. SESSION

7  
8 (A MARDEN HEARING WAS HELD IN OPEN  
9 COURT, IN THE PRESENCE OF MR. EDGAR  
10 ARELLANO, THE DEFENDANT, MS. TAMELA  
11 CASH-CURRY, COUNSEL FOR DEFENDANT, THE  
12 COURT, AND COURT STAFF AS FOLLOWS:)

13  
14 THE COURT: ALL RIGHT. MR. ARELLANO, WOULD YOU  
15 LIKE TO BE HEARD ON THE MARDEN?

16 THE DEFENDANT: YES, SIR.

17 THE COURT: GO AHEAD.

18 THE DEFENDANT: YOUR HONOR, LIKE I STATED EARLIER,  
19 YOU KNOW, EVEN THOUGH WE TALKED ABOUT -- THAT THERE'S  
20 PENDING LITIGATION AND THAT IT'S CLOSED RIGHT NOW --

21 THE COURT: WELL, IT'S NOT PENDING LITIGATION, SIR.  
22 YOU HAVE A MISUNDERSTANDING ABOUT THAT. THERE IS NO  
23 PENDING LITIGATION.

24 THE DEFENDANT: RIGHT. RIGHT. WHAT I MEANT IS  
25 THAT IT'S ENDED ALREADY.

26 THE COURT: WELL, "PENDING" MEANS THAT IT'S  
27 ONGOING. RIGHT NOW, YOUR LITIGATION THAT HAD BEEN  
28 PREVIOUSLY PENDING HAS NOW BEEN DISMISSED SO THERE IS

1           ABSOLUTELY NOTHING PENDING.

2           THE DEFENDANT:   RIGHT.   RIGHT.

3           THE COURT:   OKAY.   GO AHEAD.

4           THE DEFENDANT:   MOVING FORWARD, YOU KNOW, LIKE I  
5           STATED EARLIER, YOU KNOW, I HAVEN'T HAD A CHANCE TO GET  
6           A HOLD OF HER UNTIL TODAY.   YOU KNOW, I THINK THAT, IN  
7           ITSELF, IS GROUNDS FOR NOT BEING ABLE TO HAVE MY SIXTH  
8           AMENDMENT RIGHTS MET, WHERE I HAVE A COMPETENT ATTORNEY,  
9           YOU KNOW, THAT I CAN TALK TO; THAT I HAVE TO MAKE  
10          DECISIONS ON THE WHIM.   YOU KNOW?   THAT'S VERY UNFAIR,  
11          ESPECIALLY ON A BIG CASE LIKE THIS, WHERE WE'RE TALKING  
12          ABOUT A LOT OF YEARS.   WE'RE NOT TALKING ABOUT A SLAP ON  
13          THE WRIST.

14          THE COURT:   BUT IT'S NOT ON A WHIM, SIR.   I JUST  
15          WANT TO MAKE SURE THAT YOU UNDERSTAND THAT IT'S NOT ON A  
16          WHIM.

17          YOU UNDERSTAND -- IT'S A DIFFICULT QUESTION,  
18          I WILL AGREE, BUT IT'S A SIMPLE QUESTION, INSOFAR AS YOU  
19          UNDERSTAND THAT IF YOU PROCEED WITH YOUR MOTION AND I  
20          GRANT IT -- SEE, WE'RE ONLY AT THE FIRST STEP.

21          THE DEFENDANT:   RIGHT.

22          THE COURT:   BECAUSE, AS I INDICATED TO YOU EARLIER,  
23          THE COURT OF APPEAL GAVE YOU THE OPTION TO WITHDRAW AND  
24          JUST SAY, LOOK, I'M GOOD.   I'M GOOD WITH THE SETTLEMENT.  
25          I -- I NO LONGER WISH TO PROCEED WITH IT.

