No. _____

In the

Supreme Court of the United States

Raji Rab,

Petitioner,

v.

Shirley N. Weber, as Secretary of State, etc., et al.,

Respondents.

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

APPENDIX TO THE PETITION FOR A WRIT OF CERTIORARI

Raji Rab
22736 Vanowen St. Suite 105
Campaign Section
West Hills, CA 91307
(818) 793 – 9900
rajirab@gmail.com

Petitioner, in Pro Per

APPENDIX TO PETITION FOR WRIT OF CERTIORARI

(Page Nos. 1a – 4b)

TABLE OF CONTENTS

Court of Appeal, Third Appellate District - No. C093916

S280770

IN THE SUPREME COURT OF CALIFORNIA

En Banc

RAJI RAB, Plaintiff and Appellant,

v.

SHIRLEY N. WEBER, as Secretary of State, etc. et al.,

Defendants and Respondents.

The petition for review is denied.

s/ GUERRERO

Chief Justice

Supreme Court
FILED

Aug 16 2023

Jorge Navarrete Clerk

Deputy

Court of Appeal, Third Appellate District
Colette M. Bruggman, Clerk
Electronically FILED on 5/26/2023 by C. Doutherd, Deputy Clerk

CERTIFIED FOR PUBLICATION

IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA THIRD APPELLATE DISTRICT

(Sacramento)

RAJI RAB, Plaintiff and Appellant, v. SHIRLEY N. WEBER, as Secretary of State, etc., et al., Defendants and Respondents.	C093916 (Super. Ct. No. 34-2020-80003363-CU-WM-GDS)

APPEAL from a judgment of the Superior Court of Sacramento County, Laurie M. Earl, Judge. Affirmed.

Raji Rab, in pro. per., for Plaintiff and Appellant.

Collins + Collins, Brian K. Stewart and Taylor J. Pohle for Defendants and Respondents County of Los Angeles, Los Angeles County Board of Supervisors and Dean C. Logan.

Rob Bonta, Attorney General, Thomas S. Patterson, Assistant Attorney General, Paul Stein and S. Clinton Woods, Deputy Attorneys General, for Defendant and Respondent California Secretary of State.

SUMMARY OF THE APPEAL

At the time of the March 2020 primary election, Elections Code section 15101, subdivision (b), stated, "[a]ny jurisdiction having the necessary computer capability may start to process vote by mail ballots on the 10th business day before the election. Processing vote by mail ballots includes . . . machine reading them, . . . but under no circumstances may a vote count be accessed or released until 8 p.m. on the day of the election." (Elec. Code, § 15101, subd. (b) (Mar. 3, 2020; see also Stats. 2018, ch. 282, § 1.)

Elections Code section 15101 has been amended three times since the March 2020 primary election. (See Stats. 2020, ch. 4, § 6; Stats. 2020, ch. 106, § 4; Stats 2021, ch. 312, § 7.) As of November 1, 2022, subdivision (b) says, "(b) Any jurisdiction having the necessary computer capability may start to process vote by mail ballots on the 29th day before the election. Processing vote by mail ballots includes opening vote by mail ballot return envelopes, removing ballots, duplicating any damaged ballots, and preparing the ballots to be machine read, or machine reading them, including processing write-in votes

so that they can be tallied by the machine, but under no circumstances may a vote count be accessed or released until 8 p.m. on the day of the election. All other jurisdictions shall start to process vote by mail ballots at 5 p.m. on the day before the election." (Elec. Code, § 15101, subd. (b) (2022).) Our holding that "machine reading" includes "scanning" applies with equal force to the version of the law in effect as of November 1, 2022.

All further citations to Elections Code section 15101 in this decision are referring to the version that existed on March 3, 2020.

Petitioner Raji Rab contends that by allowing Los Angeles County workers to scan vote by mail ballots into the Voting Solutions for All People (VSAP) system—the computer hardware and software system used to capture and count votes in Los Angeles

County—beginning 10 days before the March 2020 primary election, Dean Logan, the Los Angeles County Registrar-Recorder/County Clerk violated Elections Code section 15101, subdivision (b)'s, prohibition on accessing and releasing a vote count prior to 8 p.m. on the day of an election. Rab alleges respondents the Los Angeles Board of Supervisors and its members (with Logan, the County) and the California Secretary of State, failed in their oversight of Logan, and, therefore, failed to protect the election process and aided and abetted in Logan's alleged misconduct.

Rab brought a petition for writ of mandate, seeking a manual recount of ballots from the March 2020 primary election, and claiming this matter was one "of [the] greatest.

public interest." The trial court denied his petition. Specifically, in denying the petition, the trial court wrote, "[t]he Court interprets 'machine reading' to include, and thus to permit, scanning ballots. To leave no room for confusion in the future, the Court reiterates: Elections Code section 15101(b) allows the County to start scanning ballots on the 10th business day before the election."

Rab now appeals, arguing the trial court misinterpreted Elections Code section 15101, subdivision (b); that the trial court erred in finding there was no evidence to support his claims; and that the trial court's rulings regarding discovery motions related to his demands to inspect the Downey Tally Operation Center (Tally Center) demonstrate the trial court was biased and prejudiced and discriminated against him. We hold the trial court interpreted Elections Code section 15101, subdivision (b), correctly: machine reading includes scanning. We also find that evidence does not support Rab's position; and that the trial court exhibited no bias and prejudice against Rab. Accordingly, we affirm.

FACTS AND HISTORY OF THE PROCEEDINGS

Rab was a candidate for the U.S. House of Representatives, 30th Congressional District, in California's primary election held on March 3, 2020. Including Rab, there were five candidates listed on the ballot. Under article II, section 5, subdivision (a), of the California Constitution, in primary elections for congressional offices, all voters may vote for any candidate, without regard to the political party preference of either the candidates or the voter. The candidates who receive the

two highest numbers of votes will then compete in the general election, regardless of party preference. (Cal. Const., art. II, § 5, subd. (a).) Rab, having received 7,961 votes, which was 4.7 percent of the vote for the district, finished fourth in the primary. The candidates who placed first, second, and third received 99,282 votes representing 58.1 percent of the vote, 38,778 votes representing 22.7 percent of the vote, and 18,937 votes representing 11.1 percent of the vote, respectively.

Rab filed a petition for writ of mandate on April 8, 2020. The operative pleading in this action is the Verified Second Amended Petition for Writ of Mandate or Other Extraordinary Relief (petition) that Rab filed on September 23, 2020.

In the petition, Rab alleges that respondents violated Elections Code section 15101, subdivision (b), when Logan caused to be "scanned and accessed Vote-By-Mail" ballots "10 days before 8 pm election day. Once the ballot count became accessible, it was easily accessed with a password; and Petitioner's votes given to his opponent, robbing Petitioner of his victory." He also alleged the election results were the result of "malconduct" under Elections Code, section 16100, subdivisions (a) and (g).

According to the petition, on the day of the primary election, Rab was on his way to go observe vote tallying, when he heard a news report that the *New York Times* had already called the election in favor of one of his opponents. Rab believed this report was evidence that election misconduct was afoot. Rab said that once he arrived at the Tally Center the division manager informed him that the

office had begun scanning vote by mail ballots into VSAP 10 days before the election. According to Rab, the division manager informed Rab that he did not have the password to look at the vote count, which Rab took as "a clear admission of vote count done 10 days before 8 pm election day . . . ."

Relying on a diagram he obtained during discovery prior to filing the second amended petition, Rab alleged that under the VSAP Tally System (Tally System) used by the County, "[b]allot images were scanned, voter intent was decoded, voter intent was recognized and transformed into cast vote record instantly by the Tally [S]ystem, making vote count accessible. Respondent Logan thereby accessed the ballot count, tampered with the results and summation of the ballot count, took a majority of Petitioner's votes, and allocated them to Petitioner's opponents, thus robbing Petitioner of his rightful victory."

According to the petition, Logan certified the results of the election on March 27, 2020, and the Secretary certified the count on May 1, 2020.

Rab attached 26 exhibits to his verified petition. He also submitted a declaration in support of the petition. In supporting his arguments on appeal, Rab focuses on declarations made by his purported experts and diagrams regarding how VSAP works. As such, we will focus on evidence regarding the workings of the VSAP system in this decision.

Furthermore, as the trial court correctly concluded, most of the exhibits attached to the petition are not

relevant to the issues raised in the petition, because "they do not 'hav[e] any tendency in reason to prove or disprove any disputed fact that is of consequence to the determination of the action.' (Evid. Code[,] § 210.)" In a footnote to its decision, the trial court identified 10 examples—i.e., not an exhaustive list—of exhibits submitted with the petition that it deemed not relevant. Rab does not make an argument that the trial court's determination as to the relevance of these exhibits was incorrect in either his statement of issues, or under a separate argument heading. Nor does his brief contain any analysis of Evidence Code provisions defining relevant evidence. Thus, we assume he does not take issue with the trial court's determination as to the items of evidence it explicitly found not relevant. (See Cal. Rules of Court, rule 8.204(a)(1)(B) [a brief must "[s]tate each point under a separate heading or subheading summarizing the point, and support each point by argument and, if possible, by citation of authority"].)

Because the County's evidence provides the most complete explanation of how VSAP works, we begin our description of the evidence submitted below by describing the County's evidence.

With their opposition to the petition, the County respondents submitted the Declaration of Aman Bhullar, assistant Registrar-Recorder/County Clerk of the Information Technology Bureau of the County of Los Angeles. He is responsible for the configuration of election management and tally systems in Los Angeles County. He described VSAP. VSAP consists of both software and

hardware components that enable voters to cast their votes by mail or in person. One component of VSAP is VSAP Tally Version 2.0, the Tally System, a hardware and software component that processes and tallies votes.

