

Appendix

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## DEPARTMENT OF VETERANS AFFAIRS HEARING AIDS

<b>1. Audiology Clinic, Station 662</b>  VA Medical Center(662/126) 4150 CLEMENT ST SAN FRANCISCO, CA 94121 Telephone 415-750-2124 (Audiology Clinic)  Register to order batteries on-line @ www.ebenefits.va.gov				<b>2. Hearing Aid Services</b>  VA Denver Acquisition & Logistics Center PO BOX 25166 DENVER, CO 80225-0166 Telephone 303-273-6200 E-Mail: dalc.css@va.gov <div style="position: absolute; top: 0; right: 0; font-size: 2em; font-weight: bold;">} supplies</div>			
<b>3. Current Authorized Hearing Aids</b>							
Make	Model	Serial No.	Battery	Date Issued	Issuing Station	Warranty Expires	
PHONAK	BOLERO Q90-M312 BTE	1316X0U1U	ZA312MF	06/28/13	MATHER	06/05/15	
PHONAK	BOLERO Q90-M312 BTE	1316X0U1Y	ZA312MF	06/28/13	MATHER	06/05/15	
<b>4. Items Listed below were issued to veteran</b>							
Make	Model	Ear	Serial No.	Battery	Warranty Expires	Trial Period Expires	Serial No. Replaced
SIVANTOS	PURE CHARGE-GO 7NX R RIC	L	ST64404		08/18/21	01/16/19	
SIVANTOS	PURE CHARGE-GO 7NX R RIC	R	ST64526		08/18/21	01/16/19	
**Device is pending issue							
<b>5. Comments</b>  Users are responsible for the maintenance and security of their devices. Determination of need to replace a hearing aid is made by the audiologist. Hearing aids will not be replaced in cases of neglect, abuse or excessive loss.  <b>**Notify your audiologist as soon as possible if your new aids cause you trouble or give you discomfort.**</b>							
<b>6. Veteran's Name and Address</b>				<b>7. Issue Date</b>			
HERSHIPS, HOWARD R PO BOX 1501 CARMICHAEL, CA 95609 (415)933-5190				08/23/18			
<b>8. Veteran's Signature</b>				<b>9. Audiologist</b>			
I certify that I have received the items listed in section 4 above. I understand these items are provided to me for my personal use only.  X				JONIE METZGER Au.D. AUDIOLOGIST  X			

VA Form 10-2477b  
Sep 2002

Walk-in clinic: M-F, 1-2pm  
 Supplies: 10mm closed click domes  
 mini Receiver wax guards

APP I

SETTLEMENT AGREEMENT BETWEEN  
THE UNITED STATES OF AMERICA AND  
THE SANTA CLARA COUNTY SUPERIOR COURT

Department of Justice Complaint Number 204-11-90

This Settlement Agreement ("Agreement") fully resolves the issues raised in a complaint filed under Title II of the Americans with Disabilities Act of 1990 (ADA), 42 U.S.C. SS 12131 - 12134, with the United States Department of Justice ("Department") against the Santa Clara County Superior Court ("Court"). The complaint alleges that the Court's policies and procedures for providing assistive listening systems and other auxiliary aids and services do not ensure effective communication with hard of hearing persons. This limits the participation of hard of hearing individuals in the Court's programs, services and activities. The parties have engaged in extensive discussion concerning the issues and determined that the agreements made herein will resolve this complaint.

The parties hereby agree as follows:

1. The subject of this Settlement Agreement is the provision of appropriate auxiliary aids and services to ensure effective communication and an equal opportunity for hard of hearing persons to participate in the programs, services and activities conducted by the Court.
2. The Court will furnish appropriate auxiliary aids and services when necessary to afford hard of hearing individuals the opportunity to participate in Court activities in accordance with California State Rule of Court 989.3, Requests for Accommodations by Persons With Disabilities. Auxiliary aids and services may include qualified sign or oral interpreters, assistive listening devices or systems, real time transcription, written materials, note pads and other effective methods of making aurally delivered materials available to hard of hearing individuals.
3. The Court will provide an opportunity for hard of hearing individuals to request the auxiliary aid or service of their choice, and will give primary consideration to the choice expressed. "Primary consideration" means that the Court will honor the choice, unless it can be shown that another equally effective means of communication is available, or that the use of the means chosen would result in a fundamental alteration in the nature of the program, service or activity, or in an undue financial or administrative burden.