26          THE DEFENDANT:   RIGHT.

27          THE COURT:   OKAY.   SO IF YOU WISH TO PROCEED WITH  
28          IT, YOU DO SO, UNDERSTANDING THE PERILS THAT YOU FACE,

1 MEANING THAT THE 22-YEAR SENTENCE COULD TURN INTO A  
2 25-YEAR TO LIFE SENTENCE. THAT'S THE DOWNSIDE FOR YOU.  
3 BUT THAT DOESN'T MEAN THAT I'M GOING TO GRANT YOUR  
4 REQUEST --

5 THE DEFENDANT: RIGHT.

6 THE COURT: -- FOR ME TO EXERCISE MY DISCRETION  
7 UNDER SB 1393. BUT WE FIRST NEED TO GET PAST THIS FIRST  
8 HURDLE. BECAUSE IF YOU SAY, LOOK, JUDGE, I'M GOOD.  
9 LET'S JUST LEAVE THINGS WHERE THEY ARE. THEN WE DON'T  
10 NEED TO VISIT ANYTHING ELSE.

11 THE DEFENDANT: RIGHT.

12 THE COURT: UNDERSTAND?

13 THE DEFENDANT: YES.

14 THE COURT: ALL RIGHT. SO IT'S MY UNDERSTANDING  
15 THAT YOU DO WISH TO CONTINUE WITH YOUR REQUEST THAT THE  
16 COURT EXERCISE ITS DISCRETION IN YOUR FAVOR, PURSUANT TO  
17 1393, AND THAT THE COURT STRIKE THE TWO FIVE-YEAR  
18 PRIORS?

19 THE DEFENDANT: RIGHT, OR ONE; WHATEVER THE COURT  
20 DECIDES.

21 THE COURT: OKAY. ONE OR THE OTHER.

22 THE DEFENDANT: RIGHT.

23 THE COURT: OKAY. NOW, WITH -- WITH REGARDS TO  
24 THAT -- SO YOU'VE MADE YOUR DECISION, THAT YOU WISH TO  
25 MOVE FORWARD.

26 THE DEFENDANT: YES, SIR.

27 THE COURT: WITH REGARDS TO THE MARSDEN MOTION,  
28 IT'S NOT ON A WHIM. THIS IS THE DECISION THAT YOU HAVE

1 TO -- THAT YOU HAVE TO MAKE AND YOU'VE ALREADY MADE IT.

2 THE DEFENDANT: RIGHT.

3 THE COURT: AND THAT YOU WISH TO PROCEED.

4 THE DEFENDANT: RIGHT.

5 THE COURT: SO IS THERE ANYTHING ELSE?

6 THE DEFENDANT: YEAH. LIKE, LEGAL INPUT. YOU  
7 KNOW? I WAS TALKING TO MY ATTORNEY AND THE LEGAL INPUT  
8 THAT I TRY TO PUT IN AS FAR AS, YOU KNOW, THE PRIOR  
9 CASES, THE PRIOR STRIKE THAT I HAD --

10 THE COURT: RIGHT.

11 THE DEFENDANT: -- SHE JUST DOESN'T SEEM TO WANT TO  
12 INPUT THAT INFORMATION INTO MY CASE. SHE'S JUST LIKE,  
13 NO, NO; YOU'RE A HORRIBLE PERSON; GET OUT OF HERE, TYPE  
14 OF STUFF. YOU KNOW? AND I DON'T THINK THAT'S FAIR  
15 EITHER.

16 THE COURT: ALL RIGHT.

17 I'LL LET YOU RESPOND, MS. CASH-CURRY.

18 SO --

19 THE DEFENDANT: SHE'S PRETTY MUCH SAYING THAT --  
20 LOOK, IT'S POINTLESS. WHY ARE YOU HERE, IN OTHER WORDS.  
21 YOU KNOW?

22 THE COURT: WELL, HERE'S -- HERE'S THE THING.

23 AS I INDICATED TO YOU BEFORE, AN ATTORNEY IS  
24 NOT -- IS NOT SUPPOSED TO TELL YOU WHAT YOU WANT TO  
25 HEAR.

26 THE DEFENDANT: RIGHT.

27 THE COURT: SHE'S SUPPOSED TO -- HE OR SHE IS  
28 SUPPOSED TO TELL YOU WHAT THEIR BEST ADVICE IS.

1                   SHE'S IN A DIFFICULT POSITION BECAUSE I  
2                   ASSUME SHE -- I'M GOING TO GO OUT ON A LIMB HERE AND  
3                   ASSUME THAT SHE TOLD YOU, LET IT GO; RIGHT?

