12/15/22

No. 22-954

In the

# Supreme Court of the United States

Justin Marcus Zinman,

*Petitioner,*

v.

The People of the State of California,

*Respondent.*

On Petition for Writ of Certiorari
to the California Supreme Court

## PETITION FOR WRIT OF CERTIORARI

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## QUESTIONS PRESENTED

Whether allowing a Progressive political ideology to influence the law violates the Establishment clause of the First Amendment?

Whether the State of California's assault and threat laws adequately incorporate the Federal Constitutions Speech provision under the Second Amendment?

Whether State Secrets should be upheld in this case which involves an active United States Defense Consul who is engaging in Homeland Defense activity?

## RELATED CASES

• *The People of the State of California v. Justin Marcus Zinman*, No. 2021001112FA, Superior Court of California, County of Ventura. Judgment entered on July 2, 2021

• California Bar Complaint No. 21-0-11989 against Ayala Benefraim

• California Bar Complaint No. 21-0-13035 against David McKim Barnes

• California Council on Judicial Performance Complaint No. SKG:ns/L12-16-12Zinman

• *The People of the State of California v. Justin Marcus Zinman*, NoB313764, California Appellate Court for the Second District, Division 6. Judgment entered in approximately June of 2022.

• *Justin Marcus Zinman v. The People of the State of California*, on Habeas Corpus Petition No. B313883, California Appellate Court for the Second District, Division 6. Judgment entered in approximately June of 2022.

• *Justin Marcus Zinman v. Ventura County et al.* Civil Complaint No. 56-2022-00564128-CU-RI-VT A

• *Justin Marcus Zinman v. the People of the State of California*, on Writ of Certiorari Petition No. S276376, California Supreme Court. Judgment entered in

approximately November of 2022.

• *Justin Marcus Zinman v. The People of the State of California*, on Habeas Corpus Petition No. S275841, California Supreme Court. Judgment entered in approximately November of 2022.

• *Justin Marcus Zinman v. Simi Valley Police Department, et al.*, Civil Complaint No. 2:21-cv-09442-JVS-JC, United States District Court for the Central District of California. Judgment entered in approximately June of 2022.

• *Department of Justice, Hostage Rescue Team v. California Department of Corrections and Rehabilitation*, Civil Complaint No. 2:22-cv-03134-2 JVS-JC, United States District Court for the Central District of California. Judgment entered in approximately July of 2022.

• *Justin Marcus Zinman v. Debbie Asuncion*, on Habeas Corpus No. 2:22-cv-00886-JVS-JC, United States District Court for the Central District of California. Judgment entered in approximately November of 2022.

• Report to the Special Litigations Section of the United States Department of Justice No. 123839-LDN.

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## JURISDICTION

Judgment in the Court of first instance was entered on July 2, 2021 and Petition for Review was denied in the California Supreme Court in November of 2022.

Statutory provisions conferring this Court jurisdiction over this case are found in the United States Constitution, Article III sections 2.1-2.3, 32 U.S.C. § 901 and the First, Second Amendments and Fourteenth to the United States Constitution.

## CONSTITUTIONAL PROVISIONS

Constitutional provisions involved with this case include Speech, Religion, grievance, controversies between citizens of different States, interstate communications, interstate commerce, cases affecting U.S. consuls, militia, right to bear arms, security, defense, public safety, domestic violence, public danger, State Secrets, due process, deprivation of rights, disparaging rights, law enforcement.

## STATEMENT OF THE CASE

The Petitioner encountered Simi Valley police officers on January 12, 2021 after they responded to a 9-1-1 call made by Cheryl Hagen who alleged that the Petitioner was standing in front of her home in Simi Valley, California. Upon the encounter, the Petitioner explained to the Officers that he was, 'engaging in a counterterrorism investigation' (sic) for the, "Central

