No. 24-6136

ORIGINAL

IN THE

SUPREME COURT OF THE UNITED STATES

FILED
JUN 04 2024
OFFICE OF THE CLERK
SUPREME COURT, U.S.

ZACHARY BARKER COUGHLIN — PETITIONER
(Your Name)

vs.

People of STATE OF CALIFORNIA — RESPONDENT(S)

ON PETITION FOR A WRIT OF CERTIORARI TO

SUPREME COURT of CALIFORNIA / CA 2nd appl Dist / SUPERIOR COURT SANTA BARBARA-CO.
(NAME OF COURT THAT LAST RULED ON MERITS OF YOUR CASE)

PETITION FOR WRIT OF CERTIORARI

ZACHARY BARKER COUGHLIN
(Your Name) BR4587 A2-13-3

P.O. Box 92
(Address)

CHOWCHILLA, CA 93610
(City, State, Zip Code)

N/A
(Phone Number)

QUESTION(S) PRESENTED

1. can caliofnria make it illegal for a woman to provide advance consentto intoxicatewd or inconscious intercourse, especially after SCOTUS's decision in Lawrence v Texas 2003 struck down sodomy statutes in Texas?
2. Can a court and counsel strip a criminal defendnat of his er right to testify at a suppression hearing, especiall|! where defendant stated his objection to denying such right on the recor record?
3.may court and counsel strip a criminal defendant of his right to confront accusers in its entirety over his stated objection to such on the record?
4. should the plain view doctrine warrant exception not appl|! to warrants for dcell phonews , computers, and other digital data?
5. is live testimony required to prove a warrant exception?
6.is overbrteadtn included within the purview of what is meant buy "particularity requirement?"? must a court rule on overbread overbreadth when and argument heading identifies the particularit requirement as being at issue?
7.is their there a heightened standard for probable cause and boths prongs of specificit|| in warrants for digital data?
8.can jurisdiction be established based onl|! on a video where there is no te evidence as to where it was filmed, what state, et etc.?
9. i sprobable cause required for each data type sought in warran warrants for digitla data? ditto as to specificit|| for each data tu|pe
is california's statlking statute constitutional
in light of counterman scotus ;23
10.all the other cxonstitutiona lquestion presented in the "am "makinbg warrants great again" Champion article by the ACLU's Jen stancil-Grannick'23.
11. and other questions presented in the attacne papers and any the court seeks to conside3r in lights of Prese3dnet Trump's re-election and ATTY General Gaetz appointment in combatting the woke mob running amuck in Caliofnria, seizing attorne|!'s privileged adata tnen running rape trials with unwilling women who don't consider themselves victims base onl|! on video or films especiall|! where all the pro abortion leftists also insist that women in califoruia shoudl not be allowed to choose to provide advance consent to unconviosu intercourse.

12. Strict First Amendment scrutiny to ~~sta~~ warrants for Data based on freedom of speach/assembly in stalking case

13. Is state required to raise and prove plain view warrant exception and use live testimony

LIST OF PARTIES

[/] All parties appear in the caption of the case on the cover page.

[ ] All parties **do not** appear in the caption of the case on the cover page. A list of all parties to the proceeding in the court whose judgment is the subject of this petition is as follows:

Please see my previous attempt to file a pet. for cert + CLERK Scott Harris' letters to me.

RELATED CASES

SANTA BARBARA Superior Ct. 2OCR06975

CA 2nd COA #B315841

CA SC S280962

441 U.S. at 469 (1979)

If WILKINS Scotus 1979 is applied it will reset my AEDPA one year deadline for habeas I believe

WILKINS V. U.S. (Scotus '79)

See my appellate atty's (notify me of denial discretionary review or to file cert petition) failure to file his Pet. for cert

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I MAILED IN THE LOWER COURT'S OPINIONS EARLIER IN my previas submissions

CA COA opinion 6/29/23

notify me of denial

TABLE OF AUTHORITIES CITED

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See all cases in:
Zocco 2020 US S. Ct Briefs 6258

'Making WARRANTS GREAT AGAIN'
CHAMPION ('23) - S. GRANNICK
1a rule 6

SHIELDS/VETRI/RINDFLEISH
ROCK SCOTUS '87
BROOKHART SCOTUS '66
LAURENCE v. TX SCOTUS '03
Dancy CALAPP '02

STATUTES AND RULES
Cal-Ecpa 1546.1(d)(2)

OTHER

IN THE

SUPREME COURT OF THE UNITED STATES

PETITION FOR WRIT OF CERTIORARI

Petitioner respectfully prays that a writ of certiorari issue to review the judgment below.

OPINIONS BELOW

[ ] For cases from **federal courts**:

The opinion of the United States court of appeals appears at Appendix _____ to the petition and is

[ ] reported at _____; or,
[ ] has been designated for publication but is not yet reported; or,
[ ] is unpublished.

The opinion of the United States district court appears at Appendix _____ to the petition and is

[ ] reported at _____; or,
[ ] has been designated for publication but is not yet reported; or,
[ ] is unpublished.

CA SC S280962

[✓] For cases from **state courts**:

The opinion of the highest state court to review the merits appears at Appendix _____ to the petition and is

[ ] reported at _____; or,
[ ] has been designated for publication but is not yet reported; or,
[✓] is unpublished. 2023 Cal App Unpub LEXIS 3836

The opinion of the Santa Barbara Superi Court a-c Magistrate court appears at Appendix 1-10 to the petition and is

[ ] reported at _____; or,
[ ] has been designated for publication but is not yet reported; or,
[ ] is unpublished.

1. was mailed in earlier

JURISDICTION

[ ] For cases from **federal courts:**

The date on which the United States Court of Appeals decided my case was _____.

[ ] No petition for rehearing was timely filed in my case.

[ ] A timely petition for rehearing was denied by the United States Court of Appeals on the following date: _____, and a copy of the order denying rehearing appears at Appendix _____.

[ ] An extension of time to file the petition for a writ of certiorari was granted to and including _____ (date) on _____ (date) in Application No. ___A_____.

The jurisdiction of this Court is invoked under 28 U. S. C. § 1254(1).

[✓] For cases from **state courts:**

CA COA 6/29/13 uphld conviction

CA S. Ct denied discret. review

The date on which the highest state court decided my case was 9/13/23.
A copy of that decision appears at Appendix 1-10.

[ ] A timely petition for rehearing was thereafter denied on the following date: _____, and a copy of the order denying rehearing appears at Appendix _____.

Atty lied about filings and Court rejected mine as a pro se Jaffy

[ ] An extension of time to file the petition for a writ of certiorari was granted to and including _____ (date) on _____ (date) in Application No. ___A_____.

The jurisdiction of this Court is invoked under 28 U. S. C. § 1257(a).

Naei ei od
Baei ei oid rdcr
a [illegible] untimely petition for writ of cert that ought be considered given in light of the attached Declaration by appellate counsel petrick morgan fore, esq. that he failed to inf inform me of the ca supreme court's denial of discretionary revie review and scotus precedent in illinois v .u.s. 441 u.s. at 465 (is (1979).
[illegible]

CONSTITUTIONAL AND STATUTORY PROVISIONS INVOLVED

~~1st~~ 1st, 4th - 8th, 14th Amendments

Cal-Ecpa 1546.1(d)(2)

'MAKING WARRANTS GREAT AGAIN' – CHAMPION J. GRANNICK

Case law underpinning

LAWRENCE V. TEXAS, SCOTUS '03

and cases cited herein

STATEMENT OF THE CASE

I am a licensed attorne|| and filmmaker/ wno was arrested in isla vista, ca while filming and promoting a film about the a film th that touched on a dp,r |jr,rdr |jsy ;rf yp s esttsmy gpt rbofvr ev making a film that led to a wrrant to seize all the data from my law office nad production studio. counterman scotus '23 makew clear my subjective intent as an alleged stalker is ke||, so the denial of my right to testify at the suppression hearing is particularl|; prjeudicial, especiall|; consdiering the lack of prob probable cause and either prong of spcificitr|; for the warrant fo for data coverd by the att|| client privilege.
further, california's woke mob persidted in prosecuting me form sexual assaults and a special cirucmstnac ekidnappign despite not having women willing to testify as victims

Also
See
enclosed
writing

REASONS FOR GRANTING PETITION

awaken to find appellant was have having sex with her. (6 RT 1862-1863.) That was "normal" and the sex was consensual. (6 RT 1850, 1860, 1863.) She sometimes said "no" in a flirtatious way. (6 RT 1833.)

After being shown multiple tapes of her having sex with appellant, she told the detective she felt like she had been [illegible] She also said that she still misses him sometimes. (6 RT 1862.)

The prosecution filed a motion before trial seeking to preclude the defense from arguing that prior consent from any of the victims could be used as a defense to argue consent to sexual activity when the alleged victim was asleep or unconscious. The prosecution relied on *People v. Dancy* (2002) 102 Cal.App.4th 21, 36 for that proposition. (3 RT 752.) The trial court agreed the case law provided that a person cannot give valid consent to a future act, and that prior consent is not a valid defense to a charge of rape against a woman who is "passed out." (3 RT 397-398.)

Applicable Law

In *People v. Dancy* (2002) 102 Cal.App.4th 21, the court held that consent is not available as a defense to a person charged with rape of an unconscious person, even if it is argued that the unconscious victim consented in advance or the defendant reasonably believed the victim would have consented, or would not have resisted, if conscious. (*Id.* at p. 31.)

While these are extreme (and perhaps aberrant) situations, they illustrate the flaw in the *Dancy* analysis. The Due Process Clause guarantees all persons' interests in liberty and privacy and a state cannot criminalize a consensual personal relationship between adults.

In *Lawrence v. Texas* (2003) 539 U.S. 558, the United States Supreme Court struck down a Texas statute that prohibited persons of the same sex from engaging in "deviate sexual intercourse." In doing so, the Court reversed the contrary holding in *Bowers v. Hardwick* (1986) 478 U.S. 186.