4                   THE DEFENDANT: PRETTY MUCH, YES.

5                   THE COURT: OKAY. AND THE REASON THAT SHE'S DOING  
6                   THAT IS THE REASON WHY SHE RECOMMENDED THAT YOU TAKE THE  
7                   22 YEARS. YOU DON'T -- YOU DON'T WALK INTO THIS  
8                   COURTROOM ON A SILVER PLATTER, MR. ARELLANO.

9                   THE DEFENDANT: I KNOW THAT.

10                  THE COURT: DO YOU UNDERSTAND THAT?

11                  THE DEFENDANT: YES, SIR. YES, SIR.

12                  THE COURT: AND I CAN'T SPEAK FOR ANY OTHER JUDGE  
13                  NOR CAN I SPEAK FOR MYSELF UNTIL I HEAR ALL THE  
14                  EVIDENCE. BUT IF YOU WERE CONVICTED OF THIS CHARGE IN A  
15                  TRIAL AND BOTH OF THOSE PRIORS WERE PROVEN, IT IS -- I  
16                  WOULD BE SURPRISED THAT YOU DID NOT GET THE 25 TO LIFE.  
17                  AND I'LL TELL YOU WHY. BECAUSE THIS IS A PRETTY SERIOUS  
18                  MATTER. NOT ONLY WHAT YOU DID WAS SERIOUS BUT WHAT --  
19                  BUT YOUR HISTORY IS SERIOUS. YOU ARE THE INDIVIDUAL  
20                  THAT THIRD STRIKES WERE MORE OR LESS DESIGNED FOR.

21                  SO -- BUT, AGAIN, THAT -- YOU HAVE TO UNDERSTAND THAT --

22                  THE DEFENDANT: RIGHT.

23                  THE COURT: -- BECAUSE, MAN -- AND I DON'T MEAN ANY  
24                  DISRESPECT WHEN I JUST SAID "MAN." BUT, SIR, YOU ARE  
25                  REALLY ROLLING THE DICE. BUT THAT'S UP TO YOU. YOU  
26                  MADE UP YOUR -- YOU MADE UP YOUR MIND.

27                  I'M GOING TO HEAR FROM MS. CASH-CURRY NOW.

28                  FOR THE RECORD, MS. CASH-CURRY, IF YOU WOULD

1 BRIEFLY STATE YOUR EXPERIENCE AS A CRIMINAL DEFENSE  
2 ATTORNEY.

3 MS. CASH-CURRY: THANK YOU, YOUR HONOR.

4 THE COURT: OKAY. AND I'M AWFULLY SORRY. I FORGOT  
5 A PART OF MY UNIFORM. NONETHELESS I APOLOGIZE TO  
6 EVERYONE. LET ME GET IT.

7 OKAY. MS. CASH-CURRY.

8 MS. CASH-CURRY: THANK YOU, YOUR HONOR.

9 YOUR HONOR, I HAVE BEEN A PRACTICING CRIMINAL  
10 DEFENSE LAWYER FOR 27 YEARS. PRIOR TO THAT, I WAS A  
11 PROSECUTOR, AS THE COURT MAY RECALL. I AM CURRENTLY IN  
12 EXCESS OF 30 YEARS PRACTICING AS AN ATTORNEY. AND THE  
13 MAJORITY OF THE TIME, AS I'VE INDICATED, HAS BEEN AS A  
14 CRIMINAL DEFENSE ATTORNEY FOR LOS ANGELES COUNTY.

15 WITH THAT BEING SAID, YOUR HONOR, I HAVE AN  
16 EXTENSIVE AMOUNT OF EXPERIENCE HANDLING CASES OF THIS  
17 NATURE.

18 I WANT TO JUST QUICKLY JUMP TO THE COMMENTS  
19 MADE BY MY CLIENT, THAT I SAID HE WAS A HORRIBLE PERSON.  
20 I NEVER USED THE WORD "HORRIBLE" TO HIM. NEVER DID I  
21 SAY HE WAS A HORRIBLE PERSON. I DO NOT TAKE KINDLY TO  
22 INDIVIDUALS, ANY INDIVIDUAL, CLIENT OR NO CLIENT, SAYING  
23 OR IMPLYING THAT I SAID SOMETHING THAT I DID NOT SAY.