4. The Santa Clara County Court system consists of 54 courtrooms, located in six buildings throughout the county. The Court will provide appropriate assistive listening technology for any courtroom in the system to meet the needs of hard of hearing persons for effective communication.

5. The Court will develop a written policy for provision of auxiliary aids or services when necessary to ensure effective communication in the Court system's programs, services and activities. The policy and its implementing procedures will include the following:

- A) the name, office address and telephone number of the individual(s) responsible for providing appropriate auxiliary aids and services;
- B) procedures delineating how one requests an aid or service, including:
  - \* the name, office address and telephone number of the individual(s) directly responsible for responding to the request;
  - \* where one calls or writes to make a request;
  - \* the date by which the requester will be informed of the outcome of his or her request;
- C) specific procedures regarding maintenance of auxiliary aids and services, including assistive listening systems. These procedures must detail when, where and how the equipment will be maintained in good operating order and who is responsible for such maintenance.

In each Court Clerk's office, the Court will post a notice in a conspicuous location advising individuals with disabilities of the procedures to make a request for an auxiliary aid or service.

6. The Court will ensure that availability of auxiliary aids and services will be well posted in all Superior Court buildings. Appropriate written notices, signage, and other communications with the public will include information regarding the policy for providing special accommodations. Written notices will identify responsible staff and explain how to acquire services.

7. The Court will distribute the policy and procedures outlined in paragraph 5 to all judges and staff. Within 90 days of the effective date of this Agreement, the Court will provide training to appropriate staff concerning implementation of these policies and procedures for ensuring effective communication with hard of hearing individuals. The training will emphasize the differences in the communication needs of hard of hearing individuals as compared with deaf persons, and the different methods of communicating with hard of hearing persons via telephone and in the courtroom. The training will also cover operation, use and maintenance of auxiliary aids and services, including a plan of scheduled maintenance.

8. The Court will monitor the implementation of the policy and procedures outlined in paragraph 5 for two years. The Court will continue to compile statistics on all required information and report monthly to the Judicial Council. The Court will update its assistive listening technology and/or obtain additional equipment when deemed appropriate by the Court, and consistent with the ADA, to meet the needs of individuals with hearing disabilities.

9. Within 60 days of the effective date of this Agreement, the Court will submit a report to the Department of Justice describing the actions taken to implement the provisions of this Agreement.

10. The Department of Justice may review compliance with this Agreement at any time. If it believes that this Agreement or any requirement thereof has been violated, the Department of Justice may institute civil action seeking specific performance of the provisions of this Agreement in an appropriate United States District Court.

11. The effective date of this Agreement is the date of the last signature below.

12. This Agreement constitutes the entire agreement between the parties on the matters addressed herein. No other statement, promise or agreement, either written or oral, made by either party or agents of either party, that is not contained in the written Agreement, will be enforceable.

For the Santa Clara County  
Superior Court:  
Judge Biafore  
Presiding Judge  
Santa Clara County Superior Court  
(Signature)

For the United States of  
America:  
Deval L. Patrick

By: (Signature)

Stephen V. Love  
Court Executive Officer  
(Signature)

Joan Magagna, Deputy Chief  
Sheila Foran, Attorney  
Thomas Esbrook, Equal  
Opportunity Specialist  
Civil Rights Division  
U.S. Department of Justice  
P.O. Box 66738  
Washington, D.C. 20035-6738  
(202) 307-0663

Melanie R. Conroy  
Facilities Manager  
(Signature)

John Longabaugh  
Equal Opportunity Division  
(Signature)

Dated: 8-30-96

Dated: 10-9-96

County of Santa Clara

## Jail Reforms

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### Menu



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## Consent Decrees Status

In 2019, the County entered into two consent decrees to resolve litigation over conditions in the County jails: *Chavez v. County of Santa Clara, et. al* (U.S. District Court, Northern District of California, Case No. 15-CV-05277-NJV) and *Cole v. County of Santa Clara, et. al* (U.S. District Court, Northern District of California, Case No. 16-CV-06594-LHK). On August 17, 2021, the Board of Supervisors asked County Counsel to prepare a public report on the status of the County's compliance with these consent decrees.