As a prelude, Justice Kennedy, writing for the *Lawrence* Court, observed:

> Liberty protects the person from unwarranted government intrusions into a dwelling or other private places. In our tradition the State is not omnipresent in the home. And there are other spheres of our lives and existence, outside the home, where the State should not be a dominant presence. Freedom extends beyond spatial bounds. Liberty presumes an autonomy of self that includes freedom of thought, belief, expression, and certain intimate conduct. The instant case involves liberty of the person both in its spatial and more transcendent dimensions.

(*Lawrence v. Texas, supra,* 539 U.S. 558, 562.)

The Court noted that the validity of a Texas sodomy statute, "should be resolved by determining whether petitioners were free as adults to engage in the private conduct in the exercise of their liberty under the Due Process Clause of the Fourteenth Amendment to the Constitution." (*Id.* at 564.) In proceeding to overturn *Bowers*, the Court reviewed prior authority, including *Griswold v.*

I was prohibited from putting on evidence of advance consent to unconscious sex as to the charged crimes related to Jane 1 and to rebut the 1108 hearsay testimony bty the detective as to what Jane 4 allegedly told him about some video he showed her for which no charges were filed. I was only charged with forcibl rape as to Jane 4. Further 1108 evideoce was put on in the form of a of videos of Jane 6 that were over an hour in length during which the state alleged she appeared to be asleep despite the fact that Jane 6 is clearly heard, in a clear and lucid voice objecting to certain things and not objecting to other things. I I.e., Jane 6 doesn't object to the vaginal or oral sex but interj interjects her objection at the suggestion of any sexual contact with her anus. For women who are allegedly aslepp, Jane 1 and 6 sure talk a lot in their sleep. This is the Dancy issue

Jones, 2005 Cal App Unpub Lexis 8114 (is instructivew.

Jones Jones Jones held: "no evidence at trial suggested that any of the victims ever consented in advance to having sex i with defendant while they were asleep or unconscious. Instead, e Elisa was shocked and ujpset when she awoke and found defedant na having sex with her. Sharon was outraged when she awoke and foun defednant lying nake on top of her. foot 3 (fn 3 rea reads: defendnat claims sec 261 a 4 as construed in D Dancy is constitutional invliad "at least in a case in which the evidence woudl support a juery finding t thjat that the alleged victim consented or reasonably appeared to consent, to the charged sexual act." for the reasons state, t this is not such a case"

Jones continues: "f Defendant claims subd a4 of 261 is uncons because it does not allow a Maybewrry defense. Under Mayberry a def.'s reasonable and good fatih mistake of fact regarding a p person's consent to sexual intecoure is a defense to rape and din kidnapping. jthus upon request a trial court must give a Mayberr instructino where ther is sufficent eviden e to support that cont contention....Here however, defendnat was charged with rap...of a unconscious person. the evidence showed tht the ....nothing in t in the evidence suggested either victim gave advance consent to intercourse at some later point after she fell asleep or lost conciousness fn4 (fn4 reads: when it denied efednan'ts new t ne trial motion , the trial court stateed: "if . If consent wer were to be an an issue in the statute, i think defense counsel arument is a goo9d one. the jury if they wer listening to the facts of the case, might well conclude that ther was consent or t or there is a reasonable belief in consent

the record supports the cour'ts comment on in part. Even if Eli Elisa';s behavior arguably supports a reasonable belief of c consent to intercoures ewhile she was conscious, t nothing i nher in her behavior ro the surrounding circumstances supports any bel any belief that she consente in advance to an act of intercourse after she later fell asleep or lost consciounews. thus , this ca this case does nto present the question whether prior consent can serve as evidence of prsent consent as id it does in cases of advance consent to , e.g. a sugivcal procedure whiel a patient is unconcious.") Nor did anything in the evidence allow defendnat to have a reasaonable good faith belief of advance consent. thus, t the court was not required to give a Maybewrry instruction, sec 2 261 subd 4 is not the case situation basis for the lack of advance consent cas

telling AA and LB that I would appreciate it if they would leave me alone and that I was no threat to them, that I am a licensed attorney and just want them to leave me alone, and that I then po posted the video fo myself telling AA and LB this, in person ton instagram, my instagram, which identifiesd me as anactively licensed attorney and comedic filmmake...but the detective left that out of his warrant affidavit. it would have actually provid provided some support to his bare bones boilerplate warrant afffi affidavit as to his stated suspicion that , in his experience stalkjers film and keep copies of such film their victims...but but the fact that I am seen in the video (which LB reported to Deputy Reyes on 5/17/20) I am seen in the video telling them, in in person on 5/16/200 2020 to please leave me alone...well, that video rather cuts against a claim that I was stalking them. rath it gives the impression that they are stalking me. and that woul his affidavit's chances of establsihin probable casue for the on crime he was able to allegedly gin up enough probable cause for, using a sort of composite victim approach encompassing t interact interactions with three different blond co-eds (aa, lb, cw) who m who may or may not have some connnection to each other that there isn't much, if any proof, i was aware of.. ford also fail to include in his brief the fact that trial counsel refused to cr examine Jane 2 about the excuplatory instagram messages she sent in the days following tne alleged mid day, open air mall kidnap and rape in an alcover on the way to the parking garage from her equinox gym in marina del rey. Jane 2 sens me an instagram messa in tne week folloowing the alleged 2/10/14 er 2020 er 2019 rape in response to my forwarding a link to the 2/14/19 article on my Girl Interrupter Dating Coach film on youtube profiled in an L in an Los Angeles Magazine article. Jane 2's message to me read: "I've got to thinking about our meetingdd a fe w days ago and I realized some things about it made me uncomfortable." That is plainlfy not the message of a woman who was kidnapped and raped midday in a mall by a licensed attorney who thereafter sent her a link to an article about a film he made. That is clearly excup excuplatory. yet trial counsel refused to even seek discoery of such message until a week or so before trial (after 6 months of his bullshitting about needing a continuance, and his shitting th the bed on purpose in a worthless suppression motion). the prose prosecution committed misconduct in failign to turn over that exc excuplatory bvrady materials and I was denied my right to counsel where trial counsel refused to cross examine Jane 2 over such mes message, and efused to place such message in evidence, or provide provide me a copyu to use during my testiomny or otherwise place in evidence. Furether, counsel wasted a trip, replete with the p prosecutors, both detectives, and two victim advocates, to Marina del rey just prior to the suppression hearing in April 2020 to in interview Jane 2 (Carly Anne Warhaft, whose instagram is @ignarly and who has now sought to delete her reddit messages under @i_gna @i-g @i_gnarly from the "Mirror Bus in Isla Vista" forum on Redd Reddit and the Facebook comments made on the LA Magazine Article wherein she publicly outed herslef as my accuser under he own nam

so trial counsel take sten grand worth of DA resources down down to marina del rey to interview Jane 2 and doesn't ask her about the excuplatory instagram messages, and doens't even demand demand the DA turn over such messages for another two months unti right before trial, then doesn't use such messages at trial. a

the court was not reequired to give a Mayberry instruction. section 25 261 sub a 4 is not unconstitutional for failign to require an instruction that has no factual basis in the evidence in this case...moreover, as we have explained, Elisa never gave advance consent or appeared to give advanceconsent to inter course after falling asleep or losing conciousness (see fn 3, ant ante). No due process violation is shown". Jones at *16-17.

. I , on the other hand di attmept to put forward evidence of advance consent being provided by Jane 1, 4, and 6. Now, to be clear, I am not saying Jane 1 was unconcious in any of the videos exhibits used at trial. Further, I was not charged with unconcious rape of Jane 4, and I wasnt charged with anything relative to Jane 6. The jury had to watch an hour of prpahic erotica with Jane 6 for some reason per 1108, but nto charges were filed. counsel refused to interview Jane 6, and well, couns counsel refused to interview or call to testify Janes 1,4, and 6. Ther was 1108 testimony by the dete3ctive that Jane 4 ahd made some comment in relation to a video for which no charges were brought wnere sne allegedly looked aslepp, to which Jane Jane however, this said "made like was raped" between she and and I was consensual and that she had consented to acting in the fictional erotica we made together

To which Jane 4 allegedly said "i feel like I was rapoed" only to cklarify that all act sexual activity between us was always conse consensual, and she woudl have considered any such sex while was "normal" . Ford's brief badly butchers what the ROA actually say about all this. Ford fails to notice that the comment "i feel l like I was raped" was made in relation to a video for which no ch no charges were brought. Probably because the video does not sho any penetration, I assume. I wasn't b permitted to view it or an any other videos prior to trial or use them during the testimony I was forced to give in the narrative. Ford broke our express agreement in filing a a n openign brief without allowing me to review it first. This is a terrible practice only a deeply incom incompetent attorney would do. There is a tremendous risk the at attorney will admit to things the client did not do, here out of likely, Ford's slapdash haphazard refusal to read the ROA with an level of detail. This guy is a wi9atress trying to get customers in an d out of his booth as fast as possible to madx max his tip tips. turn and burn, Pat Ford styule. its disgusting. I disput that the ROA (which ford refused to email to me) states, per Jane 4 "they had consensual sex, including acts where she had fallen asleep only to find appelant having sex with her. (6 RT 1896 1862-1863) She I do not believe that was the testimony at rial the detective as to what Jane 4 told him. Idfiot Ford finds it relevant to include in the brief that "appellant once gave her mo money to buy meth, which helped with her schizophrenia"./ How is that , or her preference for condoms worth including in the br in the brief, but its not worth mentioning my continued instsiste insistence over 6 Marsden hearings that counsel shoudl not waive in its entirety my right to confrontation/compusory process as to Jane 1,4, and 6. How is it not worth mentioning that the detecti left out of his warrant affidavit exculpatory materials, such as the fact that in AA and LB 's interviews and in my pre Affidavit interviews I told Dete3ctives that I filmed myself telling AA and

Ford didnt think any of that was wortyh injcluding in hsi brief Ford didnt include in his brief the fact Jane 1 is seen and heard exclaining "yes! Yes!" while she is allegdly being subject to unconscious rape, didnt include the fact that she giggled "your'r bad ..." and "use lube a" and point out appellant needed to warm her vagina prior to sex, that is jane 1 told appeallant "you need to warm it up first". ford brief didnt include much of any detal about what was in detectrives affidavit. s ther was nothing abou appellant el allegedly claiming to be "entitled to have sex with underage girls" or "displaying a disregard for tne legal barrier of consent". those two points were the FIRST tning the AG's brie cited to wyhen disputing whether there was probable cause for a s , much less just and arrest.