24 WHAT I HAVE TOLD MR. ARELLANO TODAY, AS WELL  
25 AS IN YEARS PAST WHEN HE WAS MY CLIENT AND THIS CASE WAS  
26 HERE AND OPEN, I'VE EXPLAINED TO MR. ARELLANO:  
27 MR. ARELLANO, I CANNOT NOR WILL ANY JUDGE GO BACK AND  
28 REVISIT THE FACT THAT YOU CLAIM THAT YOU WERE FORCED TO

1 PLEAD TO YOUR STRIKE PRIORS.

2 AND WE ARE NOT AT THIS TIME BEFORE THE COURT  
3 REGARDING HIS STRIKE PRIORS. WE ARE BEFORE THE COURT  
4 BASED ON THE FIVE-YEAR ENHANCEMENTS THAT HAVE BEEN  
5 ALLEGED AGAINST HIM, THAT HE ADMITTED TO. I'VE  
6 EXPLAINED TO HIM THAT NO ONE IN THIS COURTROOM, NOT THE  
7 DISTRICT ATTORNEY, NOT THE JUDGE, NOR MYSELF, WAS  
8 PRESENT WHEN HE CHOSE TO PLEAD TO THOSE OTHER STRIKE  
9 PRIORS IN 1999 OR 2002. I'VE EXPLAINED TO HIM THAT THE  
10 ISSUE WITH REGARD TO THOSE PRIOR STRIKE PRIORS WOULD BE  
11 OR WOULD HAVE BEEN AN ISSUE IF HE WAS SAYING THAT THOSE  
12 WERE NOT HIS CONVICTIONS; THAT HE, IN FACT, WAS NOT THE  
13 PERSON THAT WAS CONVICTED OF THOSE THROUGH -- WHETHER IT  
14 WAS BY PLEA OR BY TRIAL -- BY JURY VERDICT. I'VE  
15 EXPLAINED TO HIM THAT SCENARIO.

16 BUT, MORE IMPORTANTLY, WHAT I'VE TOLD HIM  
17 TODAY IS JUST WHAT THE COURT JUST SAID, AND THAT IS,  
18 SIR, THE HISTORY OF YOUR CASES ALMOST DICTATES THAT YOU  
19 WILL BE PROSECUTED TO THE FULLEST EXTENT OF THE LAW  
20 BECAUSE, AS HE TRIED TO SHOW ME A POTENTIAL -- A  
21 POTENTIAL LEGISLATION. I BELIEVE IT WAS --

22 WAS IT 81 YOU TRIED TO BRING UP?

23 HE TRIED TO BRING UP, WHERE THEY'RE PROPOSING  
24 A CHANGE IN THE LAW. BUT EVEN IN THE CHANGE IN THE LAW,  
25 THE CHANGE -- THE PROPOSED CHANGE IN THE LAW SAID THAT  
26 THE JUDGES WOULD BE REQUIRED TO DISMISS ENHANCEMENTS  
27 UNLESS CERTAIN CIRCUMSTANCES PREVAILED, ONE OF WHICH  
28 BEING IF THERE WAS A DETERMINATION THAT THE DEFENDANT

POSED A THREAT TO THE SAFETY OF THE PUBLIC.

I EXPLAINED TO HIM, BASED ON HIS RECORD, THAT  
THAT APPLIES TO HIM ACROSS THE BOARD. AND BASED ON  
THAT, I WOULD NOT RECOMMEND THAT HE TAKE A CHANCE AT  
GETTING A 25 TO LIFE INDETERMINATE SENTENCE VERSUS THE  
22 DETERMINATE SENTENCE THAT I WAS ABLE TO NEGOTIATE FOR  
HIM WHEN THIS CASE WAS OPEN. NOW, I EXPLAINED TO HIM  
THAT GOING TO TRIAL WOULD NOT BE IN HIS BEST INTEREST  
BECAUSE OF THOSE FACTORS.