- [Public Report - County's Compliance with the Jail Remedial Plans](#)

### Quick Links

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**APP 6**

**PUBLIC REPORT**  
**COUNTY'S COMPLIANCE WITH THE JAIL REMEDIAL PLANS**

At the direction of the County of Santa Clara Board of Supervisors, from the August 17, 2021 Board Meeting (Item No. 12(d)), the Office of the County Counsel provides this public report regarding the status of the County's compliance with two federal consent decrees relating to the County jails: *Chavez v. County of Santa Clara, et. al* (U.S. District Court, Northern District of California, Case No. 15-CV-05277-NJV) and *Cole v. County of Santa Clara, et. al.* (U.S. District Court, Northern District of California, Case No. 16-CV-06594-LHK).

**OVERVIEW**

In March 2019, the federal courts approved the *Chavez* and *Cole* consent decrees, thereby settling these two class action lawsuits. (Chavez remedial plan; Cole remedial plan.) Each consent decree has a remedial plan. The remedial plans generally cover the following topics related to the County's jails:

- |               |   |
|---------------|---|
| <i>Cole</i>   | ADA Mobility Disability<br>ADA Construction and Renovation  |
| <i>Chavez</i> | Medical Care<br>Mental Health Care<br>Dental Care<br>Suicide Prevention<br>Administrative/Disciplinary Management<br>Use of Force<br>Cognitive Disabilities<br>Vision, Hearing, Speech Disabilities |

The Chavez remedial plan contains 243 separate items that the County must complete. The Cole remedial plan contains an additional 220 separate items that the County must complete. The parties to the litigation use unique numbers to refer to the items in each remedial plan to assist with tracking and compliance—1-243 for the items in the *Chavez* remedial plan and 500-720 for the items in the *Cole* remedial plan. The Office of the County Counsel uses the same numbering system here to report on the progress of implementation efforts.

The items in the remedial plans are monitored by jointly retained experts or the plaintiffs' counsel, depending on the item. The monitors evaluate the County's progress on the remedial plan items and assign one of the following ratings:

**Substantial Compliance:** The County is in compliance with the essential elements of the Remedial Plan that satisfy the overall purposes and objectives and adherence to the provisions of the Remedial Plan in all material respects, recognizing that perfection is not required.



**Partial Compliance (*Chavez Only*):** The County is in substantial compliance with portions of the remedial plan item but non-compliant with other portions.

**Unrateable-In Progress (*Cole Only*):** The County has identified, and the applicable monitors agrees, that remediation effort concerning certain material provisions in the Remedial Plan are not yet complete.

**Non-Compliance:** The County has not met most of the material components of the relevant provision of the remedial plan.

**Not Rated:** The applicable monitor has not yet had the opportunity to monitor the item, due to COVID-19 or other reasons. This rating is utilized primarily when on-site monitoring is required to evaluate the item.

**PLEASE NOTE:**

- **The information provided below is based on the ratings provided by the applicable monitor(s) as of their last rating. The County and/or plaintiffs' counsel may dispute the compliance rating.**
- **The monitors are relatively early in their monitoring process and COVID-19 has significantly impacted their ability to fully assess County progress. Some monitors were able to visit the jail before the pandemic began or during less severe periods of the pandemic, while others completed only remote monitoring visits. The ratings below capture a snapshot in time based on the monitors' assessment based on the information they have seen to date. As the monitors conduct further onsite visits to the jail and become fully oriented to the County system, they may change their ratings either up or down to reflect additional information they learn even though the County's underlying progress remains unchanged.**
- **The topics used throughout this report are summaries of the remedial plan items drafted for ease of reference by the Office of the County Counsel. Please refer to the underlying remedial plan linked above for the full description of each remedial plan item.**
- **The remedial plans are expected to take several years to fully implement and so the existence of areas of partial or non-compliance at this stage is expected.**

The information provided below has been provided to plaintiffs' class counsel in *Chavez* and *Cole* in advance of this publication.

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## KEY ACCOMPLISHMENTS AND AREAS FOR IMPROVEMENT

### *Key Accomplishments*

- The County electronic medical records system contains an inmate's mental health, dental, and medical information in one system and allows for timely ordering of medications, labs, and clinical monitoring.
- Intake screening has been redesigned and is comprehensive and thorough.
- Inmates' reported medications at intake verified within 72-hours.
- Individuals requiring mental health assessment after intake are seen within appropriate times.
- Quality assurance and quality improvement for mental health issues are sophisticated and comprehensive.