The AG's brief, pa at page 24, in its probable cause analysi states: "Here , a search warrant was sought as part of an investi gatyion in which appellant was suspected of stalking. That inves investigation revealed appelan'ts messaging that he was entitle d engage in sex with underage femailes and his disregard for the legal barrier of consent. tne warrant request was supporte d by the extrodinarly edetialed affidavit of a police investigator who had extensive prior experience investgating case of stalking human trafficking and prostitiution. the breath of the authorizat was sought by a warrant was based on the training and experience of the detective and the awareness that stalkers often retain images an other material they compile and store it o digital devices. the detective also addresses at great length th reasons for suspcitng appellant of very dangerous criminal activ e far beyond his bravado, and the necessiryt of a warrant. the d of that showing are the details of that showing are set forht in in the Sealed transcript at pages 870--91 870-91. (sealed ct 39 4rt954-986....". The AG then concendes that the "many hours of s surreptitiions videos recordings...that showedd him subjectin men incompetent and often unconcious femaeiles to variosu sexual act committed by him" fell outside the material detectives were authorized to seize and search under the warrant, noting: "the wa warrant nevertheless limited the saerch to evidence of stlaking f found on appelant's devices (linkin him to the objects and thed d date , and the q warrant required the exclusion of data yieled i in the search that was unrelated to the investigation (1ct255)."

And , right ther, the AG admits that the videos relied on by the statecontain "information unrelated to the objective of the warrant" and are therefore, per 1546.1(d)(2), subject to the use restrictions Prof Kerr has long argued for, given that cal-expa eliminated plain view doctrine in California in warrants for digi digital evidence. This is confirmed in a treatise and a law re review article, and underscored by the fact the prosecutors at tr trial and the AG failed to argue plain view, because RPC prohibit them from lying to the court about what the law is.

Se 1 courtroom Criminal Evidence at SEc. 1830, footnote 588: "Governor Brown signed into law Cal-ECPA, eliminating plain view warranted searches." That';s a national treatise. That is a big deal.

Sec. 1830 also notes "a search warrant, for example , th specifiall sought out someon'e sperfectly LEGAL photography would in violation fo the fourth amendment". And that is exactly what Detect MCXG sought here, perfectly legal, constitutionally

legal constitutionally protected activity, the detective musing t that i had perhaps photogrpahed one of the three coeds forming his composite victim while they were out in public, or from some vantage pooint viewable from puiblic (like their party porch over overlookinga busy street bordering the beach in a densly populate college town where they sopew invective down at passersby).

?See In re George T. 33 cal 4th 620: independent review is particulary imnportant in the threqats context becuase it is a type of speech that is subject to categorical exclusion form Firs Amendment protection...what is a threat must be distnguised from is constitunaly protected speech".

Fiord's brief notes at page 22 "in his affidavit in d detectgive sstatement of prob cause, he stated that peopel involv in stalking often conduct surveillance on their targets and will take photos videos or audio recordings.". Its not illegal to pho photo people when they are out in public. dismissing such consti consitituionally protected activity as "surveillance" without any factual allegations pled to support the alleged victimshad an poroblem with such, much less felt harassed or tormented, much l less fearful from it, is not supportable. reposting to instagera photographs of themnselves that AA and LB themselves posted to th their own instagrams does nto provided a factual nexus to support a seraach for "surveillance" videos of AA or LB. the fact a phot video was posted of some third coed, CW, which she never complain complained aobut and which was taken in public and which was innc innocous anyways, is even more unsuuportable. the fact the detec detective dishoneslty left out of his affidavit that I did in fac film videos of AA harrasing me in public and myself responding to her in person by asking to be left allonge (which she did not do in later commenting on my instagram page with more threats), is is evidence of the bad faith that detective mcgillivray demonstra meondtrated throughout this matter in hsi bullying and intimidati and hiding evidence involving Jane's 1-6.

But, yeah, plain view is gone in Cali as to warrants for dig digital evidence. Don't take my word for it, though. Justices Liu and Evans find this stuff pretty improtant, fkling a Dissent in Mewza Meza, 210 2023 cal lexis 4522 pointing out that the good faith exception may well not apply to calecpa, citing to Freiwald, At the Privacy Vanguard: Californi'as Electronic Commun cations Privacy act (Cal ECPA) (2018), 33 Berkely Tech, L.J.131, 1623 161...noting "Cal ECPA is a "significatn" statue that made " the law governing access to electronic communications by law enfo ement in Claifornia...mucn mor eprotective of communcations pri vacy privacy." Freiwald at p 133 in Berkely Tech L J.

See, 33 Berk. Tech L. J at 154-156: "by specificyign adidtional parmeters for its warrants, calecpa cuts down on the "all accounts, for all time" orders that have become commoplace with digitla searches, such search can end up gathering so much information that they rissk being fishing expeditions that violat the spirite...of the Fourth Amendm..

"...In a signficant innovation, CalECPA further mandate that any information obtained that is "unrleated to the objective of the warrrant" be sealed and unavlable withou a further court o order P.C. Sec. 1546.1(d)(2). A court shall issue such an order only when federal or state law requires it, or when the courts finds probable cause to believe the information is relevant to a active investigation. This principle that data collectors should [illegible]

"... or when tne courts finds probable caue to believe the inform is relveant to an active investigvation. Tnis provision of Calec ECPA implements the date data proection privacy principle that da data collectors should specify the purposes for data collection , and precludes uyse that are inconsistent with those purpose. tiit also maintinas data qualifty by limitng the use of ireelevan data...Cal ECDPA's introduction fo such principles into its law enforcmenet collection rules moves deciedly away from the notion that all digital informatin is availbe for law enforcment use".

Further, i told detectives that i am and was a licensed attorney during tne pre affidavit interrogation i submitted to and i asserted that alldata on all devices seized (which I admitt admitted to ownership of, so tner is no need for some general sea search to determine "ownership use, or o identity. " see Bock (Or)....see circumstances allowing for a much more narrowly tailored warrant and one far more sharply limiting officer discretiion)... plus the my instagram account which LB had reported to Deputy Fr Freeman and Reyes and these detectives held me out as a licensed attorney under my bar number and real name and i told detectives atty client privilege was asserted to all data s3eized and that they would have to comply with p.c. sec 1524 and have a Special M Master condeuct the search. The ibrazenlyu ignored tne law as to that , just as they ignored the use restriction eliminating plain view found in cal ECPA 1546.1(d0(2). they really didnt want to creat a record of the forensic steps they took in unreasonable manner in which they executed their search, so unresonable under Terry, see 2 search and Seizure 58.30 and Hughes (MI '20)...tne carefully avoided building any recordd of those forensic steps in tne ROA at the suppression hearing, 995 motion hrg, and at tri trial. They are disadvanteged now by their failure to do so. b but tney made a tactical choice to try to hide detective mcgilliv ray's unethical behavior. det roberts too.

So, remembert, apopellate counsel, a carpoet bagger from san diego who never should have taken this case in the Secob Judicial, which would require him to examein the ten hours of video exhibits placed in evidence and play for the jury at a "co court facility" in san santa barbar (a six hour drive, no way tur old turn and burn Pat ford was gonna make that trip...which preve prevente3d himn from being able to adequately litigate evid code 352 issues, much less opinne on the utily of arguign venabled mak makes retroact 352.2 as to the creative works of ten hours of er erotica which the state admits was their only evidence for the va bulk of the charges here, especially where the state chose not to call uncooperative alleged victims as witnesses.

Back to what the detective alleged in his affidavit. it is not clear the first two things the ag brief cites as suppor supporting probable cause (ie 1) "appelant's messaging that he was entitled to engage in sex with udnerage fem females, and 2 2) his disregard for th legal barrier of consent"....its not cleq clear that such allegations were even in the affiadvit. its like its likely such go beyond the four corners of the affidavit and there is no indication the affidvit was even incorp by reference. the Ag has to cite to page 80-91 of the seale dtranscript...which which likely means such was not in the affidavit. regardless, my pointing out in a post on instagram that the age of consent in some states is just 16 years old can hardly be said to support a probable cause finding on the theory that i indicated

the age of consent is in some states is 16 hardly supports findin probable casue the search an attorney's entire digital footprint especially not without the involvement of a special master. dete dtecctive mcgillivray is just clowning the entire batr Bar and asking the DA and the trial court and the COAS to so cosign his bullshit. hew is also clowining the Legislature. no wonder he is such an egomaniacal blowhard. who is gonna stop him?

Further the AG doesn't specify what is meant at page 24 by "his disregard for the legal barrier of consent.". consaent f consent for what? for "surreptitious" fuilming of people walking around in public? not a crime. for "surreptitious" filming of people participting in erotica on in a bus with panormaci window windows parked on a public street? no expectation of privacy, an that is if they can get the actresses to say they were not aware they were being filmed, which the state was unable to do. Jane 4 outright told detectives she consented to filming. the state did didnt recall Jane 3 to rebut my testimony that she was made well aware of filming, and Jane 3's own statements in the videos played at trial reveal she was well aware sne was being filmed, a any my testimony was that she agreed to film such erotica ahead o of time. then there is the fact the state had to admit there was signage in and out of the bus noticing ongoing filming. furt further, i wasn't charge with any crime related to filming. so what is the warrant affidavit referrinfg to with regard to my "di disregard for the legal barrtier of consent?" consent for se3x? how about some analysis of the underlying reeasons for any suspic suspicion in that regard. likely such is not even detailed in the warrant affidavit but is rather some verbage added after the fact, after the search, outside th e four corners of the warrant affidavit. but regardless, even if those two vague allegations are in the affidavit, ther the magistrate did not find there was probable cause to look for evidence of such..