The Tally System uses industry grade scanners to scan vote by mail and other paper ballots. When a ballot is scanned, a digital .jpeg image is created. Tally then processes the digital image to create a cast vote record (CVR). CVRs reflect the selections a voter made on the scanned ballot. CVRs can then be put into a format that enables the Tally System to access the selections made by voters to generate a vote count. Scanning and tabulation do not occur simultaneously. While the County might scan and upload .jpeg images into the Tally System before election day, tabulation of votes does not occur until after 8 p.m. on the day of an election, when personnel execute a command in the Tally system software that resides on equipment other than the scanners. Bhullar expressly stated, "[n]o tabulation begins before 8 p.m. on the evening of any election night."

Logan submitted a declaration that also described the workings of VSAP and the Tally System. He added that during the March 2020 primary election, authorized Registrar-Recorder/County Clerk personnel would process vote by mail ballots by opening their return envelopes, removing the ballots from the envelopes, duplicating damages ballots, preparing ballots to be read by scanners, then inserting the ballots into the scanners to be machine read. He stated staff began scanning ballots for the March 3, 2020, election on February 25, 2020, and he attached logs

reflecting the same to his declaration. He too stated that ballots are not counted until after 8 p.m. on the night of an election. He further stated that no one with the Registrar-Recorder/County Clerk's office executed a command in the Tally System software to count the ballots until after 8 p.m. on election night during the March 2020 primary election.

Rab submitted a declaration of Andy Rodriguez in support of the petition. According to Rodriguez, he was with Rab at the Downey Center on election day, and he heard the division manager tell Rab that the center began scanning vote by mail ballots 10 days in advance of election day. He believed this violated Elections Code section 15101, since "the scanner and tabulation machines" used by the County "are two in one." He claims another employee confirmed the machines are "two in one scanner and tabulation machines."

Rab included a page of the operations manual for VSAP that describes the Tally System. According to the description, Tally is a "central tabulator" used for "ballot processing, vote tabulation, and reporting."

Rab submitted a declaration of Todd Matthew Woods in support of the petition. Woods claims to be an experienced poll watcher. He expressed great concern upon learning that Los Angeles County pre-scanned "all of their ballots" before the march 2020 primary election using the "same machine" (all caps removed) that tabulates the votes.

Rab submitted declarations of Ali Razeghi and Syed Y. Raza, computer scientists who purported to have expert knowledge in the field of database systems. Razeghi and

Raza reviewed various documents produced in discovery related to the operations of VSAP. Relying on a diagram of how data is entered into and flows through the Tally System, they both noted, consistent with Bhullar's declaration for the County, that the Tally System "scans and creates images of ballots, converts the images into Cast Vote Records (CVRs), tabulates them, and allows elections results to be exported." They identified the Tally System as having "four main . . . processes: (1) Ballots are scanned, and images captured; (2) ballot images are converted into Cast Vote Records (CVRs); (3) CVRs are tabulated; and (4) Tabulated results are exported for reporting and auditing." According to Razeghi and Raza, based on their review, "it is clear that Cast Vote Records were easily accessible, and the database was accessible" once ballots were scanned. They said they found areas in which a privileged user—someone with a password—might be able to access the system and change results. Razeghi stated that there were "several areas in the Tally environment [that are] accessible to a privilege[d] user and the vote count became accessible when the scanning and tally process was started 10 days before the March 3, 2020 primary election . . . ." Raza similarly found that CVRs were accessible 10 days before the March 3, 2020, election.

On July 7, 2020, Rab served the County with a demand for inspection of premises and things, which included a demand to inspect the County Registrar/County Clerk's facilities, and 28 separate requests for categories of documents and things. Specifically, the demand sought entry to the Tally Center on August 13, 2020. Counsel for the County served Rab with objections to the demands on

August 11, 2020. According to the County's counsel, Rab abandoned his request for inspection without seeking further court intervention following August 11, 2020. Based on copies of correspondence between Rab and counsel for the County that Rab attached to a declaration he filed in opposition to the County's motion for a protective order, it appears that between August 11, 2020, and August 26, 2020, Rab and the County disagreed about the protocol and scope of a potential inspection of the Tally Center, and communications regarding the possible inspection ended on August 26, 2020. In the written communications provided, the only "extension" discussed was Rab purportedly extending the deadline upon which an inspection could occur to August 26, 2020. Notably, as the trial court observed there was "no agreement to extend the time for a motion to compel in the parties' voluminous email exchange."

Based on the record, Rab appears to have remained silent regarding an inspection of the Tally Center between August 26, 2020, and November 20, 2020, when he sent counsel for the County a letter via email labeled "Meet and Confer." In the letter, "Pursuant to California Code of Civil Procedure section 2031.010 (d)," Rab requested that the County allow him to enter the Tally Center and that it produce documents and things for inspection. The letter stated inspection of the premises and production would be at 9:00 a.m. on November 27, 2020, and requested that the County select an alternate date for inspection during the week of November 30, 2020, if unable to confirm the November 27, 2020, inspection date and time.

On November 25, 2020, Counsel for the County responded the Tally Center would not be available for an inspection on November 27, 2020, but that the County would be willing to work with Rab to arrange an inspection, provided he agreed to an inspection protocol as outlined in the response letter. In the November 25, 2020, letter, counsel for the County advised Rab that under Code of Civil Procedure section 2031.030, subdivision (c), Rab's time in which to bring a motion to compel on the July 7, 2020, demand had long-since expired and, as such, the County considered the letter a new demand for inspection under Code of Civil Procedure, section 2031.010, et seq. Rab and the County then engaged in back-and-forth letters and emails regarding when and under which terms an inspection might occur, and they never came to an agreement.

On December 11, 2020, the County filed a motion for protective order, seeking an order from the trial court that it need not make the Tally Center available to Rab for an inspection. A declaration by counsel for the County accompanied the motion for a protective order, attached to which were copies of counsel's correspondence with Rab regarding a possible inspection, beginning with Rab's November 20, 2020, letter asking for an inspection, including counsel's response that it was treating the November 20, 2020, letter like a new inspection demand, and ending with counsel's December 7, 2020, letter to Rab stating the County would allow inspection of the Tally Center of December 9, 2020, if Rab would sign an agreement to abide by specified inspection protocols. On December 14, 2020, Rab submitted a request for an order shortening time in which to bring a motion to compel

compliance with his inspection demand. The trial court issued an order agreeing to hear the motion to compel on shortened time, and scheduled the hearing for the same day it was scheduled to hear the motion on the protective order.

In the tentative ruling issued before the hearing on the motions, the trial court correctly stated that it was unclear based on his moving papers whether Rab was seeking to compel further responses to his July 7, 2020, demand, as opposed to his November 20, 2020, letter and/or related communications.

At the hearing regarding the motions, Rab took the position that the letters from November and December 2020 did not contain new inspection demands, and that the emails were simply meet and confer emails that served as a "follow-up" to the parties' communications in August 2020. He argued that motions for protective orders need to be made promptly and to be accompanied by meet and confer declarations under Code of Civil Procedure, section 2016.040, and that the County did not meet and confer regarding a protective order. He argued the motion for protective order was not prompt, assuming the underlying demand at issue was the July 7, 2020, demand.

Additionally, when the court asked Rab to clarify if the request at issue was a new request, or if the issues raised by the motions were tied to the earlier request, he responded the issues were tied to the earlier request, and he argued there was no demand in November. In contrast, the County stated it was treating the November 20, 2020, letter as a new inspection demand.

Following the hearing, the trial court issued a careful and detailed order granting the protective order and denying the motion to compel. In so doing, the trial court correctly observed that Code of Civil Procedure section 2031.310, subdivision (c), requires a party to bring a motion to compel compliance with an inspection demand within "45 days of the service of the verified response, or any supplemental verified response, or on or before any specified later date to which the demanding party and the responding party have agreed in writing," and if the demanding party fails to satisfy this requirement, it "waives any right to compel a further response to the demand." Even adding five days to serve a motion to account for service of the County's objections by mail, and taking into account that the parties never agreed in writing to extend the deadline, Rab only had until the end of September 2020 to file a motion to compel on the July 7, 2020, request, which he did not do.

With respect to Rab's motion to compel, the trial court noted that at the hearing Rab had clarified the only inspection demand he believed to be at issue was the July 7, 2020, demand. Then, the trial court denied the motion to compel, finding that because he did not file the motion within 45 days of the County's response to his July 7, 2020, demand for inspection, he had waived any right to compel a further response pursuant to Code of Civil Procedure, section 2031.310. In denying the motion to compel, the court observed it found nothing in the parties' communications regarding Rab's demand for an inspection that demonstrated they had entered into a written agreement that extended the time for him to bring a motion to compel a response to that demand.

The court did not rest its analysis regarding the motion to compel on a discussion of the July 7, 2020, demand. First, it noted sections of the moving papers where the language suggested that the focus of Rab's motion may have been letters he sent on November 30 and December 5, 2020, in which he first presented his own proposed inspection protocol for the Tally Center to the County, stating, "[g]iven Rab's moving papers, it certainly appears that he seeks an order compelling [the County] to comply with his Inspection Protocol." To the extent Rab's motion could have been deemed a motion to compel compliance with his proposed inspection protocol as presented in the letters, the trial court denied it because the demand failed to comply with the inspection demand format requirements contained in Code of Civil Procedure section 2031.030.

With respect to the motion for a protective order, the court began by observing that the County had not been required to treat the November 20 and November 30, 2020, letters like new demands, but had done so anyway. The court noted the County then objected to the demands, but agreed to provide Rab access to the Tally Center if he was willing to accept the protocol terms it outlined in its responses to his letters.

The court granted the motion for a protective order, on the grounds that the County was not required to make the Tally Center available because Rab had failed to serve a demand that complied with the Civil Discovery Act. The

court noted Rab had argued the motion for protective order was not timely, and that it ought to have been filed closer to the date the July 7, 2020, demand was made. While the court agreed a motion for a protective order based on the July 7, 2020, demand would not be considered prompt, as would be required by Code of Civil Procedure section 2031.060, subdivision (a), it concluded in this circumstance it was reasonable for the County to treat Rab's November letters as a new demand and, in that case, a motion for protective order was timely.