### *Key Areas for Improvement*

- Improve access to medical care, including more timely medical appointments.
- Restore multidisciplinary custody deputies who assist with healthcare access and addressing needs of inmates who are seriously mentally ill.
- Improve ability to evaluate staffing productivity.
- Improve privacy during clinical encounters, including by providing better physical spaces for delivery of medical and mental health care and changing culture around privacy.
- Develop clinical practice guidelines for chronic disease management.
- Implement use of Penal Code section 2603 for treating inmates who require involuntary antipsychotic medication and meet criteria, such as grave disability.
- Shift breakfast time later (currently commencing at 4:00 a.m.) so that diabetic pill call does not need to occur in early a.m.

## CHAVEZ REMEDIAL PLAN

<b>MEDICAL AND MENTAL HEALTH (RP 1-65)</b>				
Ratings as of March 2011 for Medical Health and April 2011 for Mental Health				
Topics	Substantial Compliance	Partial Compliance	Non-Compliance	Not Rated
<b>Staffing and Resources (RP 1-3):</b> Provide adequate staff and resources to comply with the remedial plan, including 24-hour access to medical and mental health providers.	2	1, 3		
<b>Medical and Mental Health Records and Confidentiality (RP 4-6):</b> Use one health record, track requests for outside records, and only use healthcare staff for translation purposes.	4	5-6		
<b>Intake Process (RP 7-14):</b> Provide reasonable sound privacy; revise intake screening questions; and triage and refer patients for mental health screening.	10, 13-14	7, 9, 11-12	8	
<b>Medication Verification and Administration (RP 15-21):</b> Verify medications within 72 hours; reliably continue medications; redesign the sick call process; and update the withdrawal policies to reflect community standards. <sup>1</sup>	16, 18	15, 20-21	19	
<b>Classification and Housing of Mentally Ill (RP 22-31):</b> Allow mental health to designate mentally ill patients for appropriate classification and provide minimum required programming and out-of-cell time.	22-23, 26-27	24-25, 30-31	28-29	
<b>Access to Care (RP 32-43):</b> Redesign referral system and sick call process; use an aging report; and process the sick call requests within set timeframes.	33	37	32, 34, 38-43	35-36
<b>System of Care (RP 44-53):</b> Provide optometry care; revise nursing protocols; improve chronic care tracking; implement diabetic specific improvements; and utilize regular treatment plans.	49	45-48, 51-53	50	44
<b>Discharge (RP 54-55):</b> Provide a supply of medication and discharge summary to qualifying individuals at discharge.		54-55		
<b>Training (RP 56-59):</b> Provide specified mental health training to custody and mental health staff.	56, 58	57, 59		
<b>Quality Assurance and Improvement (RP 60-65):</b> Implement a variety of topic-specific quality improvement measures.		60-65		

<sup>1</sup> Item 17 was removed from the remedial plan.

## SUICIDE PREVENTION (RP 66-93)

Ratings as of April 2021

TOPICS	Substantial Compliance	Partial Compliance	Non- Compliance	Not Rated
<b>Staff Training (RP 66-70):</b> Provide suicide prevention specific training to custody and Custody Health staff.	66-70			
<b>Intake Screening (RP 71-75):</b> Screen and appropriately triage patients at risk of suicide.	71-75			
<b>Housing (RP 76-84):</b> Renovate cells for suicide prevention and revise policy to appropriately house patients at risk for suicide.	78-79, 80-84		76-77	
<b>Supervision and Management (RP 85-90):</b> Watch patients at risk; utilize a suicide prevention tool for assessing risk; and conduct re-assessment at appropriate intervals.	85-90			
<b>Quality Improvement and Monitoring (RP 91-93):</b> Implement a multi-disciplinary quality review of deaths or significant incidents and monitoring.	91-93			

### KEY ACCOMPLISHMENTS AND AREAS FOR IMPROVEMENT

#### *Key Accomplishments*

- Implemented an appropriate suicide prevention policy and an improved suicide risk assessment tool.
- Developed effective trainings for staff on assessing suicide risk using the new suicide risk assessment tool and on the elements of the new suicide prevention policy.
- Incorporated all elements suggested by expert monitor on suicide prevention in correctional settings into intake screenings.
- Mental health staff appropriately complete suicide risk assessments for patients referred for suicide behavior and again when staff discontinue suicide precautions.
- Mental health staff perform follow-up assessments for inmates removed from suicide precautions within 24 hours, again within 72 hours, and again within one week.
- The County conducts multidisciplinary reviews for in-custody and serious suicide attempts that involve Custody Health and Custody staff and in which staff analyze the incident and provide recommendations for any needed changes to policies or practices.