Detectives were permitted by the warrant to look for evidence of stalking "including information referring to or rel relating to this investgiation involving AA and LB". So, there i is obviouslyu way too much discreition permitted to the detective to interpret "this investigation" limited to stalking? or inclu including his wide ranging suspicions as to "underage girls" surr surreptitious filming, some sor to f"evidence of association" con conspiracy amongst incels relateive to "very dangerous crimnal activity , far beyond his bravado". so much e3asier to claim appelant did not content probable caue was at issue, then inteprp intepre5t "particularity requirment" to not include an overbreadt analysis despite a legion of California Supreme Court case defini definign "particularity requirement" to include overbreadth, whic necessarily include a probable cause analysis.

By the way the AG';s brief lies in asserting that the affidavit cited the detective as having experience in stalking investigations. nope, it doesn't. in his testimony come time fo for trial the detective coudl mauybe then claim some experience but not at the time the affidavit was written. sneaky messy Depu Deputy AG Glassman. had a duty to inform the court that calexpa eliminate dplain view in Cali when the topic was brought up sua sponte at oral argument, but the AG didn't do that. any they are supposed to set an example. tsk. tsk. further the AG cou sought to confuse the court into thinking 1546.1d2's language speaks to

was so expansive to include informatoin related to "the the objectiv oe" "this investigation" whereas it really says "unr unrelated to the objective of the warrant". ...so does "this inv "this investigation" include allow for the detectives to spend a a year hunched over a tub of popcorn watchign sex tapes to confir there suspicions relative to some "underage girls" crap or disreg "disregard for the legal barrier of consent" to do something in requiring consent (to be filmed? to have sex? doesn't specify). is the detective supposed to use nis discretion to figure out what the magistrate meant whne he granted a warrant to search for "evidence of stalking, including information referring or relatin to this investigation involving AA and LB". does "this investiga " mean limited to matters invoving a stalking charege relative to AA or LB? could "this investgiation " be stretched out to includ any suspicions relative to any crime (fishing expedition), so lon as "this investigation" in the broadest most general sense, allow also, includes amongst its wide ranging cast of characters someth something somehow involving aa or LB....or CW, or hell any coed e ever and any crime ever? go ahead detective, use your unlimited discretion...hell, why don't you just put on this black robe whil you are at it Judge McGillivray?

So, back to appeallate counsel fraudster Pat Ford's terrible brief, and a review of all the things he left out compar to all the things he put in. Fordincorrectly identifies his client as a "former patent attorney". Actually, Pat, your client todl you he is and was at all relevant times an actively licensed attorney and asserted privilegel and Special Master protection to the detectives in his pre affidavit interrogation, and two prior interview with depties Freeman and Reyes (body cam). then F Ford goes out of his way to repeatedly use the phrase "transient women", also describin me as a "transient" unlikeable, mentally i ill mysoginst. There is scant evidence in the ROA for Jane 12 being a transient. nobody claims Jane 2 is transient, in fact her linked in (Carly Warhaft, rlocated to Salt Lake City) claims she got some sort of s art degree from USC and Sarah Lawrence or Vassar or somewheres), Jane 3 is not a transient, she may be a li little young buyt she has an entire of sl entire sleeve of tattos on her left arm, so its a little hard to buy the fragile young th thing trope, especially when she is seen pausing prior to orla se sex to pick out just the right reggae song to listen to before performing oral sex in a bus parked on a public street after insi insisting I not close the curtainsd, where she admits she had ask asked me to make the 100 mile round trip drive to from isla vis vista to pick her up in venture to drive her back to isla vista so she could pine after some other guy at a party. she was "fear "fearful" of something I guess, but the ag's brief indicates my c character is heard telling here "if you keep this crap up I am no not going to drive you", not "if you keep this crap up I am going to force you to complete the oral sex you have already begun". J Jane 3 now seeks to recant her testimony that she had not agreed to perform oral sex in the bus in a phone call just prior to pick picking her up. She was embasrrased to admit she was sorta trad trading a blow job for a rider, or at least hgiving a blowjob to a guy she had kissed the week before but whom she no longer wante wanted to kiss, but for whom she had agreed to perform oral sex a as a sort of thank you for the 100 mile round trip quasi uber de

but at least these detectives and the DA and appt defense cousne Capritto wer noice enough to put young Destiny Toirres of Ventura California through all this, despite the fact that when initially approached by detectivews she told them nothing of note happened betrween she and I amd that she wanted no part fo their investiga counsel Capritto was livid at his client during the trial for put putting poor lil young Destiny Torres through such a traumatizing experience of testifying to a jury in a trial closed to the publi while watchign an hour long video of herslef performing oral sex on someone she despised after she traded a blowjob for a ride to isla vista to pin after some college guy ignoring h her. I mean Capritto was friggin' livid, whit knightin' it up w while i was on trial for my liberty for the rest of my life. I guess Phiul Capritto could have put his money where his mouth i is an actually done anything to negotiate a ple deal. he could have made me aware that i could accept a ple deal and still appeal the suppresion ruling (embarrasingly, i was unaware that w was a thing in the law, though i was aware i had a right to inter interlocutory review fo such ruling...and i dddemanded Capritto f file a petition for writ of mandate on the issue, to which he rep replied, in opne court, in full view of all his coconspirators, ef, court staff and the judge that "I am not doing any more work on t this case!". som so much for Phil Capritto's pathos for the emba embarrassment and pain of Destiny Torres.

Noticew the AHG's brief doesn't cite to any actual test testimony by Ms. Torres. instead, tyhe AG has to rely entirely o the 25 352.2 prejudicial creative expressions evidence to prove their whole case...other than Jane 2's utlra implausible he said she said mixed with Jane 2's exo excupatory text messages to me, which i testified about and which the state failed to rebut. insu in sufficient evide, particularly on the special circumstances kidnap charge which involved such minor movement that it was akin to the "standstill robbery" kidnaps disfavord under California la law. a point which both trial counsel and appeallte counsel fai failed to make desapite the fact such was responsible for about 80% er 90 percent of the 145 year sentence here. so m so much better to argue improper shackling, even where no allegat the jury saw the shackles made by counsel and client testified in in the narrative. no cumulative error argument made.... but for doesnt want to argue issues related to being forced to testify in the narrative becaue it will draw attention to testifying in the narrative which makes judges think the client is a liar, exce then pat ford points out i testified in the narrative in his shac shackling argument. huh? the mnath math aint mathin' when pat f ford's lips get to clappin./

But at least now Destiny Torres has to live with having committed perjury that contributed to a life sentence. The DA , the trial judge, defense cousnel and these Detectives do not ca care who they hurt in theirquenchless thirst to find continuying sources of narcissistic supply.

Unconcinablyt sloop appel counsel ½Pat Ford then missta misstaes, at page 13, in his brief that "the Jane Does may later have felt shame and regret after the sexual encounters. ..so the agreed with police, and said had they been sexuall assaulted (sic).

Actually Ford, they did not say they had been sexually assaulte . That is kind a big deal. That is one of the reasons the client made you agree not to file anything without his prior review and approval. Jane 1 obviously did not say she had been sexually assaulted. the sneeky detectives and DA failed to even show her the videos they used at trial as evicdence of rape. didn't ask h ner about them either. Jane 1's failure to pick me out of a six pack photo lineup is likely just evidence of her having little in interest in coopoerating with the Sheriff's witch hunt, espeicall where Jane 1 remmeber many details about the bus, my dog, my heig my hair, the lights in the bus, my having Adderrall prescription. Adderall is not known as a date rape drug. It is known as a drug college students take to cram for final exams. Yet the AG detail the videos with Jane 1 as though I dope her up with a roofie or s something. My character in the fictional erotica we made announc he is giving her Adderall to snort. I testified that her charact did not seem intested in snorting the Adderall or was rather or either unable to keep her tremoring hand steady enough to perform the insufflation. My character then provides her Adderall in a p pill form. not, sneaks her a roofie in her drink, but, rather, p provides her an adderall pill (a stimulant known to keep people awake and focused). when Jane 1's character fails to take the pi pill, my character makes her return the pill to him. the AG lea leaves that out of its brief. its not clear the ag even watched the ten hours of video exhibits offered or entered into evidence . much less that the required transcripts of such videos provide to the jury seem to mis be missing from the REOA. Glassman make made rather quick work of this brief after recevingb 5 time exten extention to file it nearly 10 months after the opneing brief was filed...what is intersting is that AG Glassman seems to have plagiarized about 4 straight m pages out of a an unpublished 201 2020 case on simlar warrants for digtal evidence issues, Mitchell, 2020 Cal App. Unpub Lexzi Lexis 7139 contains verbatim about four straight pages of the AG's brief...though a couple sec sections that suppotrt appellants position are carefully cut out. Glassman m ade quick work of this brief, like Henry Ford knowing exactly where to tinker. Glassman made more clear to this Court that overbvreadth and probable casue were key issues, wherreas tunnel vision pat ford seemed to cling to the layman's inssitent focus on "particularity...an this even after Ford secretly filed S Supplemental brief he didnt tell me about citing Meza (Cal App '23). Now Meza is intesting because it runs counter to the balance of California Supreme Court opnions that conflate overb overbreadth into the "particularity requirement". Meza opts to adopt the 9th Circuits insistence that particularity and overbrea dth be kept as separate distinct concenpts (see Weber ' 9th '90 and SDI Futures (th, 2010). However, that is not the way state l law in california operates and has operated. if one's argument heading spells out "particularity requirement", then tne judge ha has to do a n overbreadth analysis, which entails a probable caus analysis. its not permissible to pull in a hodge podge of cases from the 4th, 6th, 7th, and 10th circuits and claim that "the par "particularity requiremnt" in california is satisfied by doing no more than stating some specific crime to search for evidence o of in the warrant.