Security Service" (CSS). After being detained, the Petitioner spoke with Detective Shane Johnson who was interested in messages that had supposedly been sent to Cheryl Hagen roughly 3 days prior. The Petitioner was unsure of what messages the Detective was referring to but the Petitioner explained to him that media texts are necessarily, "polysemic" and admitted that he thought it would be, "ideal" to, "take" (though, he specifically stated that this should not be construed to mean, "abduct") Breana Hagen (Cheryl Hagen's daughter) as his, "wife" and, "fuck the shit out of her". The Petitioner was subsequently taken into custody for the charge of PC 646.9, "Stalking" (though it is not clear as to who the charge of Stalking was related to as Breana Hagen was not home and there had been no new e-mail messages allegedly sent to Breana or Cheryl). It should be noted that there were no active restraining orders, there had been no previous restraining orders and the police had never contacted the Petitioner about any issues regarding messages or the Hagen's. The States entire investigation is essentially founded on a roughly half page police report stating that the Petitioner sent threatening messages to Breana Hagen. Eventually, a jury allegedly found Justin Marcus Zinman guilty of one count of Penal Code 422, "Criminal Threat" and one count of Penal Code 646.9, "Stalking". To this date, the facts are not founded that the Petitioner sent messages to Breana Hagen, the Petitioner does not know which message(s) the jury found to be in violation of Penal Code 422 or Penal Code 646.9 and the prosecutor, sentencing Judge and Appellate Justices have all offered different opinions as to what

messages violated the law.

Federal questions were timely raised in the Court of first instance when the Petitioner literally stated, "this case presents a legitimate Federal Question" at a pre-trial hearing and then at trial where the Petitioner defended the case in Propria Persona, giving a First/Second Amendment Speech defense in support of the claim that the communications in the case were protected speech (or at least not felonious) under the United States Constitution, relying almost exclusively on the so called, "Economic Liberty Approach" of the First Amendment as espoused by Victoria Barenetsky in her journal in volume 4 7 of the Harvard Civil Rights/Civil Liberties Review that was utilized by Justice Easterbrook in deciding on the paradigm shifting case, "*American Booksellers v. Hudnut*", 771 F.2d 323. The Petitioner was unable to continue presenting his Federal questions to the California Appeals and Supreme Court because they would not allow the Petitioner to continue to act as legal representation and instead forced legal representation upon the cases, preventing the Petitioner from presenting his issues.

## LEGAL AND CULTURAL RELEVANCE

For decades, the United States media/communications environment has been dominated by a centralized power structure known as the, "Mainstream Media". Until recently, that structure has existed without a meaningful form of opposition and accordingly, it has been able to

disseminate information based on the dictates of its own prerogatives.

Thanks to the advent of Social Media, a new, decentralized communications structure has risen to challenge the hegemony of the Mainstream Media and in the process, a new array of words, narratives and ideas have been introduced into the public sphere. As such, the general topic of Speech has become a primary concern in the public conscious and has created a kind of silent war. This Petition generally represents the publics concerns about Speech, the influence of Progressive ideology on Speech and the ability to use Speech to challenge others.

During its reign, the Mainstream Media was able to specifically censor and/or demonize a class of speech known as, "hate speech" in Progressive parlance. Hate Speech is an umbrella term for an array of topics that are believed to oppose the Progressive notion of, "equality" and include the topics of male dominance, hierarchal relationships and government incompetency. Using semiotic theory, the messages in this case were able to encode and contend with all of these Hate Speech topics at once and do so in an adversarial/polemical manner (inadvertently, semantically and directly) against the government.

Until now, the State of California has not had to publicly and/or meaningfully answer and account for their Progressive views and/or their influence on the law. Such an account is due because these topics are silently tearing away at the fabric of

Western/American culture, their influence does clearly appear to cause a conflict with Federal law and having this opportunity to hold the State of California to answer could begin the end of the culture war in America.

At the class of 2019 convocation at University of California, Berkeley, Chancellor Carol Christ stated that, "the proper response to Hate Speech is more speech". The Petitioner would have this Honorable Court hold the State of California to that axiom and potentially settle the Progressive issue of Hate Speech and its influence over policy and/or law once and for all.

It is the Petitioners contention that the Federal Constitution expressly provides for Hate Speech intended to offend, terrorize and/or traumatize and that States like California are failing to incorporate these axioms into their laws and/or society on account of their Progressive leanings and are doing so to the detriment of their law abiding citizens.

Until now, the right to use Speech alone for the purposes of terrorization does not appear to have been specifically articulated as a Constitutional right but that right is clearly evident or implied in the Second Amendment to the United States Constitution and whether or not this theory has been officially stated, Federal law does already appear to perfectly incorporate the theory into its Assault and Threat codes.