The court also addressed Rab's argument at the hearing that the County's motion ought to have been denied because the County had failed to include a meet and confer declaration with its motion for a protective order. The court was not persuaded by this argument, largely because Rab failed to raise it in his opposition papers, but also because the record reflected the County had made an effort to meet and confer regarding the scope and appropriateness of an inspection prior to bringing the motion for a protective order.

DISCUSSION

I

The County Did Not Violate Elections Code Section 15101

Rab argues that the trial court incorrectly interpreted Elections Code section 15101, subdivision (b), to permit County workers to access and scan vote by mail ballots prior to election night. He suggests that in scanning the ballots into the Tally System before election day, the

County violated the statute's prohibition on accessing and releasing a vote count prior to 8 p.m. on the day of an

election, contrary to the public interest. There is no merit to these arguments.

A. "Machine Reading" Incudes "Scanning"

In defining "Processing" to include "machine reading" vote by mail ballots, Elections Code section 15101, subdivision (b), permitted the County to scan vote by mail ballots into the Tally System as early as "the 10th business day before the election."

" ' "When we interpret a statute, '[o]ur fundamental task ... is to determine the Legislature's intent so as to effectuate the law's purpose. We first examine the statutory language, giving it a plain and commonsense meaning.' " ' " (*Brennon B. v. Superior Court* (2022) 13 Cal.5th 662, 673 (*Brennon B.*).) " 'If there is no ambiguity in the language, we presume the Legislature meant what it said and the plain meaning of the statute governs.' (*People v. Snook* (1997) 16 Cal.4th 1210, 1215 [].) 'When statutory language is clear and unambiguous there is no need for construction, and we will not indulge in it.' (*Morton Engineering & Construction, Inc. v. Patscheck* (2001)

87 Cal.App.4th 712, 716 []; see *La Jolla Group II v. Bruce* (2012) 211 Cal.App.4th 461, 476 [] [' " ' "An intent that finds no expression in the words of the statute cannot be found to exist" ' " ']." (*California State University, Fresno Assn., Inc. v. County of Fresno* (2017) 9 Cal.App.5th 250, 266.)

" ' " 'If the language is clear, courts must generally follow its plain meaning unless a literal interpretation would result in absurd consequences the Legislature did

not intend. . . . .' [Citation.] 'Furthermore, we consider portions of a statute in the context of the entire statute and the statutory scheme of which it is a part, giving significance to every word, phrase, sentence, and part of an act in pursuance of the legislative purpose.' " ' (*City of San Jose v. Superior Court* (2017) 2 Cal.5th 608, 616–617 [], quoting *Sierra Club v. Superior Court* (2013) 57 Cal.4th 157, 165–166 [].)" (*Brennon B., supra*, 13 Cal.5th at p. 673.)

Courts of appeal review questions of statutory interpretation de novo. (*Lopez v. Ledesma* (2022) 12 Cal.5th 848, 857.)

Rab suggests that by interpreting Elections Code section 15101, subdivision (b), to allow ballots to be scanned prior to election night, the trial court improperly inserted qualifying provisions into the statute. We disagree. In interpreting "processing" as defined to include scanning, the trial court was simply applying a "plain and commonsense meaning" to the term "machine reading," particularly as that term is read "in the context of the entire statute," which provides authority and instructions for the processing of ballots by counties that have the "computer capability" to process ballots in an election. (See *Brennon B., supra*, 13 Cal.5th at p. 673; Elec. Code, § 15101, subd. (b).) An argument that Elections Code section 15101, subdivision (b), did not plainly authorize counties with computer capabilities to scan vote by mail

ballots 10 business days before the election cannot be sustained.

B. No Evidence Suggests that Scanning the Documents with the Tally System Violated Elections Code Section 15101, Subdivision (b)'s Prohibitions

No evidence suggests that scanning ballots into the Tally System in the March 2020 primary violated Elections Code section 15101, subdivision (b)'s, prohibition on accessing and releasing vote counts before 8 p.m. on election night.

The trial court referred to Rab's purported experts as "self-identified" experts and, in a footnote, found they failed to qualify as experts. However, the trial court also considered the purported experts' description of how the system worked in concluding that Rab did not produce evidence that the County accessed a vote count before election night at 8 p.m. In identifying the issues on appeal and making his argument, Rab does not contest this finding with a supported argument. Instead, he incorrectly states that the trial court "accepted that declarants are indeed experts." Here, we treat the declarations like the trial court treated them: while we do not concede that Rab's purported experts are, in fact, experts, we find that even if their descriptions of the VSAP and its Tally System are correct, Rab's argument lacks factual support and merit

Rab's purported experts and the County declarant's description of VSAP and the Tally System do not vary in any meaningful detail. Both Rab's declarants and the County declarants discuss how the Tally System can both capture individual votes by converting them into CVRs and,

in turn, tabulate total votes. Bhullar, in his declaration for the County, states that scanning and tabulation do not

occur simultaneously. Bhullar and Logan described how, while scanning may have occurred before election day, tabulation did not occur until after 8 p.m. on election day, when someone in the Registrar-Record/County Clerk's Office executed a command to tally the votes on a portion of the Tally System hardware other than the scanners. Similarly, Rab's experts describe the Tally System as having *four* processes, of which scanning and capturing the ballots are two processes and tallying the votes is another process—i.e., his purported experts do not describe the process of scanning and tallying as happening in one simultaneous process.

Rab's argument appears to rest upon the fact that, as described by his purported experts, once ballots were scanned and converted into CVRs, votes—and the ability to tally them—became accessible. He seems to view this accessibility as tantamount to actually accessing the vote count. For example, in his opening brief, he discusses how CVRs—the records of individual votes—are "accessed" by the Tally System once scanned. But the existence of individual vote records on a scanner and the potential to execute a command on a separate piece of hardware to tally those individual votes into a vote count is not the same as actually creating and accessing a vote count.

The County declarants represented that the County does not execute a command to count votes before 8 p.m. on election night in general, and that the County specifically

did not do so during the March 2020 primary, and Rab has offered no evidence to suggest this is untrue. Creating readable individual voting records that make a vote count

accessible through secured channels is not the same as actually creating and accessing a vote count before 8 p.m. on election day. Thus, scanning vote by mail documents into the Tally System, as described by the evidence, before an election does not violate Elections Code section 15101, subdivision (b)'s prohibition on accessing a vote count before 8 p.m. on the night of an election.

II

Rab Has Not Demonstrated the Trial Court Was Biased or Prejudiced

Rab argues the trial court was biased and prejudiced against him. He has failed to prove the trial judge was biased in making the trial court's rulings.

A trial judge must be disqualified if, for any reason, "[t]he judge believes there is a substantial doubt as to his or her capacity to be impartial," or "[a] person aware of the facts might reasonably entertain a doubt that the judge would be able to be impartial."

(Code Civ. Proc., § 170.1, subd. (a)(6).) "At the request of a party . . . an appellate court shall consider whether in the interests of justice it should direct that further proceedings be heard before a trial judge other than the judge whose judgment or order was reviewed by the appellate court." (Code Civ. Proc., § 170.1, subd. (c).)

" 'Where the average person could well entertain doubt whether the trial judge was impartial, appellate courts are not required to speculate whether the bias was actual or merely apparent, or whether the result would

have been the same if the evidence had been impartially considered and the matter dispassionately decided [citation], but should reverse the judgment and remand the matter to a different judge for a new trial on all issues.' (*Catchpole v. Brannon* (1995) 36 Cal.App.4th 237, 247 [].)" (*Haluck v. Ricoh Electronics, Inc.* (2007) 151 Cal.App.4th 994, 1009.)

A party submitting a brief in an appeal must "[s]upport any reference to a matter in the record by a citation to the volume and page number of the record where the matter appears." (Cal Rules of Court, rule 8.204(a)(1)(C).) In light of this requirement, one would expect that a party alleging the trial court was biased or prejudiced against them would identify statements or actions made by the trial court reflecting either (a) the court harbored a particular form of bias against the party specifically; or (b) the trial court possessed a general bias against a class of persons to which the party belongs. Rab has not done this. Additionally, our own review of the trial court's rulings and the reporter's transcript in this case does not suggest bias or prejudice on the part of the trial judge toward Rab himself or towards a particular class of persons in general.

Instead, Rab points to the trial court order in which the trial court granted the County's request for a protective

order, denied his motion to compel, and awarded sanctions to the County for the amount it incurred opposing the motion to compel. Specifically, Rab states that in granting the motion for a protective order, the trial court treated a letter he wrote regarding an inspection as a new demand,

but when it denied his motion to compel, it treated that same letter as *not* a new demand. He also argues that the

trial court ignored legal requirements regarding the proper procedure for filing a motion for protective order when it granted the motion for a protective order.

Rab's argument paints a misleading picture regarding the reasoning the trial court applied when it ruled on the discovery motions. With respect to the motion to compel, the trial court treated the motion as based on the July 7, 2020, demand after giving Rab ample opportunity to clarify which document he was treating as the applicable demand, and he then insisted at the hearing that the only demand at issue was the July 7, 2020, inspection demand. In contrast, the County informed the court it was seeking protection from what it saw as a new series of demands that began with the November 20, 2020, letter. In short, the trial court considered the motion to compel as if it was based on the July 7, 2020, demand, because that is the demand regarding which Rab sought relief. In contrast, it considered the motion for protective order as based on the November 20, 2020, letter, because that is the demand regarding from the County sought relief.