But, it doesan't appear Judge Yegan and gilb Gilber have entered any opinions on particularity since 1994 in a case to sarch a 40 acre paarcel that tney found included searcnign for a marijuana lab in a barn somewhere on the property These same two Court of Appeals Judges are noted for an opinion that actually sua sponte removed retained counsel for incompetenc Both retained counsel Ford here and the AG;'s Glassman shoudl be re3moved from this matter going forward to set an exampel to the Bar of how unacceptable it is to misled the COA at to whether pla plain view has been eliminated in warrants for digital evidence i Cali. Well, Ford did cite to section d2 and make tnat argument but he really buried the lead by failign to include it in his argument heading, then failing to request supplementla briefing upon the court interjecting a plain view argument sua sponte at oral argument, then failing to request or file a petition for rehearing on that an so many other issues, then lying to the clie client about whether he did file a preition for rehearing, then failing to tell the client tne petition for review was deneid all which inure to Ford's benefit vias a vis having aep aedpa tyi to get appeallte counsel'. work threoughly reviewd for habveas, e especailly where retained counsel ford refused for 2 years to pro email the digital ROA to the client who paid him $30K...the licen the licensed attorney client dealing with three detached retina s surgeries between May 2023-October 2023. the pat ford who dissu dissuaded me from finding out that wilkins scotus '79 states that i can still get a petition for cert heard on account of atto attorney error resulting in an untimely petition. and remove AG G Glassman from the case going forward consiering he lied to the co the court about a key fact missing from the warrant affidavit. detective meg did not claim to have experience in stalking case in the c warrant affidavit contracy to the claim in the ag's brie the AG';s whole probable, overbreadt5h, and particularity requirm requirment argument hinges deeply on whether the affiant had specialized experience working on the crime of the sort at issue in the warrant, especially where no actual facts beyond offier t training and experience were alleged to support this bare bones boilerplate affidavit. that is not a permissible oopsie. that i plain fraud , an dimposition on the court resulting in an imprope remittitur. i dont' know what part of "patent attorney" screams stuip stupid and easy to take advantage of. Nottoli (Ca '11) actually supports the position that where the state didnt raise p plain view in the trial court or in the AG's brief, the point is forfeited.

So AG Glassman's copy and paste job from Mitchell excis excises at page *37-38 the key citations describing how breadth claims are treated. In Re...1987 now remember, at page 24 of the AG brief it reads "the breadth of the authorization sought by a warrant was based on the training and experience of the detective and the awareness that stalkers often retain images and other material they compile and stor it on digital devices". Then the AG proceeds to lie that tyhe detectives affidavit allege cited his expereince and traning ... "the warrant request was supported by the extraordinarly detailed affidavit of a police investigator who had extensive prior experience investgatiny case of stalking....". Unless, it is true, i need the ROA. Ford say 90 stalking expereince cited in the affidavit. must review sealed

must see "sealed trasncript at pages 80-91. (sealed ct 39 ; 4 rt 954-9860. 986. AG Glassman's "handiwork"., huh?

In his ocpy an dpaste from Mitchell , glassman excises the part about how specificity has two aspects, particularity and overbreadth. May have helped this court of Appeals that had not done a particularity case since '94 to know that, but Glassman doesn't care. and he certianly has no fear of remonstrance shoud should he be found out, ov obviously. see Mitchwel at *36. He leaves out the part about how specificty varies depending on the circumstances of the case and tyupes of items invovled. Gosh, this sounds a bit more complicated than just citing to Palm from the 7th Circuit and deciding that as long as some particular crime is satisfied crime is specified in the warrant, the "partic "particularity requirement" is satisfied. And Pat Fored says you guys are too old to be judges and have lost a step.l Pat For thh thnks it woudl be elder abuse to ask the COA via a petition f rehearing to rule on overbreadth and probable cause, so he just l let it go. ditto the elimnation of plain view under d2 in cle cal cal ex ecpa.

So glassman excises the part from Mitchell about how sp specificity would require cxonsaideringf that the detectives here per the circumstances of the case and the types of items invovlvw (i mean this aint a CSAM case, right, its not digital contraband involved, the officer's expereience bare bones bit relates to legal constitutionally protected activitry of some hypothetical filiming of people out in public ginned up with buzz words like "conducting surveilliance" like that is some magfdfdaf magic lamp for the detectives to rub when they get in trouble overreqachign, or some cheat code incantation to rely on....no, speicificty, Gl Glassman wants to hide from the court, requires that we consideer the circumstances. And what were they? Were or was this compso composite victim coed manufacter alleging she was receing some an anonymous threats? nope. Just some license d attorney mouthing off to the public in general via his instagram page, which identi identified him as a licensed attorney comedic filmmake by his gov government name, while tooling around in an artsy bus registers under his name with the DMV, valid tagged plates and all and remember, the licensed attorney met witn depyty freeman on m may 13, 2020, provided license registerratiuon proof of insurance identified himself as an attorney and calmly responded to questio the the attorney again met with Depty Reyes on 5/17/202 and did t the same, answering questions about the videos he posted to instagram the day before of him telling AA with LB in eas earsho that he would appreciate being left alone, and no he did not want to go do yoga tohgeth together somewhere, and then the attrorney , post arrest and seizure of devices from his law officer, submitte to an hour long interogation with detectives wherein attorney adm admitted ownership of the devices and data, claimed atty client p privilege, demanded a special master, and admitted ownership of the instagram accounts and to having posted the offending stateme statements, addressed to no one in particular (contrary to the im implicatiuon in Ford's IACX IAC fest brief, such were not direct messages sent to any of those forming the composite victim, and s such did not manifest as the direct contingent threat Ford's reco recount suggests). So, why thge need to do a general search of t entirety of an attorney's digital footprint to determine "ownersh use and identity" These statements by the admitted gamer hee provide probable cause to arrest and or search data or they didn't

to de3termione "onwership use or identiy"of the seized devices and social media accounts, and hell, lets add cloud storage too. why not get a warrqant that allows for searchign all of the phone of anyone who was every my client and anyone i went to grade scho school with too...an lets at ledast extend the temporal range bac to the date of birth of these coeds, and well, lets just extend i it back to their parents date of birth, cuz that may help law enforcement somehow, right?i mean ther's lot like a lot of nexus t there, theres some good nexus there under all that bullshit, ri right? detective Mcgillivrary gives good nexus.

I guewss there is no need to defer to what4ever factua findings the trial court made here (hint, i am guessing there whe were none) because , like in re george t. holds, where the Fiurst Amendment is involved in threat cases (stalking is essentially a threat case), a de novo review of facts is in order. that might entail actually looking at the instagram posts in question. cons consdiering that these were post on my instagram unaddressed to anyone in particular (ther were other offended coeds and there boyugfriends weighing in and making threats to slash tiers and ph phsycially harm me, i report43xdt to Deputy Ryees)...might ential a de novo review of exactly what the attorney posted to his insta gram...and you now those posts are porbably all lawyered up wit carefully chosen disclaimers and verbage about tne "contributory liability" of those who needlessly antagonize people they think a are "creepy and "old" while spewing invective from their party porch high on ketamine, ecstacy, and booze, right Leah Beguin of Salt Lake Tahoe er South Lake Tahoe and UCSB? nnn oh, also, tnet crcumstances probably entails examing the reasaonablenes of of how the search ewas executed, tne fo forensic steps taken. su were the coeds claiming someone was following them? no? just a 43 year old attorney continuing to park his Bus on the street on and a while that he had already been parking on for six weeks, th street where Corinne Wagner (ig cswaggs) approached the attorney asking to party on his bus? that one.

Does the warrant affidavit detail the circumstances of the attorney psoting many manyu disclaimers about how he does not condone violence, how the vents in isla vistya in 2014 were t tragic, how it would be wise, as a society ot avoid being contributorily negligent toward any further such events, how he i is not and does not identify as an incel, how the LA Times publis published an article about how the incel invovled in 2014 had become a bit of a fok folk hero to some, how , the attorney posted a video to instagram pre arrest wherein he expressed peavc peacefulness and fidelity to the rule of law and respect for law enforcement, the DA and JUDGess? how about the scrcumstances of the attorney's instagram li9nking to th LA Magazine profiel on hi satirical comdeic film "Girl Interrupter Dating Coach" and hsiwor as a music artist performing as ZC@! ZC@%, er ZC25, Grunger Larpe Grunge Larpers, White Dishwasher, etc. etc. allegedly there was a good number of dispatch calls...but dispatch was dismssing thos calsl as the whining of fragile snowflakes. the baseless, rumn rumor heavy slapdash scattershot claims of those in their early twenties holding keggers in house full of people in the May 2020 dismal early days of the Covid pandemic. feigning being woundedd atop the party porch from which they hurl invective at those whom

d dont fit neatly into their tony ocean front cliff party school milliue millieu.its beyond me how the events of 2014 could happen with people like Leah Beguin playing circus master. far be it fr ~~from~~ my aging creep attorney to presume to lex lecture these pho photogenic well heeled coeds about contributoy negligence. thank goOd along come detective mcgillivrary and DDA Chanda to begin all the "circuity" that will take place if if have to litigate th denial of a full an fair opportunity, then litigate the variosu porfessional liecensure complications that will ensue... gosh, ol destiny torres probably never saw this coming, i am sure she sur is glad the snata barbar sheriff and district attorney decided to manip manipuate adn intimidate her into signing up for all thi this.,, . Now Carly Warhaft? Well, she readily signed up for al this. Hell, she travelled 120 miles just to watch the sentencing of 145 years largely premised upon a damn styory she made up. Sh she is an unrepetent attention whore par excellance, whom will no bask in the glory of recasting herself as a new type of victim, as someone intimidated into committing perjury by the state who now needs immunity to see her recanting through. she will become a celebrated social justice warrior exposing the unethical practi practices of law enforcement and prosecutors in taking advantage of the mentally ill like herslef suffering from dual diagnosis bi-polar/substance use disorder, and this wherre she reeadily adm admitted to state actors that she is a compulsive liar. a facxt they vioalted Brady in failing to disclose. just ask her. or ke keep an eye on her internet presence. you never know when she is gonna pop up on reddit and allege that the judges involved are part of a child pornography ring sufficent to prop up some bare b bones warrant affidavit allowing for a search of various judges d digital footprints. and that brings me to "the types of items' involved" analysis. See, unlike the off point Klugman case Ford charged me $30K to cite to, this was not a CSAM case. not a chil porn case. not a digital contraband that could be stored anywher by a class of people known to never get rid of their cache of con contraband (no staleness in CSAM cases) and known to go to great lengths to hid their digital contraband and disguise it. Can re really say that about your garden variety attorney mouthing off on social media cum stalking composite victim stalking allegation case, can we? so, what were the types of items involved? Well, I, the attorney invovled admitted to posting the offending commen comments on instagram. Thats right, I even admitting to posting a comment on instagram pointing out the ludicrousness of young co college males accusing me of being a "pedophile" because I hooked up with a 20 year old or two when the age of consent in neighbori states like NEvada is 16. This, the dishonest AG's Glassman has assereted to the COA is tantamount to announcing i felt "enti entitled to have sex with udnerage girls". Again, Glassman needs to be removed from the case for incompetence and dishonesty If the COA did is to a private retained attorney...goose gander.