## THE SECOND AMENDMENT THEORY OF SPEECH

According to prevailing First Amendment jurisprudence, the, 'right to bear arms' clause of the Second Amendment should actually be understood of as a Speech provision. Ever since the ruling in *American Booksellers v. Hudnut* and the utilization of the "Economic Liberty Approach" of the First Amendment by Justice Easterbrook, the Federal Government has come to classify nearly all forms of Speech as, "expressive". The expressive purpose of, "bearing arms" is to appear immediately, and deadly threatening (which is not the same as making a true threat to cause death/injury immediately). By applying the Economic Liberty Approach of the First Amendment to the, "right to bear arms" clause of the Second Amendment, it becomes clear that Speech alone can be employed to satisfy/match the expressive purpose of, 'bearing arms'. The Second Amendment does not naturally imply the use of a firearm and, 'to bear' is a general reference to an outward behavioral expression. Accordingly, when someone 'bears arms', they are really creating a message that says something like, "I can kill or injure you right now". The Second Amendment expressly allows individuals to appear dangerous and/ or threatening and the ability to appear threatening and/or dangerous can be a function of Speech alone. The Second Amendment right to Speech is also where the right to, "challenge" comes from.

## INTRODUCTION AND SUMMARY OF ARGUMENT

As this Court has recently recognized in the overturning of *Roe v. Wade* (*Dobbs v. Jackson Women's Clinic*, 142 S. Ct. 228) it is possible for unlawful practices to carry on as lawful when unnatural assumptions guide Constitutional interpretation. It is the Petitioners contention that the State of California is fostering and/or integrating a Progressive legal philosophy or attitude into its law and that philosophy is invariably causing the State to create laws in conflict with Federal law and ultimately, to deprive individuals of their Second Amendment right to Speech. This contention is supported through evidence of the States patently Progressive attitude towards subjects, objects and the Peace, their influence on the law, California's laws in conflict with Federal law, California's law in conflict with itself, a course of conduct in support of the goal to limit Second Amendment activity within the State in general. It has been the Petitioners goal to expose these deficiencies in California's law since he was activated on December 24, 2020 and the breadth of the Petitioners activities since that time is a testament to that fact.

## THE FEDERAL CONSTITUTIONS THEORY OF NATURAL LAW VERSUS THE STATE OF CALIFORNIAS THEORY OF PROGRESSIVE LAW

Under the Federal Constitution and the Theory of Natural Law upon which it is founded, subjects are

individual citizens of a political society who have the potential to commit crime, objects are inanimate and have potential uses according to the intention (and/or ability) of the one possessing the object and, "the Peace" is a kind of omnipresent construct/Entity which exists in a harmonious relationship to the People when it is, "kept". Moreover, Assaults are a crime against the person while Threats are a crime against the Peace. In the State of California, according to a theory of Progressive Law, subjects are groups of people in a free society that behave according to racially determined characteristics (such as skin color), objects can inherit qualities based on the intention of the one who created the object (or, at least the supposed intention) and, "the Peace" is believed to reside within individual subjects (as if it belonged to them). In addition, the crime of threats is virtually synonymous with the crime of assault and as such, it is necessary to discuss threats and assault simultaneously when considering one or the other in California.

## ARGUMENT

### I. The State of California is fostering a Progressive attitude toward the nature of subjects, objects and, "the Peace"

#### A. When, "the Peace" is assumed to reside within subjects, the crime of threats becomes elementally indistinguishable from the crime of assault and the Second Amendment right to Speech is necessarily infringed upon.

When the Peace is assumed to reside within/be possessed by individual subjects, the law may also assume that the experience of, "sustained fear" by another individual, through the intentions and/or actions of another, constitutes a deprivation of property or liberty, despite intention, and therefore, an injury against that person. This assumption is clearly manifest through the State of California's assault and threat laws.