10 AT THAT TIME MY CLIENT PROCEEDED TO SAY THAT  
11 THAT CASE THAT HE WAS ORDERED TO REGISTER ON WAS NOT A  
12 CASE IN WHICH ANYTHING HAD OCCURRED. AND I SAID TO HIM,  
13 SIR, WE CANNOT RELITIGATE THAT. WE WERE NOT THERE. WE  
14 DON'T KNOW WHY YOU PLED TO THOSE CHARGES AND AGREED TO  
15 ACCEPT THE ORDERS OF THE COURT WHICH REQUIRED YOU TO  
16 REGISTER. I CANNOT UNDO THAT. I SAID, BUT BECAUSE OF  
17 THAT, IT DOESN'T MATTER WHAT THE CHARGE WAS. YOU AGREED  
18 TO THE COURT'S ORDER OF THE REGISTRATION. I HAVE NO  
19 CONTROL OVER THAT. I SAID, THE DISTRICT ATTORNEY IS  
20 AWARE OF THAT.

21 THE DISTRICT ATTORNEY, IN FACT, SENT ME A  
22 TEXT MESSAGE SAYING, "ARE YOU AWARE?" AND, OF COURSE,  
23 I'M AWARE BECAUSE I DID THE PRELIMINARY HEARING. I'VE  
24 HAD THE CASE FROM THE BEGINNING.

25 I READ THE TEXT MESSAGE FROM THE DISTRICT  
26 ATTORNEY TO MR. ARELLANO, SAYING, "SIR, THEY KNOW ABOUT  
27 YOUR PRIORS, YOUR PRIOR STRIKES." I DO NOT RECOMMEND --  
28 I SAID, "IN THEIR EYES, YOU ARE THE PERSON THAT THEY

1       WOULD SEEK THE 25 TO LIFE ON." NEVER ONCE DID I SAY HE  
2       WAS A HORRIBLE PERSON. NEVER ONCE DID I SAY HE DID  
3       ANYTHING TO ANY INDIVIDUAL. BECAUSE HE KEPT ARGUING  
4       WITH ME, SAYING, "I DIDN'T TOUCH ANYBODY. NO ONE WAS  
5       HURT." I SAID, "YOU WEREN'T CHARGED WITH TOUCHING  
6       ANYBODY OR HURTING ANYONE. NEVERTHELESS, WHAT YOU WERE  
7       CHARGED WITH AND WHAT YOU PLED TO STILL CONSTITUTES A  
8       SERIOUS FELONY AND, THEREFORE, IT FALLS UNDER THE  
9       CATEGORY OF THREE STRIKES AND THAT WAS YOUR THIRD  
10       STRIKE." I SAID, NOW, I MANAGED TO GET THEM TO STRIKE  
11       ONE STRIKE WHICH LEFT YOU WITH THE OTHER TWO -- I MEAN,  
12       THE OTHER STRIKE WHICH MADE THIS CASE DOUBLE TIME. I  
13       SAID, "NOW, I HAVE NO CONTROL OVER THE FACT THAT YOU  
14       CHOSE TO DO THAT." I SAID, IN FACT, THE JUDGE READ TO  
15       YOU IN THE TRANSCRIPT WHERE, AT THE TIME OF YOUR PLEA, I  
16       ASKED YOU IF YOU WANTED TO MOVE FORWARD OR IF YOU WANTED  
17       TO GO TO TRIAL, AND YOU SAID YOU DID NOT WANT TO GO TO  
18       TRIAL. YOU WANTED TO MOVE FORWARD WITH THE PLEA.

19           AT THIS POINT TODAY, I'VE INFORMED HIM THAT  
20       THERE IS ABSOLUTELY A GREAT RISK THAT HE IS TAKING BY  
21       WANTING TO MOVE FORWARD.

22           AND AS HE WAS BEING BROUGHT IN TODAY, THE  
23       DISTRICT ATTORNEY WAS FINISHING UP A CONVERSATION WITH  
24       ME, WHEREIN HE SAID, "OH, BY THE WAY, I SPOKE TO PETER,  
25       AND HE SAYS THIS IS ONE WE'LL MOVE FORWARD WITH ON THE  
26       FULL POTENTIAL OF THE SENTENCE."