Oncer you start actually looking at this case its clear there aint no sizzle here. Thger aint no actual rape victims. Theres just a bunch of cumulative error embarassing the legal sys systemn and law enforcement. and for what? becaue Meg DDA Megan Chanda is offended that I called a woman a "good girl" in some consensual erotica we made?

Anyways, back to "the types of ti itm items involved"

WhatItypesaa, inansIdidstney nnadcbaplookefor?tiItcowsmaleano
allegatiDD $0y1 nowabaansnyneyswrfogoving anemyngeseatgeofence.

what types of items did they need? they had establsiend my ident identity. i admitted psoting what i posted to instagram. the co composoite victim coed did not allege anyone anyone was anonymou sly following her (get a geo fence warrant with a limited date ra range if so) she wasn't alleging she was in receipt of anonymous threats, hell she didn't even allege I sent her directr messages or text the phone number she gave me, m which i guess relates to AA inviting me to go to yoga with her on 5/16/20, detectives were werent satsfied with AA;'s original statement that i did not make her feel fearful, so they bullied her to change her story, l like they bullied everyone else invovled here.....so as far as items i guess they could claim to seach my evidence of com commuication for, say May 2020 (really only May 16-may 18, 2020 t determine whether or not I was the person who never sent any of the messages complained of because, against, the coeds didn't cla claim anyone was contacting thedm. rather, at best they claimed they didn't like what I publicly posted on my instagram after i asked them to leave me alone and they refused by coming on my instagram and leaving more threatenting dishonest comments...i gu guess the detectives need to search my instagram, and hell, all s social media to make sure i am not coordinating a worldwide incel conspiracy... and , i guess all browser history for the two weeks priro to warrant issuance, and perhaps even videos and photos fro those two weeks to make sure I am not , idk, taking photos of members of the public walking around out in public? well, idk, that last part seems a bit suspect, i mean that is protected activity, and one cannot really be made fearful of or harasses by the private contents of a hard drive, especially where the all alleged victims made no accusation that anyone has been conductin "surveillance" of them...oh well, i guess they actually had maybe sort of claimed that I posted a video to instagram fo me as asking tyhem to leave me along after they accosted me on 5/16/20 and in the video, AA, Alexandra Attwater is clearly seen andheard asking me to go to yoga with her, to which i clearly respond that I do not wish to do so and ask that she and her friends please leave me alone and stop harassing me...well that video and all th that is likely not in the affidavit, though it would sorta maybe support the half baked "conducting surveillance" narrative det. mcgillivray was trying to cook up...but, because such cut against any support for a f view that it was I doing the stalking, rather than the cmposite alleged victim, detec. mcg. had to omit and or misrep that out of his affidavit, Frnaks style. Frnaks Styule. Franks style. and we know if they limited their forensic review to just that, or even just that in category 2-3 of the warrant, t that nothing stood out as evidence of rape...it was only upon the detective continuing on to review videos from April 2018 (Jane 6) that he claims to have found somethign. but the ROA doesn't say he went and got another warrant. it doesn't say whether he imme immediatley stopped searchign for more rape videos, it doesn't sa say that the whole stalking suspicions had been wel dispelledd by by that point, that a review of the relevant time period did not reveal me to m . be an incel mastermind coordinating some very d "very dangerous criminal activity". It doesn't say any of that, , the ROA, because all of this involves some deeply messy, messy stuf relative to the way detective mcgillivray abuses his power in unreasonable exceeding the scope in his manner of execution of a warrant whose scope was already terribly embarrssing to the Jud Judi

terribly embarassing to tne judical branch.

So, in his copy and paster rehasing of Mitchell from 20920 the AG leaves olut the part about how tne revwing cour does have to defer to the factual findings of the trial court if they are not supported by substnatial evidence. And reall, what were, if any, tne factual findings of the trial court here?s Did the trial court find whether or not I had already admitted ow ownership of a all the devices and data seized and claimed atty c client privilege sufficient to vitiate any need to (Bock style) search all data to determien evidence of ownership use and identi ty? were thei there factual findings that the alleged victims w were not alleging any anonymous threqats, that they did not recie receive any text ma messages or calls or really have any contact with the accused attorney other than that which they initiated on a public street and via leaving comments threatening him on his own instagram page after he had declined their request to do yoga with him and asked to be left alone? was that a factu facxtual finding? was their a factual finding about some gibberi gibberish, cooked up claim of my claiming to "be entitled to have sex with underage girls"? what did I realy post or "message" w did i merely point out the age3 of consent in some states is 16? do we now get to seize the datya of any attorney who points out w what the age of consaent law is? Yeah, of course the AG cut that part out of the Mitchell they copy and pasted from because they w want no part of a de novo review of the factual findings, noyt wi not with this bullshit batre bones boilerplate warrant affidavit relying pretty much entirely on the experience and traning of an officer with no experience investigating stalking cases where the alleged victims are making no claims of anyone "conducting survei surveillance of them" or harssing or threatenign them in such a m manner. and eve if they di, since when does some snowflake get to claim they are being harassed by someone engaging in constitu ionally protected activity like filming peopel when they are out in public? is that reasonable to cliam being fearful in a wor were where these very coeds are psoting photos of themselves in b bikinis publicly on their own instagram and otherwise courting as much attnetion as they possible can, replete with abusing 911 dispatch resources in masquerading their bullying entitled nature as victimhood. the Karen click cliche is alive and well in isla vista. aren't these young white coeds a little young to be m manifesting Karen Essence? Shouldn't they wait a few years befor going full "let me talk to your manager" google Karen memes if yo are too far removed in yoru ivory tower to understand what i am g getting at. What is Google? you ask? gosh, gonna be hard to effectively serve the public as a member of the judiciatry if one doesn't stat stay in touch with the developing techynology. but even Burrows (CA '74), as far back as the mid seventies was articulating the need to apply a more stringent specificity requi requirement to searches involving "electronic computers". And Os Osejo, Cal unpub Lexzis s2017 provides a great example of how old cali cases like burrows, hepner, frank and d aday readily provide for suppressing warrants far more narrowly tailored than the one at issue here. fi Ford can cite the depublished Klugman, why not Osejo.?

The AG tried to confuse the COSA COA by citing to [illegible]

[illegible]

by citing to Ulloa, a 2002 Call cases a 2002 Cal App case out of the non binding Fourth Appellate District. Ulloa is not a Califo Suypreme Court case, its not out of the Second Appeallate, and it necessarily not out of division six. its persuasive at best. Wha is mandatory is Burrows, a 1974 CA Supreme Court case that calls for a hieghtned particularity requirment as to warrants for data on "electronic compuiters' and which defines "particularity requi reuiqment" to include an overbreadth analysis, which necessarily includes a probable cause analysis. we got no full and fair opporutnity to litigate our claims where the Second Appellate Dis District did not apply bnidng precednt in failing to rule on over ovberbreadth and probable cause. see 2 search and seizure 03.04, and Terrovona (9th) see 28 moore's federa;l practice crimnal procedure 671.05; see 2 Federal Habeas Corpus Practgice and Proc dure Sec. 27.1-27.3. This isn't a case you want the federal cou court looiking at to make sure you gave us a full and fair opportunity to litigate all that the California Supreme Court has demmed included upon placing "particularity requirment" in on one's argument heading. especially not were where calecpa 1546.1 (d)(2) is "interwomen with federal law" per Fourth Amendment principles, and the lack of the ROA pointing out any attempt to g get an additional warrant , combined with the COA her finding the evidence of other crimes was plain view, ie, such was "informatio unrelated to the objective of the warrant" means all taking place therafter was a warrantless search.

What was the point of the COA citing to Robinson's mand mandatory dictate that "the requirment or reasonable partifuarlti 'is a flecible concept f reflecting the dgree of detail avialb e formt he facts known to the affiant and present to the magistrate " Robinso at 1132, only fo r the COA to then pull case from di a hopdge podge of distant circuits reducing the particularity requi requirement to somethign that doesn't consier overbreadth or prob probable cause? but simply requires stating a crime in the warr warrant? What is the point of the COA citing to Eubanks (Cal 4th 2011)'s dictate that "a warrant that permits a seraach broad in s scope may be appropraite under some circumstances, and the warran warrant's language must be read in context and with common sense" who needs to consider to consider if the cricumstances allowed fr a broad scope and who needs to determnine or consider the contexs replete with common sense if nothing more is required than making sure a specific charge is or crime is stated in the warrant. The fourth Amendment is affectrionaly referred to as "a mess" by many scholars. . Ford's brief arguing "the searches could hav been lmited to the individuals identified in the stalkign cases, and could have used specific key words, or drogatory comments con consistent with stalking" is another way of saying the wqarrant w was overbroad because it wasn't limited to the probable cause sho upon which it was based, which Ford details was a very narrow sho showing at best. Considering appellate counsel Ford coudl only be bother to make acoule sentences worth of argument applying the facts to the law (talk about winnowing, man), its disappointg tha the COA left out the best work did Ford did in his brief here, in failign to address the following sentence: "While it may be that it's more difficult to target searches for certain offenses, stal stalking is not one of those offenses, and an investigation into

an investigationinto potnetial stalking did not permit a fishing expdition into appellant's life that revealed potential sex offen sse3s involving the other transient women.".