CALCRIM 915 is given when defendants are tried for Penal Code 240, "Assault" and that instruction includes a clause which states that, "the People do not need to prove that the defendant actually intended to use force when he/she acted". Because of that clause, a jury may find a defendant guilty of Penal Code 240 if they believe a defendant simply intended to cause another to experience fear of an assault or battery. In other words, a defendant can be found guilty of Penal Code 240 (Penal Code 245 for that matter) if a jury finds that mens rea was an intent to cause fear and actus reus is an action (or expression) in unison with that intention. An intent to cause fear/disturb the peace combined with an action/expression in unison with that intention are the exact same constituent elements to the Federal crime of making threats except the California code is classified as an assault and is therefore against the person which is consistent with the theory that the Peace resides within individual subjects

The (Progressive) assumption that threats are a form of assault is also manifest in California threat

laws such as Penal Code 422, "Criminal Threat" which is a threat code that is concerned with how long or to what degree a complaining witness is believed to have experienced fear. Penal Code 422 criminalizes the intentional communication of a true threat to cause GBI or death (mens rea/actus reus) so long as the threat is believed to have caused the complaining witness to have experienced "sustained fear"(the subjective element). Constructing a threat crime in this manner is unprecedented under a theory of Natural Law. The crime of threats is not elementally concerned with a subjective element in this manner because threats are not a crime against individual subjects. Furthermore, Penal Code 422.1 even provides for direct restitution to those who are believed to have experienced "sustained fear" from a communication and Judges are known to order defendants to pay direct restitution to the complaining witness in a Criminal Threat case after being convicted. To remove any doubt that the State considers the crime of threats against the person/a form of assault, CALCRIM 916 provides an instruction for "assault by conditional threat" proving that a jury can find a defendant guilty of assault for intending to cause fear and acting/expressing in unison with that intention.

California assault laws are against a person and can involve the constituent elements of the intent to cause fear and the making of an action/expression in unison with that intention, and California threat laws involve the same constituent elements and also involve an element against the person. As such, the two crimes are virtually synonymous on account of a theory that

the Peace resides within individual subjects. In the end, a defendant can be found guilty of assault for exercising Second Amendment Speech because intent to use force is not a required element for the government to prove in assault and defendants can be found guilty of threats because there is a subjective element concerned with sustained fear. In both cases, The Second Amendment right to Speech can be infringed upon.

B. Assuming that an object can, "inherit" a certain quality based on the supposed intention of the object's inventor is a false assumption and potentially augments the element or intention in assault cases.

CALCRIM jury instruction 875 is given when individuals are charged with Penal Code 245, "Assault with a deadly weapon or by force likely to produce great bodily injury" and it includes a clause which states that, "an object is inherently deadly if it is deadly or dangerous in the ordinary use for which it was designed". This clause effectively imputes a degree of unisemic intention onto an object apart from the intention of the individual possessing the object. Therefore, the degree to which a prosecutor must prove intention is potentially lessened because certain objects themselves already have a degree of intention imputed within them by the States direction. In nature, objects have no, "likelihood" to "produce" injury (as if the object could act according to its own intentions) absent the intention to do so according to the will/intention of a conscious subject (recall that

California assault laws do not require actual intent to use force). The States assumption that objects can produce injury apart from the intention of a subject is related to its (Progressive) theory that objects (which are naturally inanimate) can, "inherit" quality according to their supposed, "ordinary" use or, through the intention (again, supposed) of the subject who created the object. Also, in nature, objects, or, "apprehensible phenomena" have a multitude of potential uses and may, "possess" an array of positive or negative, "valences" (Jordan B. Peterson, "Maps of Meaning, the Architecture of Belief'. Routledge. p. 82). By assuming that an object should be axiomatically perceived in a specific manner (say, as deadly rather than an instrument of peace) because of its supposed "ordinary" use, the State was allowed to create the charge of Penal Code 245 in the first place, which is concerned with how, "likely" (rather than how intentionally) an object could "produce" (rather than cause) injury, rather than a charge concerned with, "assault with a dangerous weapon, with intent to do bodily harm" as seen in 18 U.S.C. § 113 (a)(3). By imputing deadliness onto an object, combined with the States Progressive attitude toward the Peace, it is possible to be convicted of Penal Code 245 by exercising the right to bear arms (with an object in this situation) if the object is determined to be, "inherently deadly" even if the defendant did not actually intend to use force/engage in an assault when they acted/expressed themselves. In fact, Penal Code 245 is a peculiar charge because, combined with its instruction CALCRIM 875, it actually allows a defendant to be convicted of the charge if they simply

performed an action/expression with an object that is recognized by another as deadly (a subjective element similar to Penal Code 422) because certain objects are allowed to be considered "inherently" deadly without any subjective intention (just as Penal Code 422 is violated whether or not a person intended to cause "sustained" fear).