#### *Key Areas for Improvement*

- Cells designated for suicide risk need greater conversion to become suicide resistant cells.

**DENTAL REMEDIAL PLAN (ITEMS 94-116)**

Ratings as of February 2021

Topics	Substantial Compliance	Partial Compliance	Non-Compliance	Not Rated
<b>Timeliness of Care (RP 94-102):</b> Conduct an oral screening; triage dental complaints; and see patients at appropriate timelines.	97-98	94, 96, 101	102	95, 99-100
<b>Other Care (RP 103-106):</b> Offer yearly dental examinations and dentures to qualifying patients.	106		103-105	
<b>Staffing and Resources (RP 107, 111-113):</b> Provide sufficient clinical staff and resources to meet the remedial plan requirements.	111-112			107, 113
<b>Policies, Record Keeping, and Quality Improvement (RP 108-111):</b> Draft new policies; utilize appropriate charting and electronic medical record.	108-111			
<b>Quality Improvement (RP 114-116):</b> Create quality assurance program and study and correct dental refusals.		116	114-115	

**KEY ACCOMPLISHMENTS AND AREAS FOR IMPROVEMENT**

**Key Accomplishments**

- Dental team is equipped with and using the necessary equipment.
- Dental screening tool has been redesigned and is appropriate for screening.
- Emergency dental conditions are timely addressed.
- Revised dental policies adequately describe scope of services and other dental services.
- Dentist record-keeping practices are substantially compliant.

**Key Areas for Improvement**

- Study dental staffing utilization and access to dental care barriers so monitors can better evaluate sufficiency of dental staffing.
- Paper system of tracking dental sick call requests does not allow monitors to easily determine if patients' dental needs are triaged timely.
- Nursing assessments of the patient's dental need are insufficient and nursing documentation insufficient. Educate and train nurses on assessment and documentation of dental pain and determining the acuity of dental problems.
- Develop informatics reports that detail the percentage of patients who are seen within the dental acuity requirements.
- Due to the Centers for Disease Control and Prevention guidelines for COVID-19, the expansion of services to include routine dental examinations and dentures was delayed past the planned implementation of March 2020.
- Draft a corrective action plan studying the reasons for dental refusals by inmates.

**COGNITIVE DISABILITIES (RP 117-138)**

Ratings as of September 2021

TOPICS	Substantial Compliance	Partial Compliance	Non-Compliance	Not Rated
<b>Identification and Tracking (RP 117-122):</b> Screen and assess individuals for cognitive disabilities.		117-122		
<b>Personal Safety (RP 123-125):</b> Screen and protect cognitively disabled individuals from others.		123-125		
<b>Provide Accommodations for Programs and Services (RP 126-135):</b> Accommodate individuals with reading, writing, self-advocacy, and activities of daily living needs.		126-135		
<b>Jail Rules/Discipline (RP 136-138):</b> Implement protections from discipline.		136-138		

**KEY ACCOMPLISHMENTS AND AREAS FOR IMPROVEMENT**

It is estimated that approximately 4-10 percent of inmates in the U.S. prison and jail population have a cognitive disability. Yet, there is no validated tool in the nation to screen for these disabilities, and individuals with cognitive disabilities can be difficult to identify because these individuals often work hard to mask their disabilities; they have very specific disabilities (e.g., can read a novel but forget to brush their teeth); and can, at times, manage better in the highly structured jail setting. But these same individuals may struggle to understand complex tasks related to jail rules; struggle to communicate with self-advocacy; and often have poor self-care practices subjecting them to exploitation and abuse by other inmates.

Because of the unique challenges presented by this part of the Remedial Plan, the County and Prison Law Office have a shared understanding that the development of a successful ADA program for individuals with cognitive disabilities will take time to develop and deploy. The Parties are closely collaborating on developing all aspects of this part of the Remedial Plan. A key accomplishment for the County is that, after significant research by the psychologist team, the County has designed an innovative screening tool as well as a testing protocol to identify individuals with a cognitive disability. The County has also developed a cognitive support plan that tailors the individuals' accommodations to their cognitive needs. A key area for improvement is the expansion of these services to more individuals. The Custody Bureau classification unit is aware of the unique safety and security risks for this population and evaluates those risks for individuals who are identified. As described below, the Custody Bureau is currently revising its inmate disciplinary policy; however, the current practice is not to discipline individuals with known cognitive disabilities. Lastly, the County has developed training on cognitive disabilities that was approved by the Prison Law Office and will be provided to all staff in the next year.