Moreover, the court's analysis makes clear that how it treated the various demands and communications in

considering the motions did not result in any unfairness to Rab. After rejecting a motion to compel a response to the July 7, 2020, demand as untimely, the trial court also explained why it would not have issued an order compelling compliance with the demands Rab made in November and

December 2020 even if he had expressly sought that relief. The court stated to the extent those requests were new requests, they were not properly formatted. Then, in granting the protective order, it again noted to the extent the November 20, 2020, letter was a new demand, it had failed to comply with the formatting requirements for requests under the Civil Discovery Act. In short, the trial court first explained why Rab was not entitled to the relief he wanted if based on the earlier request he believed should form the basis for his motion; then, it explained to him why the ruling would not be different if based upon the later requests which ultimately served as the basis for its determinations on the County's motion.

As to the trial court's rejection of Rab's argument, made for the first time at the hearing, regarding the County's need to meet and confer, even if we were to disagree with the ruling—which we do not—even "[e]rroneous rulings against a litigant, even when numerous and continuous, do not establish a charge of bias and prejudice. (*McEwen v. Occidental Life Ins. Co.* (1916) 172 Cal. 6, 11 [].)" (*Dietrich v. Litton Industries, Inc.* (1970) 12 Cal.App.3d 704, 719.) That Rab disagrees with how the court ruled regarding the County's compliance with requirements to meet and confer prior to bringing a motion for protective order is hardly evidence that "the average

person could well entertain doubt whether the trial judge was impartial," (see *Haluck v. Ricoh Electronics, Inc., supra,* 151 Cal.App.4th at p. 1009) particularly in light of the extensive thought and care that went into the trial judge's rulings in this matter.

III

Arguments Made in Reply

In his reply brief, Rab argues the respondents failed to accurately address the issues he raised in his opening brief. We have considered this appeal after identifying the issues as framed in Rab's opening brief, both as stated in his statement of issues and as articulated in his argument, and we find the appeal lacks merit when we consider his argument on those issues.

Also, in his reply, in an effort to respond to arguments made by the Secretary, Rab argues his claims against the Secretary have merit because the Secretary failed to exercise oversight of Logan. As we find Rab has failed to demonstrate that Logan violated any laws, his claims against the Secretary also lack merit.

Finally, in his reply, Rab argues the alleged misconduct under Elections Code section 15101, subdivision (b), is also "malconduct" under Elections Code section 16100. Because the evidence does not show the County violated Elections Code section 15101, subdivision (b), we find no violation of Elections Code section 16100 under Rab's proffered theory.

DISPOSITION

We affirm the trial court's judgment. Respondents shall recover their costs on appeal. (Cal. Rules of Court, rule 8.278 (a) (1), (2).)

s/ Harry E. Hull, Jr.
Hull, J.

We concur:

s/ Ronald B. Robie
ROBIE, Acting P. J.

s/ BOULWARE EURIE
BOULWARE EURIE, J.

FILED / ENDORSED

FEB 16 2021

By E. BERNARDO, Deputy Clerk

SUPERIOR COURT OF CALIFORNIA

COUNTY OF SACRAMENTO

CASE NO. 34-2020-80003363-CU-WM-GDS
[Assigned to Hon. Laurie M. Earl, Dept. 23]

[~~PROPOSED~~] JUDGMENT

Hearing on the Merits

Date: January 22, 2021
Time: 11:00 a.m.
Dept.: 23
Judge: Hon. Laurie M. Earl

Writ Filed: April 8, 2020
FAW Filed: June 5, 2020
SAW Filed: September 23, 2020

RAJI RAB,

Petitioner,

v.

SECRETARY OF STATE OF GALIFORNIA; ALEX PADILLA; CALIFORNIA SECRETARY OF STATE; DEAN C. LOGAN LOS ANGELES COUNTY REGISTRAR-RECORDER / COUNTY CLERK; LOS ANGELES COUNTY BOARD OF SUPERVISORS; HILDA L. SOLIS, SUPERVISOR; MARK RIDLEY-THOMAS, SUPERVISOR; SHEILA KUEHL, SUPERVISOR; JANICE HAHN, SUPERVISOR; KATHRYN BARGER, SUPERVISOR; DOES 1-100; Respondents.

Respondents.

In accordance with the January 26, 2021 Order After Hearing on Petition for Writ of Mandate and Demurrers issued by the Honorable Laurie M. Earl (hereinafter, "Order"), this Court denied Petitioner Raji Rab's Petition for Writ of Mandate in its entirety in favor of Respondents Alex Padilla, California Secretary of State, Dean C. Logan, County Registrar-Recorder/County Clerk, County of Los Angeles (erroneously sued as "Los Angeles County Board of Supervisors"),

Supervisor Hilda L. Solia, Supervisor Holly Mitchell (formerly Supervisor Mark Ridley-Thomas),
Supervisor Sheila Kuehl, Supervisor Janice Kahn, and Supervisor Kathryn Barger (collectively, "Respondents") and found that judgment in the above-mentioned action therefore should be entered in favor of Respondents and against Petitioner Raj i Rab. A true and correct copy of the Order is attached hereto as Exhibit A.

IT IS HEREBY ORDERED, ADJUDGED, AND DECREED THAT:

1. The Order attached hereto as **Exhibit A** is entered as Judgment of the Court and the petition for a writ of mandate is denied in its entirety;

2. Petitioner shall take nothing from Respondents in this action, and Respondents shall have judgment against Petitioner; and

3. Respondents are deemed prevailing parties pursuant to Code of Civil Procedure § 1032

DATED: FEB. 16, 2021

By: s/ Laurie M. Earl
Judge Laurie M. Earl
Laurie M. Earl

EXHIBIT "A"

FILED / ENDORSED

JAN 26 2021

By E. BERNARDO, Deputy Clerk

SUPERIOR COURT OF CALIFORNIA

COUNTY OF SACRAMENTO

Case No.: 34-2020-80003363

ORDER AFTER HEARING ON PETITION FOR WRIT OF MANDATE AND DEMURRERS

RAJI RAB,
Petitioner,

v.

SECRETARY OF STATE OF CAL1F0RNIA, et al.,
Respondents.

On January 22, 2021, following the issuance of a tentative ruling, the Court held a hearing on two matters: (1) the merits of the petition for writ of mandate; and (2) two demurrers to the petition. Petitioner represented himself.

The County Respondents were represented by Taylor J. Pohle. Respondent Secretary of State was represented by Deputy Attorney General S. Clinton Woods. Following the hearing, the Court took the matter under submission, and now issues the following final ruling.

INTRODUCTION

Before the Court are two matters: (1) the merits of a petition for writ of mandate brought by Petitioner Raji Rab to challenge the results of California's primary election held on March 3, 2020, and (2) two demurrers to that petition. For the reasons; stated below, the Court (1) exercises its discretion to decide this case even though it is technically moot, (2) finds it unnecessary to rule on the demurrers, and (3) denies the petition on the merits.

BACKGROUND

Much of the background to this case has been described in the many prior orders of the Court. The Court does not repeat that background in great detail. The following abbreviated description provides context for the present ruling and helps explain why a challenge to the primary election is being decided several months after the general election.

Raji Rab was a Democratic candidate for the U.S. House of Representatives, 30th Congressional District, in California's primary election held on March 3,2020. Only the top two candidates appear on the ballot for the general election. Here are the results:

Candidate	Votes
Brad Sherman (Dem)	99,282 (58.1%)
Mark S. Reed (Rep)	38,778 (22.7%)
Courtney "CJ" Berina (Dem)	18,937 (11.1%)
Raji Rab (Dem)	7,961 (4.7%)
Brian T. Carroll (Dem)	5,984 (3.5%)
TOTAL	170,942 (100%)

As can be seen, Rab came in a distant fourth. He believes his fourth place finish can only be explained by fraud, malconduct, or an error in the vote counting.

On April 8, 2020, Rab filed a petition for writ of mandate raising numerous challenges to the election. (Unless otherwise noted, all subsequent dates are in 2020.) Respondents are: (1) the Secretary of State, named because he is responsible for overseeing California elections and certifying the results; and (2) the Los Angeles County Registrar-Recorder/County Clerk(hereafter "County Registrar" or "Registrar'-) and the Los Angeles County Board of Supervisors (collectively "the County"), named because they are responsible for conducting elections in Los Angeles County. Rab sought a writ of mandate ordering

Respondents to set aside the results of the primary election (at least as to the candidates for the 30th Congressional District) and to conduct a manual recount of the votes. He also asked the Court to prohibit the printing of ballots for the November general election until the recount was performed.

Rab's case got off to a slow start due to temporary disruptions to court services caused by the COVID-19 pandemic1 Starting on March 20, the Court was closed for all purposes, except for certain types of emergency matters. Election contests were not among the emergency matters that were exempt from the closure. (See March 19,2020, Order re temporary court closure.) On April 1, the Court resumed hearing civil ex parte applications for emergency relief. (See March 30,2020, Order re resumption of specified essential services.) However, the caption of Rab's petition

---

[1] The slow start may also be due to the fact that Rab is appearing in pro per and may not be familiar with all of Uie rules governing civil litigation. As the Court has previously reminded Rab, however, a party representing himself is entitled "to no greater privilege or advantage than that given to one represented by counsel." {*Deauville v. Hall* (1961) 188 Cal. App. 2d 535, 547.)

did not identify an emergency, request emergency relief, or suggest there was any urgency in deciding this matter.[2]

On April 20, Rab filed a document captioned "Request Urgent Admission" asking for unspecified "EMERGENCY RELIEF to please be granted." That got the case moving.

On April 21, this was case assigned for all purposes to the Honorable Shelleyanne Chang.

On April 22, Judge Chang issued a minute order noting it was unclear whether Rab sought ex parte emergency relief or a hearing on the merits of his petition. Judge Chang noted (1) that Rab had not complied with the requirements of Rule 3.1200 of the California Rules of Court for seeking ex parte relief, and (2) that if he sought a hearing on the merits of his petition he had to comply with the Court's "Guide To The Procedures For Prosecuting Petitions For Prerogative Writs."