C. Treating individual subjects as if they were naturally part of preconceived racial groups objectifies subjects by assuming that they also can, "inherit" certain qualities associated with their imagined group/racial identity.

In nature, human beings are individuals, not groups. Over the course of history, certain governments have fostered various ideologies that involve grouping people by various characteristics such as "race". Governments can do this for various reasons but a major reason is class distinction. For example, the Nazi government during WWII championed an idea that "Aryan" people (a group of people who hail from an area near present day Iran) had an inherent quality of goodness which allowed them to occupy a higher class in society. Today, Progressive governments like the State of California champion a similar idea that, "White" people (which is a racial group founded on the false idea that people can be "pure blooded") have "inherent" "privilege" on account of their racial group which produces a similar class distinction dynamic as the Nazi government. As such, the propensity to attribute "inherent' qualities to subjects is endemic to the State of California and it

occurs due to the Progressive theory of racism which is essentially founded on the idea that members of certain racial groups "inherit" traits. For those in the "Black" or "Latinx" groups (which are groups that only exist in the Progressive worldview), they inherit the quality of deadliness (similar to certain objects) and/or the propensity to commit crime.

Recently, the California Legislature amended Penal Code 1465.9 to reflect it (racist) findings that are listed in Stats 2020 ch. 92. Subsection (b) of that chapter declares that, "incarcerated people are disproportionately Black or Latinx because these populations are over policed ... "This declaration follows the logic that officers naturally assume that citizens assigned to the Black or Latinx categories have an "inherent" propensity to commit crime. Subsection © of that chapter goes on to state that "People exiting jails or prison face higher rates of unemployment and homelessness, due in part to racial discrimination ... ". Here the Legislature is openly declaring that citizens are systemically identified by the group level characteristic of race to the point that they are denied equal treatment under the law. It should be noted that this Progressive assumption that race is a significant means by which individual may be identified by opposes the Judeo-Christian tradition which categorizes individuals through a different framework of moral versus immoral and attributing social ills to a univariate analysis that places race as a significant factor to consider has long been the practice of racists and racist governments.

Now, CALCRIM 915 is given when defendants are tried for Penal Code 240, "Simple Assault" (assault when no object is involved in a threatening action/expression). Even though there is no object involved in the alleged threatening action, the clause which states that, "the People do not need to prove that the defendant actually intended to use force when he/she acted" is still present. Here, the States Progressive attitude toward subjects (racism) is given free reign to allow jurors to attribute inherent qualities to the subject since no object is involved and the propensity to attribute qualities to the subjects exists (per the Legislatures declarations). In fact, the existence of this clause appears to serve no other purpose than to allow unnatural attitudes toward subjects influence jury decisions. It is probable that the entire reason that clause exists in California assault laws is a result of the States Progressive attitude toward subjects.

## II. Areas of California law that are influenced by Progressive attitudes are in conflict with Federal law

### A. All Federal assault codes require that the Government to prove actual intent.

Federal assault codes are listed under 18 U.S.C. §§111-119. Without exception, the Government is required to prove that a defendant intended to use force when they acted and objects are never considered to have intention apart from the intention of the subject in possession of the object. As such, there are

no assault codes concerned with how, "likely" an object could "produce" injury, there are no "deadly" weapons, there is no such thing as "assault by conditional threat" and there is no possibility of attributing inherent traits to individual subjects.

Federal law is clear to distinguish between the crime of threats and the crime of assault. In fact, 18 U.S.C. § 115.a.1-2 specifically distinguishes between threats and assault by providing for "threatening to assault". When the two charges are enjoined, a natural consequence is that the crime of threats also becomes attempted battery. When threats are attempted battery, among other things, the government is justified in charging a person for 'attempting' to do what a threat is alleged to have communicated even without an action showing attempt (which is exactly what happened in this case).

B. Federal threat codes are not concerned with the subjective element of "sustained fear".

Federal law understands that threats are a crime against the Peace, not the person, and therefore, is not elementally concerned with how a subject received the threat. 18 U.S.C. §§ 875-879 are concerned with whether or not a dependent intended a statement to be understood as a threat (mens rea) and whether he/she made a threat in unison with that intention (actus reus). By considering the subjective element of how a complaining witness received a threat, the crime of threats eventually becomes virtually indistinguishable from the crime of assault.