27           THE COURT: AND YOU'RE REFERRING TO PETER CAGNEY,  
28       THE HEAD --

1 MS. CASH-CURRY: THE HEAD DEPUTY OF THE DISTRICT  
2 ATTORNEY'S OFFICE.

3 SO THAT WAS BEING SAID TO ME AS MY CLIENT WAS  
4 BEING BROUGHT IN AND HE SAT DOWN. SO I TURNED TO HIM  
5 AND I SAID, "DID YOU HEAR WHAT THE D.A. JUST SAID TO  
6 ME?" HE SAID, "NO, I DID NOT." SO I REPEATED IT TO  
7 HIM. THIS IS BEFORE THE COURT TOOK THE BENCH THIS  
8 AFTERNOON.

9 I AM MERELY TRYING TO MAKE SURE -- AND I TOLD  
10 HIM, SIR, MY JOB IS NOT TO TELL YOU -- NOT TO TELL YOU  
11 WHAT YOU WANT TO HEAR. THOSE ARE MY EXACT WORDS, YOUR  
12 HONOR. "MY JOB IS NOT TO TELL YOU WHAT YOU WANT TO  
13 HEAR. MY JOB IS TO TELL YOU WHAT'S HAPPENING AND WHAT  
14 THE REALITY IS AND TO GIVE YOU ADVICE." I CAN TAKE IT A  
15 STEP FURTHER. HE ASKED ME -- AND THESE WERE HIS WORDS  
16 VERBATIM -- "WHAT ADVICE DO YOU GIVE ME?" SO I GAVE HIM  
17 MY ADVICE.

18 I NEVER HAD ANY REASON TO CALL HIM A HORRIBLE  
19 PERSON. NEVER DID I SAY SUCH A THING.

20 I AM PERFECTLY PREPARED, READY, WILLING, AND  
21 ABLE TO HANDLE THIS CASE, WHETHER IT'S ON THE -- AS TO  
22 THE REMITTITUR OR WHETHER IT PROCEEDS -- IF THE COURT  
23 GRANTS HIS REQUEST AND IT PROCEEDS AND WE GO TO TRIAL, I  
24 AM PERFECTLY CAPABLE OF HANDLING IT AND PREPARED TO DO  
25 SO.

26 THE COURT: ALL RIGHT. THANK YOU, MS. CASH-CURRY.

27 THE COURT FINDS THAT THERE IS NO ISSUE THAT  
28 WILL PREVENT THIS ATTORNEY FROM COMPETENTLY AND HAS IN

1 THE PAST COMPETENTLY REPRESENTED THIS DEFENDANT.

2 IT APPEARS THAT THERE IS A DIFFERENCE --  
3 THERE IS A DIFFERENCE OF OPINION IN THE LEGAL  
4 RAMIFICATION -- OR THE LEGAL RAMIFICATIONS OF THIS CASE  
5 AND THE FULL UNDERSTANDING OF THE LEGAL PROCESS BY  
6 MR. ARELLANO, SPECIFICALLY WHEN IT COMES TO HIS PRIORS.  
7 HIS PRIORS ARE HIS PRIORS. AND IF THEY WEREN'T RESOLVED  
8 BY APPEAL OR BY A WRIT OF HABEAS CORPUS OR WHAT HAVE  
9 YOU, THE COURT -- IT IS A CONVICTION AND IT IS FOR THE  
10 CHARGES THAT WERE -- THAT CONSTITUTES A STRIKE OFFENSE,  
11 THEN THAT'S AS FAR AS THE INQUIRY GOES. IF IT WAS A  
12 PLEA OR IF IT WAS A CONVICTION BY A JURY AT TRIAL IN A  
13 PRIORS TRIAL, THE COURT DOES NOT, IN ESSENCE, GO BEHIND  
14 THE CONVICTION. IT'S JUST -- IS IT A CONVICTION FOR A  
15 STRIKE OFFENSE AND WAS THE DEFENDANT THE PERSON WHO WAS,  
16 IN FACT, CONVICTED? AND USUALLY THAT'S A FAIRLY SIMPLE  
17 PROCESS BECAUSE THERE'S FINGERPRINTS AND PHOTOS AND SO  
18 ON AND SO FORTH.