**VISION, HEARING, SPEECH DISABILITY (RP 139-182)**

Ratings as of September 2021

TOPICS	Substantial Compliance	Partial Compliance	Non-Compliance	Not Rated
<b>Intake, Orientation, &amp; Screening (RP 139-145):</b> Screen individuals for vision, hearing, and speech disabilities and provide an orientation during intake using effective communication.	139	140-145		
<b>Verification (RP 146-148):</b> Timely verify disability and accommodation needs.		146-148		
<b>Issuance and Retention of Devices (RP 149-156):</b> Timely issue, permit retention, and limit removal of assistive devices and document these actions.		149-156		
<b>Housing (RP 157-158):</b> Provide accessible housing.		157-158		
<b>Effective Communication (RP 159-176):</b> Provide auxiliary aids and devices to accommodate disabilities.	168-170 171	159-167, 172-176		
<b>Grievance System (RP 177-179):</b> Provide a prompt and equitable grievance system that allows for effective communication.	177-178	179		
<b>Training and Management (RP 180-182):</b> Provide annual ADA training.	180, 182		181	
<b>KEY ACCOMPLISHMENTS AND AREAS FOR IMPROVEMENT</b>				
<p><b>Key Accomplishments</b></p> <ul style="list-style-type: none"> <li>• Knowledge, experience, and responsiveness of the Custody Bureau’s ADA Compliance Unit has improved.</li> <li>• The intake screening to identify individuals with vision, hearing, and speech disabilities has been appropriately re-designed.</li> <li>• Availability of range of assistive devices and auxiliary aides has improved.</li> </ul> <p><b>Key Areas for Improvement</b></p> <ul style="list-style-type: none"> <li>• Implement revised policies and conduct update training to all staff to ensure that all individuals with vision, speech, and/or hearing disabilities are identified and accommodated.</li> <li>• Expand effective communication practices for programming and services.</li> </ul>				

APP 13

**ADMINISTRATIVE AND DISCIPLINARY MANAGEMENT (RP 183-230)**

Ratings as of September 2021

TOPICS	Substantial Compliance	Partial Compliance	Non-Compliance	Not Rated
<p><b>Use of Administrative Management (RP 183-190):</b> Only place individuals who engage in certain behaviors in restrictive housing setting.</p>				183-190
<p><b>Conditions of Confinement (RP 191-192):</b> Individuals are provided privileges and access to programming and staff supervises this population with regular welfare checks.</p>				191-192
<p><b>Notice, Documentation, and Review (RP 193-199):</b> Staff review and document the use of administrative management.</p>				193-199
<p><b>Time Limits on Use of Administrative Management for Non-Seriously Mentally Ill (SMI) Individuals (RP 200-210):</b> Individuals must be released from administrative management within set time frames.</p>				200-210
<p><b>Disciplinary Management (RP 211-218):</b> Redesign the use of restrictive housing for disciplinary purposes.</p>				211-218
<p><b>Healthcare for Individuals in Administrative Management (RP 219-228):</b> Screen patients for mental illness, provide daily health contact and weekly mental health check-ins.</p>	221-223, 225-228	219-220		224
<p><b>Mental Health Care for SMI Individuals in Administrative Management (RP 229-235):</b> Collaborate with Custody Bureau on a plan to get SMI individuals out of this setting and offer required treatment, programming, and 14 hours of out of cell time.</p>	229, 231-235	230		
<p><b>Data and Training (RP 236-237):</b> Keep data about use of Administrative Management and train staff on certain topics.</p>				236-237



## **KEY ACCOMPLISHMENTS AND AREAS FOR IMPROVEMENT**

### ***Key Accomplishments***

- The County has implemented an innovative approach to dramatically reduce the use of a restrictive housing setting (previously known as solitary confinement) through its administrative management techniques, which are viewed as a model for implementation in other correctional facilities. This highly successful approach has reduced the number of inmates held in a restrictive housing setting from over 400 inmates to approximately 40 inmates.
- Inmates held in administrative management are offered a meaningful way to down-class to a less restrictive setting through good behavior resulting in the use of short-term restrictive housing.
- Coordination between Custody Bureau staff and Custody Health Services staff on the violence risk presented by down-classing seriously mentally ill inmates held in administrative management is robust and collaborative.