As such, a person can be found guilty of threats even if they did not intend to cause fear (Penal Code 422 requires the State to prove that a statement be understood as a threat, not that they intended to cause a specific level of fear) but did cause fear (and a subjects fear could be the result of circumstances beyond a defendants control). This is consistent with a theory of assault since, if a person intended to assault someone and caused serious bodily injury, but did not intend to inflict serious bodily injury, that person would still be guilty of assault and be responsible for the injury unintended. The Court in *Brandenburg v. Ohio,* 395 U.S. 444 did not consider how a complaining witness received a threat because the crime of threats is not against a person. It should also be noted that United States Courts will not even hear a 42 U.S. C § 1983 Civil Rights claim alleging a Constitutional violation on account of a threat absent the showing of a physical injury occurring concurrently with the threat. If the crime of threats were against a person, like an assault, there would be a self defense claim to the charge and there is not because it would never be reasonable to defend ones self against, "the Peace".

Most importantly, Federal threat laws do not involve the subjective element that is seen in PC 422 because the operative assumption in PC 422 that someone has been victimized if they have experienced "more than momentary fear" as the result of another's speech necessarily results in a prejudicial effect in prosecution - it shouldn't really matter what the exact words are said; if another is believed to have

experienced more than momentary fear, they are a victim, and justice demands that a defendant be found guilty, even if they didn't exactly make a threat to cause GBI or death (which is almost surely what occurred in this case) [exhibit A]

### C. The United States Government and its Constitution are fundamentally concerned with individual subjects and is opposed to the ideology of "racism".

The theory of racism is incompatible with the United States Government and its Constitution. The only mention of "race" in the United States Constitution is in the Fourteenth Amendment when it is ordering people who are racist to not deprive citizens of their Constitutional rights on account of race. The Fourteenth Amendment does not imply that racism is a natural element of the Constitution. The Amendment was created in spite of the introduction of racism to the America. Article 1 § 2.3 mentions "Indians" but that is a reference to nationality, not race (and the concept of nationality is compatible with the Constitution). When all group level associations are extrapolated to their root factor, the analysis arrives at the individual. Western culture realized that the ultimate majority, in all frames of reference, is the individual, and that is whom the United States Government is tasked with protecting.

## III. Areas of California law that are influenced by Progressive attitudes are in conflict with areas of California that are not.

### A. The State of California acknowledges the Second Amendment theory of Speech in Penal Code 646.9 and CALCRIM 1301.

CALCRIM jury instruction 1301 is given when defendants are charged with Penal Code 646.9, "Stalking" and that instruction includes a clause which states that, "a person is not guilty of stalking if his/her conduct is Constitutionally protected activity" (a clause which was removed from the instructions entirely in the trial of *The People of the State of California v. Justin Marcus Zinman* despite the Petitioners request that it be included as "Speech" in accordance with the theory of the defense). The existence of that clause implies (explicitly) that it is possible to both, "maliciously follow/harass" another and, "make a credible threat with intent to place a person in fear for their safety" (to terrorize) and still be engaging in a constitutionally protected activity. This behavior is the essence of Second Amendment Speech.

### B. Acknowledging the Second Amendment theory of Speech in Penal Code 646.9 creates a legal paradox when being tried for Penal Code 422 simultaneously.

Penal Code 646.9 is written according to the Constitutional theory of Natural Law and does not involve a subjective element. As such, a legal paradox

arises when a defendant is simultaneously tried for Penal Code 646.9 and Penal Code 422 in relation to the same "threat". It is possible for a defendant to be found not guilty of Penal Code 646.9 on the grounds that they were engaging in a constitutionally protected activity (Speech) but be found guilty of Penal Code 422 if a complaining witness is found to have experienced "more than momentary" fear (this would hold true with Penal Code 240/CALCRIM 916 as well).

C. The construction of laws under disparate legal frameworks results in the establishment of disparate unanimity requirements.

The two charges of Penal Code 422 and Penal Code 646. 9 involve disparate unanimity requirements (actual v. elemental). Exhibits A and B show the effect that having to contend with a legal issue as complex as disparate unanimity can have on a jury (causing them to ask the patently absurd question about whether they could find the defendant guilty of Penal Code 422 if, "5 of 6 elements" were satisfied and if they actually needed to unanimously agree on what "acts" constituted stalking). Disparate unanimity is a clear example of how the charges were constructed under different legal frameworks.