---

[2] Rab alleged in the body of the 84-page petition that the Court had jurisdiction "over this emergency order request," (Pet., p. 5), and he frequently alleged the existence of an "emergency" or a "national emergency," {Id., pp. 6,54,63,68, 74, 81), but that appears to refer primarily to COVID-19, not to this case.

On May 4, Rab filed an ex parte application for a temporary restraining order and an order to show cause why a preliminary injunction should not issue prohibiting Respondents from certifying the results of the primary election and from printing ballots for the general election pending a decision on the merits of the petition. On May 7, Judge Chang issued a minute order setting a briefing schedule for the ex parte application, with the opposition due May 22, and the reply due June 5. Judge Chang stated she would decide whether to schedule a hearing after reviewing the papers.[3]

On May 18, Rab filed a motion to disqualify Judge Chang pursuant to Code of Civil Procedure section 170.6. On May 22, Judge Chang was disqualified and this case was reassigned for all purposes to the undersigned. Rab never filed a reply regarding his ex parte application. Instead, on June 4, he filed a 97 page document captioned "Amended Application for Ex-Parte Hearing Requesting TRO & Preliminary Injunction," and on June 5, he filed an amended petition for writ of mandate, this one clocking in at 473 pages including exhibits.

---

[3] Due to the COVID-19 pandemic, all hearings in this case have been held via Zoom and streamed to the court's YouTube channel.

On June 8, the Court issued an order denying Rab's application for a temporary restraining order and order to show cause, finding Rab failed to demonstrate he was likely to prevail on the merits. The Court also noted the following:

> ***[T]he Secretary of State argues that - whatever the merits of Petitioner's claims - ex parte relief is not necessary because "there is more than ample time to resolve the matter on the merits" without enjoining the printing of ballots pending the hearing on the merits. The Court agrees.- According to the Secretary of State, he will not provide the official list of general election candidates to the counties for purposes of printing ballots until August 27,2020. If Petitioner acts quickly, a hearing on the merits of the petition could be held by late July or early August.***

(June 8, 2020, Order, p. 9, emphasis added.)

Rab did not act quickly to schedule a hearing on the merits. Instead, oh June 18, he filed a lengthy motion for reconsideration of the Court's order denying his application for a temporary restraining order and order to show cause. On June 23, the Court denied the motion for reconsideration because it was not based on new facts, circumstances, or law, as required by Code of Civil Procedure section 1008. Instead, it simply repeated arguments that were raised in the initial application and summarized the evidence proffered in support thereof.

On July 9, the County and the Secretary of State filed demurrers to the amended petition and set an August 28 hearing date.

On July 20, Rab filed a motion to compel further discovery responses from the County with the hearing date left blank. The Court initially scheduled the hearing for August 14, but then rescheduled it for August 17 at Rab's request.

On August 7, the County filed an ex parte application for a temporary stay of discovery, and on August 11, the Court granted the County's request that its application be heard on August 17, at the same time as Rab's motion to compel.

On or about August 17, the Court issued an order granting Rab's motion to compel as to one discrete request for production of documents and denying the rest. In particular, it ordered the County to produce a privilege log for those documents that it withheld under a claim of attorney-client privilege or work product doctrine. The Court denied the County's motion for a discovery stay, finding no basis for ex parte relief.[4]

On September 3, the Court issued an order granting Respondents' demurrers with limited leave to amend the first cause of action to allege facts sufficient to constitute an

[4] The Court noted the County was free to file a regularly noticed motion for a discovery stay. It never did.

election contest claim pursuant to Elections Code section 16100. In that order, the Court also made the following comment:

> The Court understands that ballots for the general election will begin being printed on or about August.28,2020, and any delay in the printing could interfere with the results of the election. It thus appears clear to the Court that the primarily relief sought in this case - i.e., a recount - is essentially no longer available. This case may thus be moot. ***Arguably,*** however, this case raises issues of substantial and continuing public interest that arise from situations that are "capable of repetition, yet evading review," and the Court may thus decide this case even if it is technically moot.

(Sept. 3,2020, Order, pp. 2-3, emphasis added.) The Court emphasizes that it did not actually find that this case raises issues of substantial and continuing public interest that arise from situations that are capable pf repetition yet evading review, and it did not actually determine it would decide this case even if it was technically moot. Hence the use of the words "arguably" and "may." The mootness issue has only grown in the almost five months since the Court issued the September 3 order. It will be discussed in more detail and actually decided below. As permitted by the Court, Rab filed his second amended petition on September 23. On or about October 16, Respondents reserved January 22,2021, as the hearing date for demurrers they intended to file to the second amended petition. On October 20, Rab

filed an ex parte application for £in order shortening time for the hearing on the merits of his petition. In particular, he asked that the hearing on the merits be held on October 30, with any opposition due by October 26[5]. The Court denied the application by order dated October 22, because by that time ballots for the November 3 general election had already been printed, elections officials had mailed vote-by-mail ballots to all registered voters, and voting had already begun. The Court explained:

> The Court is not authorized to issue a writ of mandate in an elections case unless Petitioner proves "[t]hat issuance of the writ will not substantially interfere with the conduct of the election." (Elec. Code § 13314, subd. (a)(2)(B).) . . ; It is . . . now far too late to order a recount and/or to reprint ballots without interfering with the election.
>
> ¶
>
> Because it is too late to reprint ballots for the general election, there is no need for an expedited hearing on the merits of the petition, and Petitioner's ex parte application is denied.

---

[5] Pursuant to the Court's Local Rules, petitions for writ of mandate are governed by the following briefing schedule: the opening brief is due 45 days prior to the hearing; the opposition brief is due 25 days prior to the hearing; and the reply brief is due 15 days prior to the hearing. Rab's proposed hearing date and briefing schedule would have drastically shortened these deadlines.

(October 22,2020, Order, p. 2, emphasis in original.)

On October 28, Rab filed a motion for reconsideration, once again asking that the hearing on the merits be held oh shortened time. The Court denied the motion that same day.

On November 6, Rab filed an ex parte application asking that the hearing on Respondents' demurrers be held on November 20, rather than January 22, 2021. The Court denied the application by order dated November 13 for the same reasons stated in its October 22 order: "because it is now too late to make changes to the ballot in time for the general election, there is no need to shorten time to hear either the demurrer or the petition."[6] The Court also stated that, if Rab requested, it would schedule the hearing on the merits for January 22,2021, on the same day as the hearing on the demurrers.[7]Rab subsequently requested that his

---

[6] Indeed, the ex parte application was filed three days after the general election.

[7] The Sacramento County Superior Court's "Guide to the Procedures for Prosecuting Petitions for Prerogative Writs" ("the Guide") provides, "The court, in the exercise of its discretion to control the order of litigation before it.... may postpone a motion [like a demurer] to the '.
hearing on the merits when such . . . postponement will promote the efficient conduct and disposition of the proceeding." (Page 6, emphasis added.) The Court found this was such a case.

petition be heard on January 22,2021, and it was thus scheduled for that date. On December 11, the County filed a motion for a protective order, and on December 14, Rab filed a motion to compel. Both motions concerned a request by Rab to inspect the County's elections offices. The Court held a hearing on both motions on January 6, 2021, and issued an order two days later denying the motion to compel and granting the motion for a protective order. That brings us to the final hearing in this matter: the hearing on Respondents' demurrers and the merits of the petition. Below, the Court first summarizes the allegations in the petition and the evidence proffered in support thereof, and then proceeds to analyze (1) the mootness issue, (2) the demurrers, and, finally, (3) the merits of the petition.

THE ALLEGATIONS AND THE EVIDENCE

The Court begins by noting that the petition is verified and that it has 26 exhibits attached to it. The only additional evidence proffered by Rab in support of the petition is a declaration that he filed with his opening

brief.[8] The petition itself thus includes almost all of the evidence in this case.[9]

The petition contains one cause of action brought pursuant to Elections Code section 16100, subdivisions (a) and (g). Those two subdivisions allow an elector to contest an election on the following grounds: (1) "the precinct board or any member thereof was guilty of malconduct;" and (2) "there was an error in the vote-counting programs or summation of ballot counts." (Emphasis added.) Rab alleges the County Registrar took his voles, gave them to his opponents, and thereby robbed him of his rightful victory. If proven, these allegations would certainly constitute malconduct, and, almost by definition, would also establish an error in the vote counting. Rab also alleges the County

---

[8] Although this declaration is quite similar to one that is part of the petition

[9] As the County notes, most of the exhibits attached to the petition ai-e not relevant to the issues raised in this case because they do not "hav[e] any tendency in reason to prove or disprove any disputed fact that is of consequence to the determination of the action," (Evid. Code § 210 [defining relevant evidence].) For example, the lengthy complaint about the primary election that Rab submitted to the Los Angeles County Board of Supervisors and other documents related thereto are not relevant because they have no tendency to prove or disprove the crucial allegations in this case. (Exs. A, C-F.) As another example, campaign literature, tweets, and press releases from Rab warning of election fraud, all of which were released prior to the primary election, have no tendency to prove or disprove that fraud actually occurred. (Ex. H.)
Similarly, news reports and transcripts about complaints made by Rab and others after the primary election do not prove or disprove that the complaints have merit. (Exs. K-N.)

violated Elections Code section 15101(b), which provides:

> Any jurisdiction having the necessary computer capability may start to process vote by mail ballots on the 10th business day before the election.[10] Processing vote by mail ballots includes opening vote by mail ballot return envelopes, removing ballots, duplicating any damaged ballots, and preparing the ballots to be machine read, or machine reading them, including processing write-in votes so that they can be tallied by the machine, but under no circumstances may a vote count be accessed or released until 8p.m. on the day of the election.