What is that other than an aergument rleated to overbre overbreadth and limit the scope to the probable cause, considerin the circumstances of the case, the context, common sense, and whe whether probable cause existed to sieze all items of a type and w whether officer discretion was sufficinetlly limited and whether the warrant was as narrowly tailored as is could have been given all the information waa that was known at the time the affidavit was submitted and the warrant was issued? And that's just arguin a generic stalking case, but this was far from a generic stalking case. The facts alleged in the warrant did not indicate there was any uncertainnty as to who I was or whether I posted the comm comments anyone took issue with. There was no allegbation of someone anonymously keying someone's car, or boiling their pet bunny, or leaving menacing anonymous message or threats, or crer creepily followg them home from work in a ski mask. Nope, just s some mouthy attonrey lecturing college gals about contributory negligence, lud and proud, under his own name, driving aroudn in a bus registered to him, courtesouy meeting with law enfgorce enfordcement three times and submitting to all their questions and painstakingly attmepting to allay their concerns like most any license member of the Bar of any jursidctrion would do. how about a little professional courtesy, Dete3ctives Mcgillivray and Kouremetis. Or are you too busy with yoru penis measuring contest to be bothered with that. I(don't know what DDA Megan Chand's excuse is though. Chanda.

Appel counsel Ford's brief goes on, at page 34 about ho the only real evidence ther was any probable cause here was " an online argument ent wher the alleged victims who had freely pa patyied with appelant inhis bus and handed out phone nubmers obje when he posted phtoos of them, resulting in claims that he was and old creep and his repsonse that they were "spoiled little brats or "bitches" . Assumign this a evidenc eprovided probable cause for a serach of appellant's electroncis limtied to stalking, it did no provide probable cuase to extract videos having nothing to do with the allege stalking victims, , including evidenc oe of appellant having se xiwth tra antransient women who voluntarily enter hie bus-some afte having established oxnsneusl sexual relationship...instead the police re reviewed and used all the unrelated eviddence (the rape and sexua activity on the bus video) to change course, eseentially abandoni the stalking investigation and instead purusing sexual assault -Oa charge for which ther had been no probable cause.

If that is not an overbreath argument pointing out the lack of probable cause sufficient to justify the warrants scope much less the unreasonable manner of executing the search beyond any rationale view of the wartrant's scope, i don't know what is.

So it makes no sense to me that the COA states: "app Appellant does not claim, and cound not validly claim, that the seizure of the videos of his sex crimes with other women was unlawful because the second search warrant di not authorize their seizure." Actually, Ford's brief does claim that, and can validly claim that as he pointed out, and the sate conceded, that 1546.1(d)(2), prohibite3d the seizure and search of such; A One, all of this depends on the date stamping of the videos, and

and whether more than a cursoy review of the videos was necessary to glean whether it reaonable to suspect such be evdience of any criminal activity, and regardless, where tne state fofeited its p plain view argument, appellant is not required to inteject that the videos conent is not immediatley apparent to be incriminating Regardless, tne detectives had to undertqake additional investgia to asssess whether probable cause existed to believe such was evi evidence of rape, including tracking alleged victims down. Howev However, even when they tracked these alleged victims down, they wer undeterred when Jane 4 told them the videos did not show them rape, that , rqather, such was consensual actrivity. The detecti made th the ill advised choice not to even show the viceos to Jane 1 or call her to testify...well, actually, that was their best option because Jane 1 was never going to help them convict her friend and lover and fellow actor and filmmaker of rape, so i it was best for them if she just stayed home workiing with her di diale3ct coach.

The seizur was unlawful because the search as executed was unreasonable and went beyond the permissible scope. watchign hours and hours of a filmmakers raw dailies from 2018 for any lit little snippet they can try to cook up into support for a rape cl claim is so far outside the scope of searchign for evidence of stalking some college coeds in May 2020...so yeah, the search was unlawful because the warrant di not authorize that. See category 3 of the warrant, limiting such to a searvch for "speicfi evidenc related to this case with a date restrictions from January 2019 t the date of arrest May 18, 2020...related to this case being defi defined in the warrqant as limited to searchign for evidence of s the only thing probable casue was foudn for, stalkings.

Further, there was not probable cause to search for "co communciatois referring to or relating to this investigation invovling AA or LB". Since when do the detectives get to search for an attorney's evidence of communciation referring to or relat relating to an investigation? that is not evidence of stalking? that is seeking evidence of legal counsel, no that is per se int4 interferring with the attorney client relationship and seizinfg privilege material with a probable cause showing that the attorne 's services were being used for crimnal purposes and without a speical masters invovlement to execute the search.

Regardless, there was no arrest warrant issued, and the detectives took the attorney into custody, subjectring him to a custodial arrest, then were coy about whether or nto he was und under arrest. The ROA simply indicates a search warrant was issu issued and that a traffic stop was made. It doesn's say what the basis for the traffic stop was. It fails to point out that the B Bus was parked on pu private property when the stop was made (the driveway to a private apartment complex the firest search warran wasnt valid either.

Thebn in his rehashing of theMitchell 2020 ujnpub case the AG excises the following sentence from pager 840 of Mitchell: " at page *40 "However, the court was concerned about whether the warrant was overbroad because it sought evicdence that had nothign to do with the charged offenses".

Then, Glassman continues on to copy and pasting straigh straight from Mitchell at page *40 with "Ulloa held that ven assumign that photographs...".

d So isn't it telling that the AG's brief excised that sentence from the Mitchell opinion that it copy and paster for pa several pas pages verbatim. Isn't that because that is exactly what the state did here? didn't they utilize an overbroad warran to seek evidence that had nothign to do with the crime specified in the warrant, stalking? Its telling the AG omitted that specif ic sentence becasue that is a key weakness of the state's case.

Interestingly, the warrant in Mitchell was extremely narrowly tailored compared to the warrant in my caes. Furether the facebook warrant in Mitchell was releated to an acco account registered under a phony name, that involved direct and c clear tnreats of physical violence in a domestic violence context where there had been a documented history of past abuse. The war warrant did not allow for seizing all of the suspects devices and other social media accounts, just the phony Facebook account he was using to contact and threaten his ex with. That is far re3moved from some instagram squablle with a composite victim cobbled together from three different coeds, invovling non threat threats i posed publicly under my own name, on an account identif identifying me by my name and bar number as a license attorney and which held itself out as a comedic account commenting on matt matters of public cocern, protected by the First Amendment.

Ulloa also concluded defenand'ts particularity and over breadth objections "wer directed at categories of potential evide dence which wer not used a trial.". That is not the case here. All of tghe evidence relied on at trial was squarely7 addressed by my particulariy, overbreadth, and probable cause objections.

The AG's brief notes"appellant has failed to meet his b burden in challengin the warrant, as it is clear from the warrant and attached affidavit that the parmeters of the search were particular and menaingful restrictions wer in place. And, evn if the warrant was phyothetically dem deemed overbroad, appellant has not show that any evidenc eshoudl hav ebeen suppressed.".

so, the AG is basically admitting the warrant was overb broad, but that Ford failed to point out which evidence used should have been supressed.. However, Ford's contention was that all the video evidence used was pulled from the sections of the warrant that was overbroad. Perhpas the state means to say that, if for instance, ther was probable cause to look at videos from mid may 2020, and if for arguments sake one of those videos was of Jane 3, the such they would argue fell within a portion of the warrant that was not overbroad. However, Cal-ECPA has made all of this easier, or at least changed the way these things are handles. Now there is a use restriction in place eliminating it with eliminating plain view and replacing it with a statutory scheme that no one seems to really know the way such will really be applied and played out. 1546.1d2 speaks to "infrormation unrelated to the objective of thwarrant" shal be ss sealed and unavailable without a further courd order, and that a court shall issue such an ordec only when de federal or state law requriesa it, or when the cour finds probable casue to belley the information is relevant to an active investigatoin. That is your basic use restriction that Prof. Orin Kerr has been calling for for years. how that plays out will have to wait for another case because the state cant point to anytning in the ROA about any attempts to comply with 1546.1(d)(2). so plain view doctrine can't

can't come in an save the day for the state here. Wnat is meant by "rele3vant to an active investigation"? Does tnat mean there had to be an investgiation then active prior to beginning tne execution of tne searchy under the warrant? Interesting ques question. what does "only when federal or state law requires it " mean? Is that like a mandatory child abuse reporting requireme requirement or where a terrorist attack could be stopped due to information learned in executing a serarch under a warrant.

We just don't know, butr this case is not the place to apply that because the state forfeited any 1546.1(d)(2) arguments and it stands to reason they had real good reasons for doing so. Could it poossibly be that the detectrives did not seal and make ddosafds and make unavailable information unrelated to the object ov objective of thw warrant, but rather hunkered down and further indulged every last suspicion and whim they had, in watchign more and more of the privileged attorney files, getting further and further afiled from the purpose of the warrant, the objective of the warrant. Wouldn't this oe a bad look, detectives and enablin porsecutors just brazenly violating the law and flouting tne will of the people as expressed by the Legistlature? and doing thithis to an attorney engaging in activity protected by tne First Amendment all while refusing to comply with the Special Mas Master requirements? Pretty shady. Pretty messy. Kinda rapey.

.d Appel Counsel Pat Ford , upon being apprised of the fact tnat he failed to notify me, the client, that my Petition for Review had been denied by CA Supr Ct. reacteed rather regret ably. Indd Indeed, any attorney would be rather startled if they blew what many consider to be a jurisdictional deadline to file a ntoice of appeal, so of sorts. Petitioning for Cert to the United States Supr Ct. isn't quite a notoice ao of appeal, but... one has 90 days from the entry of the denial of a petition for review to file a patition for cert with SCOPTUS. Pat Ford told m me i had lost my chang chance to file a petition for cert. howev However, Wilkins, 441 U.S. 468 (1979) provides otherwise.