IV. A course of conduct engaged in by the State of California effects the object of limiting Second Amendment activity within the State in general

First, the State repealed Article VIII, "the Militia" from the California Constitution in November

of 1966 (after being a part of the California Constitution for nearly 100 years). Second, the State repealed Penal Code 422.5 in 1987 (which provided a "political speech" defense to the charge of Penal Code 422 if the purpose of the speech was to, "achieve social or political goals"). Third, the State repealed Chapter 7, "Duels and Challenges" from the California Penal Code in 1994 (on the grounds that the chapter was outdated). It should be noted that a 'challenge' is a form of (threatening) speech that is directed towards a person, unlike a threat itself. Removing that chapter likely contributed to the States attitude that challenges and threats are the same thing. Today, it is likely that the State does consider a "challenge" to be synonymous with a "threat". All of these (former) provisions are clearly related to Second Amendment Speech/activity and the "Progressive" acts of repealing these provisions is a clear course of conduct intended to satisfy the goal of limiting Second Amendment activity. The existence of 422.5 alone could have changed the outcome of the trial in this case given that the theory of the defense was that the messages were attempting to oppose Progressive ideology and the ability to distinguish between "challenges" and threats would have likewise changed the States interpretation of the messages.

## V. Additional Considerations

### A. All of the messages from American Media Intelligence are clearly marked as legally privileged

Justin Marcus Zinman, doing business as, "American Media Intelligence" (AMI) was activated in the Cage program [CAGE code 8TXG5] by the Defense Logistics Agency (DLA) on December 24, 2020 for the purpose of engaging in a counterintelligence investigation on the State of California with the Federal Bureau of Investigation (FBI) (see *Department of Justice, Hostage Rescue Team v. California Department of Corrections and Rehabilitation* for a description of some activities in the Cage program). Since that date, the Petitioner has been continuously engaging in the aforementioned investigation/ operation. As such, all of the Petitioners activities and communications have been performed with the goal of accomplishing the purposes of the investigation/ operation.

All of the messages from AMI that were used in evidence in this case were created for the purpose of exposing public corruption in the State of California, upholding the Constitution and advertising the Petitioners professional services (all of which would fall under Homeland Defense activities under 32 U.S.C. § 901). This Writ is a culmination of the Petitioners investigation/operation in the Cage program.

Despite a motion to suppress all of the messages from AMI that were marked as "legally privileged", the Superior Court allowed them to be published. Now that the messages have served their purpose in revealing areas of California law that are in conflict with Federal law, exposing Progressive influence within the State of California and proving to the State of California that they are in need of the Petitioners services as a Communications and Defense consultant, they should be classified under State Secrets and protected against disclosure in any future proceedings (it should be noted that the Petitioner had also hoped to begin supplying the State with its weapons through these activities).

B. The Appellate Courts logic is patently absurd

First off, it must be noted that the Appellant never conceded to making any threats whatsoever nor admitted to any messages being constitutive of a threat. The Appellants concession that threats were made comes from State appointed counsel who took complete control over the Appeal despite the Petitioner explicitly telling him several times that he did not have permission nor legal authority to represent the Appeal.

Moving forward, the Court is making the absurd claim that the specific threat to cause GBI is found through choosing two messages that were sent on different days, from different email addresses, involving independent subjects and combining them together to assert that the injury communicated was

that of sexual intercourse by noose. Traditionally, a noose is used to cause death by strangulation, not injury by sex, and symbolically, a noose can be used to represent the concept of "Justice" (something the Court appears to be unfamiliar with as they were unable to deduce such an interpretation or chose not to for the purpose of depriving the Appellant of Justice). Even if it was possible to engage in sexual intercourse with a noose, and that was the Appellants intention (and there is zero evidence to support that claim), it is not reasonable to assume it would cause GBI.

The Court used the first 7 of 9 pages of the decision almost entirely for the purpose of attempting to shame the Appellant (with messages that were in fact contrived in the first place to secure mission objectives) in a great attempt of what is termed, "framing" in media theory (the messages used were only the ones made to offend the government and did not include the messages with content such as, "I cannot violate your Constitutional rights" that were also apparently sent to Breana Hagen).