According to the allegations in the petition, Rab went to observe the vote tally at the Downey Talley Operation Center on the evening of the primary election. Before he arrived, he was "shocked" to learn that the New York Times had already called the race in favor of his opponents, despite the fact that the polls were still open. (Pet., 138.) When he arrived at the Operations Center, he began asking questions about when the County began scanning and tabulating vote by mail ballots, and he got what he believed were conflicting or unsatisfactory answers. (Pet., ¶¶41-44,47-51.) In a nutshell, Rab believes Elections Code section 15101 prohibits the County fi-om scanning vote by mail

---

[10] Section 15101 was recently amended to allow jurisdictions to start processing ballots on the 15th business day before the election.

ballots until 8 p.m. on the day of the primary election, and that the County violated this prohibition. As discussed below, Rab's belief is simply wrong. As a result of his mistaken belief, however, Rab was convinced that County employees were lying to him, that he was observing a "scandal unwinding in front of his eyes," and that -'the entire election ballot tally operation was an illusion, a smoke screen to fool the public."[11] (Pet , ¶¶39,48,49.)

Rab also alleges that, as a result of the County's premature scanning of vote by mail ballots, the Registrar had early access to those ballots and actually changed the election results. (Pet., ¶51.) According to Rab, the Registrar "accessed [the] ballot count, tampered with [the] results,:.. took [the] majority of Petitioner's votes and gave them to

---

[11] If things got heated, perhaps it is because Rab was accusing County employees of lying and of violating the Elections Code when they were, in fact, doing neither. For example, Rab has submitted a declaration from a witness to the events who states the following: "Alex Olvera admitted and said that the [County] started scanning the ballots... 10 days in advance[.] Raji Rab contested and said to Alex Olvera that it was a violation of election codes[.]" (Rodriguez Decl, ¶5.) Rab makes similar statements. (Pet., ¶¶41-44.) As explained in this ruling, Rab is just plain wrong in his belief that the County could not start scanning ballots 10 days before the election, but his mistaken belief appears to have led to a heated exchange with Olvera, accusations of lying, and threats of litigation. (Rodriguez Decl., ¶¶8-10.)

petitioner's opponents, thus robbing Petitioner of his rightful victory." (Pet., ¶52; see also, e.g., ¶54 [alleging Registrar took Rab's votes arid gave them to his opponents], ¶ 89 ["Petitioner's votes were given to his opponent"].) The evidence proffered by Rab to prove these allegations consists entirely of declarations from two self-identified experts.[12] The experts have reviewed documentation regarding the County's voting system and provided an explanation of how it works. The voting system is referred to as "Voting Solutions for All People," or "VSAP." Rab and his experts are focused largely on the part of the system that tallies votes, which the parties refer to as the "VSAP Tally System" or simply "VSAP Tally." Here - according to Rab's experts - is how the system works. When a paper ballot (including a vote by mail ballot) is scanned, a digital image is created, and this image is converted into a Cast Vote Record, or CVR. (See Razeghi Decl., ¶¶ 6, 9; Raza Decl., ¶ 5.) A CVR is "an . . .

---

[12] The Court refers to the experts as "self-identified" because ii finds they fail to qualify as such. "A person is qualified to testify as an expert if he has special knowledge, skill, Experience, training, or education sufficient to qualify him as an expert on the subject to which his testimony relates." (Evid. Code § 720, subd. (a).) Here, one of Rab's 'experts' states he has "over 20 years of experience in the field of computer science and expert level knowledge in the field of database.
systems," and the other makes an almost identical statement. (Razeghi Decl., ¶2; Raza Decl, ¶2.) That is all. Simply saying "I have expert level knowledge" does not make it so. More importantly, even if the Court assumes the declarants are indeed experts and considers and relies on their declarations, they provide no support for Rab's claims.

electronic record that purports to reflect the selections a voter made on a ballot." (Elec. Code § 15366, subd. (d).) The VSAP Tally system ultimately tabulates or counts the CVRs, and the tabulated results are exported for reporting and auditing.

(Razeghi Decl., ¶¶ 6-9; Raza Decl., ¶¶ 5-8; see also Rab Decl., ¶ 9.) So to recap in simplified form: (1) ballots are scanned; (2) the scanned image is converted into a CVR that reflects the voter's selection in a format that the computer can read pr decode; and (3) a computer tabulates

the CVRs and generates a vote count. The Court notes that Respondents generally agree with this description of how the VSAP system works. (See Bhullar Decl., ¶¶ 3-6,)

According to Rab's "experts," here is the smoking gun that proves malconduct: "vote by mail ballots were scanned starting ten days before the election ^d scanned ballot images became accessible for manipulation 10 days before the election." (Razeghi Decl., ¶ 11, emphasis added;

see also Raza Decl.,¶ 10 [similar].) And again: "it is clear that there are areas in which a privileged user could very easily access and change the results." (Razeghi Decl., ¶12,

emphasis added; see also Raza Decl.,¶10 [similar].) And again: "The election results could be accessed at any point after the image is used to generate a CVR," arid "[a]

privileged user... with access. to [the] database can make modifications." (Raza Decl., ¶¶13, 14.) And again: "At any point after the image is used to generate the CVR, that CVR itself is ***susceptible to manipulation***[.]" (Razeghi Decl, ¶13a.) And again: "Cast Vote Records... can be accessed with a password to change the Cast Vote Records." {Id.,¶14, emphasis added.) The import o this evidence will be discussed in more detail below. However, it does not come close to proving that the Registrar (or anyone else) actually accessed vote by mail ballots early; manipulated, tampered with, or changed votes; tampered with or changed the election results; took any of Rab's votes from him; gave any of Rab's votes to his opponents; or otherwise committed fraud or malconduct.

MOOTNESS

The Secretary of State raises the mootness issue in his demurrer, and both Respondents raise it in their oppositions to the petition. As a general rule, courts will not decide moot cases. (See Wilson & Wilson v. City Council of Redwood City (2011) 191 Cal.App,4* 1559, 1573.) "A case is considered moot when the question addressed was at one time a live issue in the case but has. been deprived of life because pf events occurring after the judicial process was initiated... .

The pivotal question in determining if a case is moot is . . . whether the court can grant the plaintiff any effectual relief. . . . If events have, made such relief impracticable, the controversy , . . is . . . moot." {Id. at 1574, internal quotes and citations omitted.) Here, although no-one has asked the Court to do so, it takes judicial notice of the fact that the general election was held bn November 3, 2020, the results were certified shortly thereafter, and the winner (Brad Sherman) has begun serving his term in the House of Representatives. (See Evid. Code § 452, subd, (g) [court may take judicial notice of "[facts and propositions that are not reasonably subject to dispute and are capable to immediate and accurate determination by resort to sources of reasonably indisputable accuracy."].) The Court finds that these facts render this case moot, because the only relief requested by Rab - i.e., vacating the results of the primary election and ordering a recount - is now impracticable.

Rab does not seriously contend that this case is not moot. Instead, he argues that the Court should decide this case pursuant to an exception to the mootness doctrine. Although not required to do.so, "a court may exercise its inherent discretion to resolve an issue rendered moot by subsequent events if the question to be decided is of continuing public importance and is a question capable of

repetition, yet evading review." (In re Yvonne W. (2008) 165 Cal,App.4th 1394,1404, emphasis added.)

There can be little doubt that the integrity of our elections presents an issue of continuing public importance. Even the County concedes as much. (See County Opp. at 16:7-9.) The Court also finds that this particular election contest raises at least some issues that are capable of repetition - indeed, Rab claims the general election was infected with some of the same errors allegedly at issue here. As to whether those issues will tend to evade review, that is a closer call. As the Secretary of State notes, if Rab had acted quickly, this case could conceivably have been decided by early August before ballots for the general election began being printed. It is thus far from clear that the issues raised in this case will inevitably evade review if they arise again in the future. Nevertheless, the Court resolves doubts on this issue in favor of Rab and will exercise its discretion to decide this case even though it is technically moot, (See, e.g.. *National Audubon Society v. Superior Court* (1983) 33 Cal,3d 419,432, fn.l4 ["If the issue of justiciability is in doubt, it should be resolved in favor of justiciability in cases of great public interest."].)

THE DEMURRERS

The County and the Secretary of State have both demurred to the second amended petition on the ground that it fails to state a cognizable election challenge. Their argument is based on the well-established rule that, when ruling on a demurrer, the court must assume the truth of "all material facts properly pleaded, but not contentions, deductions or conclusions of fact or law."(*Blank v. Kirwan* (1985) Cal.3d 311,318.) Respondents argue that all allegations like the following are contentions, deductions, or conclusions of fact and law that may be disregarded by the Court: "[The Registrar]... accessed [the] ballot count, tampered with [the] results[and the] summation of the ballot count, took [a] majority of Petitioner's votes and gave them to Petitioner's opponents, thus robbing Petitioner of his rightful victory." (Pet,¶ 52.) If proven, this allegation could state a cognizable election challenge, depending on how many votes were taken from Rab.13 Can the Court simply ignore allegations

---

[13] As the Court has noted in several prior orders, in order to prevail on an election challenge brought pursuant to section 16100, the challenger must prove that the alleged misconduct affected the election results. (See Willburn v. Wixson (1974) 37 Cal.App;3d 730, 736 ["malconduct" will not annul an election unless it would change the result]; Elec. Code § 16300 ["Irregularity or improper conduct shall annul or set aside a nomination only if it appears that illegal votes in the precinct have been given to the defendant [i.e., another candidate], which if taken from him or her, would

like this when ruling on the demurrers? Doing so would seem to run afoul of another well-established rule: "in testing a pleading against a demurrer the facts alleged in the pleading are deemed to be true, however improbable they maybe" (*Del E. Webb Corp. v. Structural Materials Co.* (1981) 123 Gal. App.3d 593,604.) "It is not the ordinary function of a demurrer to test the truth of the plaintiffs allegations or the accuracy with which he describes the defendant's conduct. . .. [T]he question of plaintiffs ability to prove these allegations, or the possible difficulty in making such proof does not concern the reviewing court." (*Committee on Children's Television, Inc. v. General Foods Corp* (1983) 35 Cal.3d 197, 213, intemal cite and quotes omitted.)