19

20 (MS. CASH-CURRY AND HER CLIENT CONFERRED  
21 OFF THE RECORD.)

22

23 THE COURT: IN OTHER WORDS, MR. ARELLANO, AT A  
24 PRIORS HEARING, YOU CANNOT BRING UP THE FACT THAT I WAS  
25 FORCED OR I WAS MISTAKEN OR WHAT HAVE YOU. THE COURT'S  
26 GOING TO SAY, SORRY, MR. ARELLANO. AT THIS POINT ALL  
27 WE'RE GOING TO DECIDE IS WERE YOU THE PERSON THAT IS --  
28 THAT WAS THE SUBJECT OF THIS CONVICTION? WAS IT YOU?

1 AND THAT'S USUALLY PRETTY STRAIGHTFORWARD BECAUSE  
2 THERE'S FINGERPRINTS AND A PHOTOGRAPH USUALLY; RIGHT?  
3

4 (MS. CASH-CURRY AND HER CLIENT CONFERRED  
5 OFF THE RECORD.)  
6

7 THE COURT: SECONDLY, THE COURT -- IS IT A STRIKE  
8 OFFENSE? IS IT ONE OF THE OFFENSES THAT FALL UNDER  
9 1170.12? AND IT'S USUALLY A SERIOUS OR VIOLENT FELONY.  
10 IT'S NOT 1170.12. IT'S 66797, I BELIEVE IT IS, .2. SO  
11 IT'S EITHER A SERIOUS OR VIOLENT OFFENSE. THIS OFFENSE  
12 THAT YOU WERE CONVICTED OF IS BOTH A SERIOUS AND A  
13 VIOLENT OFFENSE BECAUSE THERE WAS A PERSON PRESENT.  
14 OKAY? SO IT DOES QUALIFY AS A THIRD STRIKE. BUT YOU  
15 DIDN'T GET THAT BECAUSE YOUR ATTORNEY NEGOTIATED A  
16 22-YEAR SENTENCE.

17 SO I'M DENYING YOUR MOTION BASED ON THE FACT  
18 THAT IT'S JUST A SIMPLE MISUNDERSTANDING OF YOU OF WHAT  
19 THE LAW IS AND HOW THINGS ARE HANDLED IN A TRIAL,  
20 SOMETHING WHICH MS. CASH-CURRY HAS EXTENSIVE EXPERIENCE.  
21 SHE'S DONE -- I'M NOT GOING TO NAME A NUMBER BUT -- OR  
22 ASSIGN A NUMBER, BUT I KNOW THERE ARE MULTIPLE PRIORS  
23 TRIALS AND MULTIPLE TRIALS THAT SHE'S PERFORMED IN HER  
24 30 YEARS AS A DEFENSE ATTORNEY. SO THE MARSDEN MOTION  
25 IS DENIED, AND SHE WILL CONTINUE TO REPRESENT YOU.

26 YOU'VE MADE YOUR CHOICE THAT YOU WANT TO  
27 PROCEED WITH YOUR MOTION, TO HAVE THE COURT EXERCISE ITS  
28 DISCRETION. MS. CASH-CURRY INDICATED THAT SHE'S

1 PREPARED TO DO THAT.

2 WITH REGARDS TO THE COURT'S RULING WITH  
3 REGARDS TO THE MARSDEN MOTION, THAT IS THE COURT'S FINAL  
4 RULING AND THAT CAN BE APPEALED AFTER WE GO THROUGH THE  
5 SECOND PART OF OUR PROCESS HERE TODAY.

6 SO MR. SULLIVAN -- IF YOU WOULD GET HIM TO  
7 COME IN.

8  
9 (END OF MARSDEN HEARING.)

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# APPENDIX

C

SUPREME COURT  
FILED

APR 13 2022

Court of Appeal, Second Appellate District, Division Seven - No. B314434

Jorge Navarrete Clerk

S273539

Deputy

**IN THE SUPREME COURT OF CALIFORNIA**

**En Banc**

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THE PEOPLE, Plaintiff and Respondent,

v.

EDGAR ARELLANO, Defendant and Appellant.

---

The petition for review is denied.

CANTIL-SAKAUYE

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*Chief Justice*



(APPENDIX - C)