Using the Appellate Courts logic and communications framework, anyone could be convicted of Penal Code 422, at any time, for any reason, if a Court chose to randomly compile evidence in support of a claim that an individual caused another to experience fear. The Court simply took complete liberty in choosing specific instances of behavior and words, as well as their own interpretation of those words, to secure a conviction. It should be noted that the Courts interpretation is the first time that

interpretation was ever used (the prosecutors contentions at preliminary hearing and the Judges comments at sentencing supported a completely different theory and/or interpretation of what message(s) violated the law).

The Courts illogical behavior is indicative of two possibilities. Either the Courts are incapable of employing a Communications framework that is sufficiently complex enough to deal with the polysemic nature of Speech/media texts and produce a coherent interpretation of media presentations; or, the Court knew exactly what the messages were attempting to do by mocking Progressive ideology and its deficiencies and they were responding in a vindictive manner. The most plausible reasoning could likely be found in Justice Douglas opinion in *Brandenburg v. Ohio* when he stated that, "threats were loud but always puny ... and were only made serious by Judges so wedded to the status quo that critical analysis made them nervous".

### C. Failing to adequately incorporate Second Amendment provisions have left the State manifestly insecure.

At the sentencing hearing, after casting a slew of aspersions against the petitioner, Judge Wright shouted, "we don't care if it isn't illegal, well prosecute you anyways" after the Petitioner explained that he intended to continue sending messages to the Hagen Residence after Judge Romero specifically chose not to name the Hagen Residence itself as protected, so long

as the content of the messages did not attempt to communicate with any person named on a protective order (the Petitioner does his best to obey the law to the letter). Now, Judge Wright's statement undoubtedly speaks to a severe level of insecurity within the State, which actually makes sense. The Second Amendment is unique amongst all other Amendments in that it is the only Amendment that involves a judgment within its provision(s). The judgment being that the provisions of the Amendment are, "necessary to the security of a Free State". In other words, if a State fails to incorporate the provisions of the Second Amendment, it will not be secure. Prosecuting citizens as criminals regardless of whether or not they are believed to have committed a crime is a sure sign of insecurity and amending that insecurity is a main purpose of the Petitioners Defense activities.

## CONCLUSION

It is clear that the State of California is fostering a Progressive attitude toward subjects, objects and the Peace and that attitude is clearly contributing to the creation of assault and threat laws in conflict with Federal law and other California law which is invariably depriving citizens of their Second Amendment right to Speech.

The Petitioner was prosecuted, sentenced and denied an Appeal for deliberately appearing to be dangerous and being a part of a media campaign that challenged Progressive attitudes within the State. The

Court upheld a decision based on what they thought a defendant, "could" or, "would" do and based on another's own subjective feeling toward a defendant.

This Court should declare that Progressive ideology is foreign to the United States Constitution and that enforcing Progressive laws and/or policy amounts to a religious practice which directly opposes Constitutional law.

Then, it should order the State of California to amend and/or repeal all laws created under a Progressive framework including its assault and threat laws. In addition, this Court should affirm that all of the Petitioners activities since he was activated on December 24, 2020 are constitutive of Homeland Defense activities and classify all messages that are marked as, "legally privileged" under State Secrets given that their intent and use was designed for the purpose of a counterintelligence investigation/ operation that served its purpose.

The messages in this case should be collectively construed of as an anti-Progressive digital picketing campaign crafted under the auspices of a traditional marriage protest. In addition to challenging the Progressive notion of equality and the governments inability to engage in a sufficiently complex and thoughtful analysis of media texts, the messages exploited the email body/subject format to heighten the impact of the messages so that the State would be further provoked into depriving the Petitioner of his rights and subsequently not be allowed to enjoy the

defense of sovereign immunity. The messages may be offensive, repulsive, socially unacceptable, abusive and threatening (see *Murdock v. Pennsylvania*, 319 U.S. 105, 116) but they are not criminal. In essence, the messages are in fact a, "challenge".

During closing, statements at trial, just before the jury went to deliberate, the prosecutor asked the jury to, "send a message" to the defendant and, "let him know we don't like the way he speaks" (sic). Now, the Petitioner asks this Court to send a message to the State of California and let them know that the Federal Constitution is the law of the land and depriving citizens of their rights who offend a political agenda will not be tolerated in this country. Finally, it should be noted that the Petitioner presented the sentencing Court with a Certificate of Rehabilitation proposal that was just about to be submitted before the Petitioner entered into the Cage program.

Respectfully submitted,

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