There is little case law on the difference between "material facts properly pleaded," which the Court must assume are true when ruling on a demurrer, and contentions, deductions or conclusions of fact or law," which the Court may disregard. (Blank, supra, 39 Cal.3d at 318.) Indeed, courts "have struggled with these distinctions." (Weil & Brown, Cal. Practice Guide: Civil Procedure Before Trial (The Rutter Group 2020), f 6.124, p. 6-38.) According

---

reduce the number of his legal votes below the number pf votes given to the contestant."].)

to Witkin, "the distinction between ultimate facts, conclusions of law, and evidentiary matter is one of degree only, and the decisions often appear to be haphazard and inconsistent." (4 Witkin, Cal. Procedure (5th Ed. 2018) Pleading, § 378, p. 514.)

In ruling on the first round of demurrers, the Court found that allegations similar to the ones currently relied on by Respondents were conclusions of fact or law that could be disregarded when ruling on a demurrer. In so finding, the Court relied on In re Cryer (1926) 77 Cal.App. 605, a case in which the court held that an elector contesting the results of an election based on misconduct had to allege the misconduct with "some definite particularity" because "[i]t is absurd to suppose that a single elector, without any information on which to base his complaint is entitled to impose on the superior court the burden of recounting the entire vote cast by the electors, in a great city in which there are; hundreds of thousands of voters." (Id. at 609.) Arguably, the Court could rely on *In re Cryer* again, and. could require greater particularity in the petition's allegations of malconduct.

The difference now, however, is that the petition itself is fully briefed and is scheduled to be heard at the

same time as the demurrers. Rather than determining whether allegations that the Registrar tampered with votes are "material facts properly pleaded" or "contentions or conclusions of fact or law," the Court will instead proceed to determine whether Rab has proven those allegations, and ultimately determines that he has not.

THE MERITS OF THE PETITION

Before turning at long last to the merits of the petition, the Court begins with a comment about the briefs. Rab did not file an opening brief 45 days prior to the hearing on the merits, as required by the Court's Local Rules. His second amended petition, however, contains a memorandum of points and authorities. Respondents thus treated the petition and the memorandum as the opening brief and the exhibits to the petition as the evidence proffered by Rab, and they prepared their oppositions accordingly. Several days after the oppositions were filed, Rab filed a "notice of errata" stating that due to inadvertent error" he had failed to file an opening brief, which he attached. This obviously raises a problem. The opening brief was filed 23 days late. It was also filed after Respondents' oppositions were filed, which deprived Respondents of the opportunity to address the arguments

made in the opening brief. (See, e.g... *Neighbours v. Buzz Oates Enterprises* (1990) 217 Cal.App. 3d 325, 335, fn. 8.) The Court would be well within its right to ignore the opening brief (See California Rules of Court, Rule 3.1300, subd. (d).) Rather than ignoring it, however, and because Rab did not file a reply, the Court treated his opening brief as his reply and considered it.[14]

1. Elections Code section 15101(b)

Rab contends the County violated Elections Code section 15101(b), which provides:

> Any jurisdiction having the necessary computer capability may start to process vote by mail ballots on the 10th business day before the election. Processing vote by mail ballots includes opening vote by mail ballot return envelopes, removing ballots, duplicating any damaged ballots, and preparing the ballots to be machine read, or ***machine reading them***, including processing write-in votes so that they can be tallied by the machine, ***but under no circumstances may a vote count be accessed or released until 8 p.m. on the day of the election.***

(Emphasis added.) Section 15101(c) reiterates, "Results of any vote by mail ballot tabulation or count ***shall not he***

[14] The Court notes that the opening brief does not appear to raise any new issues or arguments that were not already raised in the petition and memorandum, and that Respondents did not mention the late opening brief at the hearing or suggest the Court should have ignored it.

released before the close of the polls on the day of the election." (Emphasis added.)

A. Scanning

Rab's first contention is that section 15101(b) prohibits the County from scanning vote by mail ballots before 8 p.m. on the day of the election. The Court has already rejected this contention in several prior orders; Section 15101(b) allows the County to start "processing" vote by mail ballots 10 days prior to the election, and expressly states that "processing" ballots includes "machine reading" them. The Court interprets "machine reading" to include, and thus to permit, scanning ballots. To leave no room for confusion in the future, the Court reiterates:

Elections Code section 15101(b) allows the County to start scanning ballots on the 10th business day before the election.[15]

B. Releasing

Rab also contends that section 15101(b) prohibits the County from releasing a vote count until 8 p.m. on the day of the election. True - but there is no evidence that the

---

[15] Now the 15"" business day before the election (see fn. 10, above).

County released a vote count prematurely. Rab alleges he was "shocked" when the New York Times called the race in favor of his opponents before 8 p.ni. (Pet., ¶ 38.) That the New York Times called the election early does not demonstrate the County released a vote court before 8 p.m. The Court assumes that the New York Times called the election based exit polls, and even if the Court did not make such an assumption, Rab proffers absolutely no evidence that the County released a vote count prematurely.

C. Counting and accessing

That leaves Rab's contention that the County violated section 15101 because it actually counted votes and/or accessed the vote count before 8 p.m. on the day of the election; This contention appears to be based on Rab's description of how the VSAP system works. As noted above, when a ballot is scanned, it is converted into an electronic record, or CVR, that reflects the voter's selections. According to Rab's experts, CVRs and vote counts are thus "accessible" as soon as ballots are scanned. (Razeghi Decl., ¶ 11; Raza Decl, ¶¶10,14,15,17.) The fact that vote counts are accessible as soon as ballots are scarmed, however, is not evidence that anyone at the County actually accessed vote count prematurely.

Rab may also contend that the VSAP system itself - or the way it is set up – violates section 15101 because it accesses and decodes the voter's intent as soon as a ballot is scanned. For example, Rab states it is "indisputable now that upon scanning ballots, voter intent is decoded and transformed into CVRs, instantly accessed by VSAP Tally system." (Opening at 10:15-16, emphasis added.) Similarly, he states it is "illegal to scan ballots [before 8 pm on election day] because upon scanning ballots, voter intent was decoded and converted into CVRs, instantly accessed by Tally system." (Opening at 5:3-5, emphasis added; see also 6:1 [early ballot access is "Not allowed by VSAP Tally"] and 10:17-18 ["Election Code § 15101(b), regardless of by whom or by what means, strictly prohibits access to vote count until 8pm election day, includes CVRs where voter intent is decoded"] [emphasis added].) As the Court has previously stated, however, the fact that a computer system may have access to CVRs which reflect the voters' selections prior to the eve of the election does not violate section 15101(b).[16] The Court finds there is nothing

---

[16] Rab's initial theory appeared to be that the scanners used by the County are "two in one" machines that scan and count ballots at the same time: (See, e.g... First Amended Petition, ¶22 [alleging "huge fraud" because ballots were scanned "in the two in one scanner and tabulation machines"], ¶98-99 [alleging Registrar lied when he said "machines are

inherent in the way the VSAP system works that violates section 15101(b).

The Court thus finds that Rab fails to offer any evidence that establishes the County either tallied votes or accessed the vote count before 8 p.m. on the day of the election. Although additional evidence to support this finding is not

necessary,[17] the Court notes that such evidence bias been proffered by the County. It submitted a declaration from Aman Bhullar, who is responsible for overseeing the VSAP system, Bhullar explains that when vote by mail ballots are scanned, a digital image is created, and that digital image is

---

NOT a 2 and 1 scanner and tally machine" and "they did not scan and tabulate ballots before the election day"], ¶105[alleging Registrar concealed fact "that the VSAP Tally machine is a two in one VSAP scanner and tabulation machine"].) His current theory appears to be that the scanners (or perhaps the system as a whole) are "two in one" because they scan and decode ballots at the same time (i.e., they instantly convert scanned ballots into CVRs). Even so, the fact that scanned ballots are instantly converted in a format (i.e., a CVR) that a computer can read is not prohibited by section 15101(b). After all, a computer is a machine, and section 15101(b) expressly allows the County to start "machine reading" ballots ten days before the election. Scanning ballots and converting them in CVRs does just that.

[17] No additional evidence is necessary because the burden is on Rab to prove his claim; the burden is not on the County to disprove it. (See Gooch v. Hendrix (1993) 5 Cal,4th 266,279,)

"then stored and processed through various steps in VSAP Tally to create cast vote records ('CVRs'). CVRs arenot ballots; they are electronic records that reflect the selections a voter has made on a ballot. CVRs are made into a format that allows VSAP Tally to access the selections made by voters for a vote count to be made[.]" (Bhullar Decl, ¶14.) Bhullar also explains that scanning and tabulating do not occur simultaneously. {Id., 16.) Instead, in order for tabulating to occur, someone has to "execute a computer command in the VSAP Tally software on equipment different from the... Scanners[.]" {Id) This does not occur until after 8 p.m. on election night. {Id.) The County also proffers a declaration from the Registrar, who confirms and reiterates Bhullar's description of how the VSAP system works. (Logan Decl, ¶¶3, 6, 10-12.) The Registrar also confirms, "The first time... staff members executed a command in the VSAP Tally software to count ballots for the Primary Election was after 8pm on March 3,2020." (Id.,¶ 11.) Rab has no evidence to the contrary.