### ***Key Areas of Improvement***

- Improve data collection and analysis of use of administrative management.
- Although use of restrictive housing for disciplinary purposes is infrequently used, the County needs to develop its policies and procedures and collaborate with the Prison Law Office on the disciplinary matrix.
- Improve availability and variety of out-of-cell activities for inmates held in restrictive housing.
- Improve facility cleanliness.

**USE OF FORCE (238-243)**

Ratings as of March 2021

USE OF FORCE (RP 238-243)	Substantial Compliance	Partial Compliance	Non- Compliance	Not Rated
<b>Implement Use of Force Policy (RP 238):</b> Implement the August 29, 2017 use of force policy that was developed in consultation with plaintiffs' counsel.		238		
<b>Training (RP 239-243):</b> Conduct trainings on use of force principles at the Academy; conduct de-escalation training; and conduct training on the new policies.		239-243		

**KEY ACCOMPLISHMENTS AND AREAS FOR IMPROVEMENT**

***Key Accomplishments***

- Inmates report better use of force conditions and more positive interactions with staff.
- Sustained positive trend in reduction in the rate of use of force.
- Noticeable improvements in de-escalation efforts and the use of reasonable and necessary force.
- Appropriate use of restraints.
- Ample video footage of use of force events, but some inconsistent activation of body worn camera footage by some participating staff.
- Improved data gathering by Use of Force Review Committee.
- Transparency and openness by current jail administration in addressing changes.

***Key Areas for Improvement***

- Focus on the inter-relationship between failed de-escalation efforts that led to unreasonable and unnecessary force options.
- Re-examine appropriate intervals in repeated use of chemical agents.
- Retrain those supervisors who may be lacking in scene management during a force event.
- Documentation of force events by staff is deficient particularly as it relates to reasons that body worn camera activation failed or was delayed/deficient and appropriate intervention by first line supervisors is not sufficient.
- Finalize the use of force policy revisions and train staff with particular emphasis on de-escalation, supervisory scene command, and documentation of use of force events.
- Implement and prioritize training to staff on the new policies.
- Implement jail management system to improve data collection and analysis; but in meantime, continue to improve data collection efforts on use of force trends.
- Continue improvement of the quality of information provided to the Use of Force Review Committee and improved discussion regarding appropriateness of use of force by staff.
- Address challenges with force on the mentally ill by re-instituting the use of multidisciplinary custody deputies with greater trainings and participation by mental health staff in de-escalation.

## COLE REMEDIAL PLAN

<b>MOBILITY DISABILITIES</b>			
Ratings as of March 2021			
TOPIC AREAS	Substantial Compliance	Non-Compliance	Unrateable-In Progress
<b>Intake Process (RP 500-510):</b> Screen individuals for mobility disabilities; provide immediate accommodations; orient newly booked individuals.	501, 509	504	500, 502- 503, 505-508, 510
<b>Verification and Accommodation (RP 511-528):</b> Promptly arrange for verification and accommodation evaluation by the ADA Compliance Unit and medical providers.	513- 514, 516, 519, 521-522 524, 528	520, 523, 525- 526	511-512, 515, 517-518, 527
<b>Issuance, Retention, and Maintenance of Devices (RP 529-545):</b> Timely issue, properly maintain, and replace assistive devices; restrict removal of devices.	534, 537, 539, 545	533, 540-544	529-532, 535- 536, 538,
<b>Classification and Housing (RP 546-556):</b> Do not use disability as part of classification and house individuals with mobility impairments to accommodate disability.	548, 550-554 556	549, 555	546-547
<b>Track Individuals (RP 557-566):</b> Designated Custody Bureau and Custody Health staff use one system to track individuals with mobility disabilities.			557-566
<b>Programs and Services (RP 567-581):</b> Provide programmatic access and accommodations for jail services.	574-581	568-569	567, 570-573
<b>Policy and Review (RP 582-586):</b> Revise policies consistent with remedial plan.	583-584	585	582, 586
<b>ADA Coordinator (RP 587-592):</b> Assign a coordinator to oversee compliance, meet with individuals, and liaison between staff.	587, 589, 591- 592	588	590
<b>Training and Monitoring (RP 593-599, 711):</b> Provide training to all new staff and existing staff; provide updated training on policies; self-monitor progress; keep a construction schedule.	593, 596	711	594-595, 597- 599
<b>Structural Access Through Policy (RP 601, 602, 613, 616, 626, 633, 651, 652, 657, 658, 661, 664, 684, 685):</b> As ADA renovations are completed, ensure structural access through implementation of specific space-based practices to accommodate individuals with mobility disabilities.	601-602 613, 616, 661	664	626, 633, 651- 652, 657-658, 684-685
<b>Grievance and Request System (RP 713-720):</b> Provide a readily available mechanism for filing grievances and ADA requests.	713, 716	714-715, 717- 720	