In wilkins, the U.S. Supr. Ct. considered an untimely pro se certiorari petition filed by a federal defedant who cja attorn failed to file a cert petition after promising to do so. id at 4 468.. while the CJA may not apply to state defendants, they the principles of allowing an untimely cert petition where the delay is excusable due to an attorney's mistake or neglect (such as here where appel counsel Ford admits he failed to inform me, his client fo the denial of my petition for review). A applies. This particularly true where the Court of Appeal and the CA Supr. Cour courtt clerks improperly rejected my filings seeking to change counsel and have my retained attry replace with court appointed counsel given i was indigent in trial court, and or to appear pro hac vice given i am still i a licensed attorney and my motion seeking leave to file supplmental briefing in tne alternative including b putting forward the retractive applicabliliy of evid code 25 352.2 see venable (CA 23), and suppl or replacement briefing on all the specificity and probable cause issues that Fo Ford's ill advised argument headings put at risk of forfeiture, and Ford's tact in filing for IAC on direct appeal wihtout gettin my prior express approval in violation of our agreement, in filin anythiung without getting my prior express approval after providi

me a draft copy of any filings and allowing me to approve or dney of such filings with the express understanding that I would readi remove him as attorney of record and take my chances with a CAP attorney and or appear pro hace vice to represent myself.

ford may feel his repreentation ended upon the entry of a denial of the petition for review, but he may have a duty (though a conflict is present) to seek recall of the remittitur that was entered as a result of Ford's own IAC and fraud imposed upon the court where Ford failed to , per Cathey, file in the Pro Se Supplementla Motion I demanded he filed wherein I , amongs various points, demanded that the retroactiveity of evid code 352 352.2 be asserted, and demanded that Ford make clear that we were not in fact waiving probable cause and the per California law invoking the "particularity requirment " in one's argument headin necessarily puts forward both a an overbreadth and probable caus cause argument, and furhter that plain view doctrine was eliminat eliminated in CA upon the passing of 1546.1d2 in calECPA, grounds for relief under cumulative error theory, violations of the confr confrontation clause and right to compusory process in trial coun wiaving in their entirety, over my objections through six hearing on motion to substitute appointed counsel,e tc. etc.

Ford's IAC on the not button evid code 352.2 issue is partiu particuarly noteworthy. The CA Supr. CT has granted review on seemingly dozens of cases raising 352.2's retoactive applicabi lity, but Fordd seemingly rather chose to rest the hope s of my case on his rudimentary understanding of what he alternatively reers to as the "particularity requirement" , then in p his petit for review as "the particularity clause", etc. etc. all while he alternatly argues probable cause and breadth and cites to case li like schesso as support, only to then claim the AG has raised and isissue that wasn't raise in the AG focusing on probable cause... Ford lacks the basic competnecy levelto appreciate thatone cannot claim to be litigating overbreadth without also contented a lack of probable cause, in evaluating the permissibiltiy of tne scope of the pawarrant. Hopefully Ford will not persist in asserting that all his blundering was tactical. He claims he only took this case, that he didn't want me as a client, but he only took this case because it feature an interesting Fourth Amendment issu Issue. It is beyond shameful that Ford, who was counsel in state court for Riley, a case which went on to set the landmark precede scotrus Riley '14 requiring law enforcement get a warrant before searchign a cell phone incident to arrest (a case with 5,500 cita citations to it since 2014), is is beyond shameful that pat ford, showed his gratitutde to the God's of jurisprudence for allowing him to have some connections to such an important case bu by dipslaying a complete and total lack of competence to litigate cases involving warrants for digital evidence. This, where Ford handled the appeal in Eubanks (Cal 4th, 2011) which is ergularly cited to as the overbreadth case of record from the CA Supreme Co This, where Ford also handled an IAC habeas case, Bishop, dealing with specificity issues in a warrant for digital evidence. He sp simply has zero excuse for still being so incompetenet on these i issues.

Let's consider searchign particularity w/s overbreadth. In California case: Remember, Ford handled Eubanks ('112) '11, a tr terrible california case that bvasically says the police

Californai case where particularity w/s overbreadth: Meza ('23), which Ford secretly filed a Supplemental Brief aobut witnout telling me or letting me review prior therto, in violatio of our express agreement, Rogers '86, Mitchell '20, Nasmeh '07 Holmsen '85 Ulloa Cal App '02 Holm Holmesen and , Greene '10 Frank '85 Hepner '94, Cai '16 Higgins '02

The only one of those case that is a Ca Supreme Court case is Frank '895 '85. Amongst the Cal App. case the only one's from the Secodn Appelate are Hepner and Meza. There are cases like Meza and Ulloathat tnat try to bring in fancy schmancy 9th Circuit ideas about treating particularity and overbreadth as separate [illegible] Supreme court cases like Amador, Bradford, Robinson, Frank, Burrows and one

bring in fancy schmancy (th Circ 9th Circuit principles about treating particularity and overbreadddth as separte separate distinct concepts, but that is not the law in California. Plenty of California Supreme Court cases interpret the "particula "particularity requirement" or "particularity clause" to include overbreadth, which includes probable casue. See Amador, Robinson Bradford, Frank, Burrows, and on and one. Sure, the 9th Circuit in Weber '90 and SDI Futures '09 nas insisted on treating particu particularity and overbreadth as separate and s distinct, but that is not the law in this state. At the outset of the Court Of Appeals opinion here, though, the COA points out that appel counsel Ford has failed to content that probable casue is at issu issue. This is another way of saying "we are going to make daquick work of your "particularity requirement" argument hearing because yoru idiot attorney has winnowed the nell out of it by reducing it to arguign nothing more than the particularity aspect of "the particularity requirement" (nevermind tne COA had to ignore all the mandatory california case making that limited inqu in quiry a lot more detailed and complicated than simply looking to make sure tne warrant specificied some particular crime to loo look for evidence of, relying on federal case from tne 4th, 6th, 7th, and 10th Circuits, no less....California has the fifth larg largerst economy in the world, why on earth would its COA judges need to rely on cases from distant federal circuits that combined don't nave sucn a large economyu....why is the COA ignoring so much mandatory precedent from their own stateand how does that reflect on their continue fitness to be on the bench?

The COA notes in footnote 3 of its opinion " that appellant does not content the warrant affidavit failed to establish probab cause for the search, going on to quote only have of a sentence from appellant's brief and ignoring the facty that the other half from appellant's brief, argument that elsewhere in the brief, argument contests probable casue and

Thge The COA opinion in footnote three claims appellant does not content the earch warrant affidavit failed to establish probable casue for the search, excising from the sentence quoted from appellant's brief the following "... (and the only real evid evidence of this was an online argumentwhere the alleged victims who had freely partied with appellant in his bus handed out phone numbers objected when he posted photos of them r resutling in claims theat he was an old creep and his repsonse that they were "spoiled little brats" or "bitches.) Assuming this evidence provided probable cause for a search of Appellan't s elelctronics limited to stalking , it did not provide probable cuase to extrac videos having nothing to do with the alleged stalking vicimts, in including evidence of " alleged sex crimes with other women....In

instead the police review and used....instead the police reviwed and used all of the unrelated evidence ....tyo change courses, essentially abandoning the stalking investgiation and pursuing se sexual assault- a charge for which there had been nor probable cause". page 34-36 AOB. Further, at page 28 of Appelant's brie such points out "the Ninth Circuit has recognized the need to pro protect "against the danger that the process odf identifying seizable electronci evidenc ecould become a vehicle for the government to gain acces to a larger pp pool of data that it has no probable cause to collect." Schesso (ith '13 at 14 142."....Not sure why Ford didn't just cite to California Supreme Court cases that state such a basic poin on the breadth of the warrant needing to be to limit the scope by the probable cause showing (Eubua Eubanks, Burrows ('74, Frank '85, etc.), but still

Ford's brief at p 31 notes "the searches could have been limite limited to the individual s identified in the stalking case, and could have used speicific key words such as "incles...or derogato derogatory comments consistent with cyber stalkinjg. footnote 6 (6 reads the warrant did say the search could "include" communc cations referring to AA or LB and evidence related to the crime o stalking, but it did not restrict the search to communciations with those women"...How about the search could hav e be limited tne scope/breadth by the factual findings (those supported by substantial evidence) upon whih which a probable cause showing was made? How about point ao out that any interaactions with AA prior to her approachign appellant on 5/1/ 5/16/2020 (and AA admits appellant didn't even seem to recognize her then) are n necessarily irrelvant and statle stale gtiven tney consist of nothing more than AA gave her number to appellant in a bar in s in January 2019, appellant left some unanswered voice males in the following week, then had no further contact with her until she approached him on the street on 5/16/20. How about limit the d search to the only two days any relevant fatual allegation took place 5/16/20 til arrest on 5/18/20? How about limit the scope to the allegations made by the alleged stalking victims? no allegation of receiving some anonymous threats froma phony Facebook account like in Mitchell (Cal App unpub '20), no allegat of express, explicit direct threats being sent directly to the stalking victims. merely an allegation that an attorney posted some gneralized coomments directed to no one in particular to his instagram social media account that cannot be said to be even indirect threats...but rather, merely comments pointing out the way of the, ie, that tthere are peopel in our society who may not like a gross abuse of process, that tnere are irrational unstable angry people in our society and wi we all owe a duty to each other not to bwe contributoily negligent with respect to doign what we can to avoid inflaming the tenous c circumstances we encounter , partiuclary where our soecity has become more divisiove, a loneliness epidemic, more guns in the country than people, a toxic social media landscape, law enforcem ent displaying TV cop ego and a lack of restraint

Ford's brief further underscores the overbreadth and particu larity claims by noting "while it may be that its more dificult to target searches for certain offenses, stalking is not one of t those offesnses, ". This is particularly true on the facts

11/27/24

Served on CA AG 6/11/24 Date 6/11/24

Pet

CONCLUSION

The petition for a writ of certiorari should be granted.

Respectfully submitted,

ZACH COUGHLIN

Date: November 21, 2024