2. Elections Code section 16100 / Vote Tampering

Rab's most serious allegation is not that the Registrar accessed ballots prior to the election, but that he tampered with or manipulated ballots, and/or failed to count all of

Rab's votes, and/or changed votes, and/or took votes away from Rab, and/or gave Rab's votes to his opponents, and/or otherwise changed the results of the election. The Court will use the blanket term "vote tampering" to refer to all of these allegations. They are strong allegations indeed, and if they were proven, the Court would not hesitate to find malconduct. Simply alleging something, however, does not make it so, (See, e,g., *Moriarty v. Laramar Management Corp.* (2014) 224 Cal,App.4"' 125,139 ["Simply saying something does not make it so."]; Stop Loss Inc. Brokers, Inc. v. Brown & Toland Medical Group (2006) 143 Gal.App.4th 1036, 1041 ["Asserting this legal conclusion does not make it so"]; *Kashian v. Harriman* (2002) 98 Cal.App,4"' 892,932 ["bare assertion that many of the statements in Harriman's letter are false does not make it so"].} Although these are Rab's most troubling allegations, they are also the easiest to dispose of because there is absolutely no evidence to support any of them. The Court will say it again, this time with emphasis: **There is absolutely no evidence to support any of Rab's allegations that the Registrar (or anyone else) tampered with votes.** Furthermore, simply because Rab is dismayed that he lost - badly - does not equate to fraud.

At best, Rab's experts demonstrate that it would theoretically be possible for a bad actor with a password or the right hacking skills to access to the VSAP system and tamper with the results, (See Razeghi Decl, ¶12 ["it is clear that there are areas in which a privileged user could very easily access and change the results."], ¶13a ["scanned images... are susceptible to being modified at any point after being digitally captured"], ¶13b ["At any point after the image is used to generate a CVR, that CVR itself is susceptible to manipulating"]; Raza Decl., ¶10 ["vote by mail ballots were scarmed 10 days before election day and scanned ballot images became accessible for manipulation 10 days before 8 pm March 3, 2020"], ¶11 ["there are areas in the vote count tally environment which a user with a password could very easily access . . . and change the results"]; ¶14 ["A privileged user with access , . . can make modifications"];) What is missing from this evidence is even a hint that anyone actually accessed the system and/or tampered with the results. And with no such evidence, Rab's election contest fails.

As the Court has noted in prior orders, Rab has a heightened evidentiary burden to meet in this case. "California law makes it hard to overturn elections. The

reasons are fundamental. Voters, not judges, mainly run our democracy. It would threaten that core tenet if one person who did not like the election result could hire lawyers and - with ease could invalidate an expression of popular will." (Owens v. County of Los Angeles (2013) 220 Cai.App.4th 107, 123.) The courts have thus set a "very high bar" for election challenges. (Id:) Among other things, this high bar means that the party challenging the election results has the "burden of proving the defect in the election by clear and convincing evidence." (Gooch v. Hendrix (1993) 5.Cal,4th 266,279.) Clear and convincing evidence "requires a finding of high probability," or, put another way, requires that the evidence be "sufficiently strong to command the unhesitating assent of every reasonable mind." (*Mock v Michigan Millers Mutual Ins. Co*, (1992) 4 Cal.App.4th 306,332.) Rab's evidence comes nowhere close to meeting this high standard.[18]

---

[18] "[T]he clear and convincing evidence standard is higher than the preponderance of the evidence standard" that applies in most civil cases, {Conservatorship of Maria B. (2013) 218 Cal.App,4th 514,529.) Lest Rab be left with the impression that he lost this case due to the higher burden of proof, the Court notes that his evidence comes nowhere close to meeting the preponderance of the evidence standard either.

CONCLUSION

Rab claims the County violated Elections Code section 15101 during the 2020 primary election. This claim either (1) is based on a misinterpretation of section 15101, or (2) has no evidentiary support. Rab also Claims the primary election results were tainted due to malconduct or an error in the vote counting. This claim has no evidentiary support. Simply put, Rab lost, by a wide margin. He may be disappointed. He may truly and fervently believe that he was the best candidate. And he may even truly and fervently believe that the Registrar (or others) tampered with the votes. However it is a bedrock principle of American law that claims cannot be established by mere belief, but must instead be established by evidence. Here, there is none. The petition for writ of mandate is thus denied in its entirety. Respondents are directed to prepare a judgment, incorporating this order as an exhibit; submit it to Rab for approval as to form; and thereafter submit it to the Court for signature and entry of judgment in accordance with Rule of Court 3.1312.

Dated: January 26, 2021

By: s/ Laurie M. Earl
Judge Laurie M. Earl
Laurie M. Earl

SUPERIOR COURT OF CALIFORNIA

COUNTY OF SACRAMENTO

Case Number: 34-2020-80003363

RAJI RAB, Case Number: 34-2020-80003363

Petitioner,

vs,

SECRETARY OF STATE OF CALIFORNIA; ALEX PADILLA;

ET. AL.,

Respondents.

CERTIFICATE OF SERVICE BY MAILING

By order of the court pursuant to Code of Civil Procedure section 664.5, notice i s hereby given that ruling/judgment in the above numbered and entitled action was entered in this Court on this date and that the same i s now of record and on file in said action.

I , the Clerk of the Superior Court of California , County of Sacramento, certify that i am not a party to this cause and on the date shown below I served the foregoing ORDER AFTER HEARING dated January 26, 2021 by depositing true copies thereof, enclosed in separate, sealed envelopes with the postage fully prepaid, i n the United States Mail at Sacramento, California each of which envelopes was addressed respectively to the persons and addresses shown below:

Raji Rab
6670 Reseda Blvd., Suite 206
Reseda, CA 91335

S. Clinton Woods
Deputy Attorney General
455 Golden Gate Ave, Suite 1100
San Francisco, CA 94102

Brian R. Stewart
Taylor J. Pohle
COLLINS COLLINS MUIR + STEWART
1999 Harrison Street, Ste 1700
Oakland, CA 94612

I, the undersigned Deputy Clerk, declare under penalty of perjury that the foregoing is true and correct.

Dated: 01/26/2021

Superior Court of California,
County of Sacramento

By: E. BERNARDO
Deputy Clerk

EXHIBIT "B"

VIA E-MAIL Dated: February 4, 2021

COLLINS COLLINS
MUIR + STEWART LLP
BRIAN K. STEWART
TAYLOR J. POHLE
Los Angeles County Office
1100 El Centro Street
South Pasadena, CA 91030
T 626-243-1100
F 626-243-1111
bstewart@ccmslaw.com
tpohle@ccmsIaw.com

S. Clinton Woods
Deputy Attorney General
Government Law Section | California Department of Justice
455 Golden Gate Ave, Ste. 11000 | San Francisco, CA 94102
tel. (415) 510-3807 Fax [415) 703-5480
clintwoods@doj.ca.gov

RE: Raji Rab v. Secretary of State of California, et al.
Case No.: 34-2020-80003363-CU-WM-GDS

This is in response to your email dated Friday, January 29,2021. Pursuant to CRC 3.1312, I object to the [Proposed] Order but will withdraw my objection if it is changed to read as follows:

IT IS HEREBY ORDERED, ADJUDGED, AND DECREED THAT:

1. The Order attached hereto as **Exhibit A** is entered as Judgment of the Court and the petition for a writ of mandate is denied in its entirety;

2. Petitioner shall take nothing from Respondents in this action, arid Respondents shall have judgment against Petitioner; and

3. Respondents are deemed prevailing parties pursuant to Code of Civil Procedure § 1032;

4. The Court's order dated December 17, 2020 with respect to the preservation of evidence shall remain in force until this case is fully resolved on Appeal.

Please note that this notice of objection is timely under CCP §1010.6 (a)(4)(b).

Thank you,

Raji Rab
Petitioner, in Pro Se

U.S. Constitution, Amendment XIV

Section 1.

All persons born or naturalized in the United States, and subject to the jurisdiction thereof, are citizens of the United States and of the state wherein they reside. No state shall make or enforce any law which shall abridge the privileges or immunities of citizens of the United States; nor shall any state deprive any person of life, liberty, or property, without due process of law; nor deny to any person within its jurisdiction the equal protection of the laws.

California Constitution California Constitution, Art. VI, Section 13

No judgment shall be set aside, or new trial granted, in any cause, on the ground of misdirection of the jury, or of the improper admission or rejection of evidence, or for any error as to any matter of pleading, or for any error as to any matter of procedure, unless, after an examination of the entire cause, including the evidence, the court shall be of the opinion that the error complained of has resulted in a miscarriage of justice.

California Elections Code § 15101

15101. (a) Any jurisdiction in which vote by mail ballots are cast may begin to process vote by mail ballot return envelopes beginning 29 days before the election. Processing vote by mail ballot return envelopes may include verifying the voter's signature on the vote by mail ballot return envelope pursuant to Section 3019 and updating voter history records.

(b) Any jurisdiction having the necessary computer capability may start to process vote by mail ballots on the 29th day before the election. Processing vote by mail ballots includes opening vote by mail ballot return envelopes, removing ballots, duplicating any damaged ballots, and preparing the ballots to be machine read, or machine reading them, including processing write-in votes so that they can be tallied by the machine, but under no circumstances may a vote count be accessed or released until 8 p.m. on the day of the election. All other jurisdictions shall start to process vote by mail ballots at 5 p.m. on the day before the election.

(c) Results of any vote by mail ballot tabulation or count shall not be released before the close of the polls on the day of the election.

(Amended by Stats. 2021, Ch. 312, Sec. 7. (AB 37) Effective January 1, 2022.)

California Elections Code § 16100

Any elector of a county, city, or of any political subdivision of either may contest any election held therein, for any of the following causes:

(a) That the precinct board or any member thereof was guilty of malconduct.

(b) That the person who has been declared elected to an office was not, at the time of the election, eligible to that office.

(c) That the defendant has given to any elector or member of a precinct board any bribe or reward, or has offered any bribe or reward for the purpose of procuring his election, or has committed any other offense against the elective franchise defined in Division 18 (commencing with Section 18000).

(d) That illegal votes were cast.

(e) That eligible voters who attempted to vote in accordance with the laws of the state were denied their right to vote.

(f) That the precinct board in conducting the election or in canvassing the returns, made errors sufficient to change the result of the election as to any person who has been declared elected.

(g) That there was an error in the vote-counting programs or summation of ballot counts.