## **KEY ACCOMPLISHMENTS AND KEY AREAS OF IMPROVEMENT**

### ***Key Areas of Accomplishment***

- Design of new intake screening for mobility disabilities is robust.
- Improved Custody staff awareness of individuals' specific disabilities and accommodation needs through use of the inmate accommodation list is a positive development.
- ADA Compliance Unit is knowledgeable about the remedial plan; a valuable resource for staff; able to immediately address ADA concerns raised by individuals; and valued by individuals in custody for their proactive approach of addressing ADA concerns.

### ***Key Areas for Improvement***

- Lack of jail management system to document individual's ADA disabilities and accommodations as well as actions by Custody Bureau staff related to ADA compliance activities makes it challenging to verify compliance with key provisions of the remedial plan.
- Insufficient documentation that certain mobility devices are distributed within four hours.
- Insufficient documentation to demonstrate that the ADA Compliance Unit and medical unit are communicating about interim ADA accommodations.
- Implement agreed-upon policies and train staff on those policies.
- Ensure issuance of medical authorization to inmates with approved disability and/or accommodation.
- Ensure ADA Unit is provided with ADA Request within seven days of receipt of the request and, where appropriate, provide the requested reasonable accommodation or begin the verification process.
- Implement tracking and inventory of devices and regularly check on availability of devices.
- Ensure that ADA-related grievances are forwarded to the ADA Unit.

**FACILITY MODIFICATIONS<sup>2</sup>**

Ratings as of September 2021

<b>Construction Areas</b>	<b>Substantial Compliance</b>	<b>Non-Compliance</b>	<b>Unrateable-In Progress</b>
<b>New Jail (600, 603-604):</b> Construct a new jail with 3% ADA capacity or, if the County elects not to build a new jail, meet and confer with plaintiffs' counsel about additional construction needs in the existing facilities to achieve ADA compliance.			600, 603-604
<i>Address Structural Barriers in the Following Areas of the Jails</i>			
<b>Main Jail: Booking Area (605-612)</b>	605-607, 610-611	608-609, 612	613
<b>Main Jail: Property Release Area (614-615)</b>			614-615
<b>Main Jail: Second Floor – General Use Areas (617-621)</b>	617	618	619-621
<b>Main Jail: Second Floor – Special Housing (2B) (622-625)</b>			622, 623-625
<b>Main Jail: Second Floor – Infirmary (2C) (627-632)</b>			627-632
<b>Main Jail: Fourth and Fifth Floor (634-643)</b>	634-640	641-642	643
<b>Main Jail: Eighth Floor (644-650)</b>	644, 646- 649	645	650
<b>Elmwood: General Areas, Paths of Travel, Processing Area, Information Center (653-656, 659-660)</b>	653		654-656, 659-660
<b>Elmwood: Medical Facility (662-663)</b>	662		663
<b>Elmwood: Men's Operations (665-669)</b>	665-669		
<b>Elmwood: Men's Minimum Security Housing (670-673)</b>			670-673
<b>Elmwood: Men's Minimum Security Dining and Recreation (674-678)</b>	674, 676-677	675	678
<b>Elmwood: Men's Medium Housing (679-684, 686-693)</b>	686, 688-690	687	679-684, 691-693
<b>Elmwood: Women's Minimum and Medium Housing (694-699)</b>	694, 698	695-697	699
<b>Elmwood: Women's Medium and Maximum Security (700-708)</b>	700-707		708
<b>Elmwood: Women's Classrooms (710)</b>		710	

2513278

APP 19

<sup>2</sup> Because facility modifications involve construction, there are no areas for improvement because the work either passes ADA review or it does not pass.

OFFICE OF THE CLERK  
CALIFORNIA COURT OF APPEAL  
SIXTH APPELLATE DISTRICT  
333 West Santa Clara Street, Suite 1060  
San Jose, CA 95113  
www.courts.ca.gov  
Phone: (408) 277-1004  
February 7, 2020

**\*\*If you have been served electronically, this will be your only notice.  
You will not receive a paper notice in the mail.\*\***

Howard Hershops  
CDC #: DVW719  
701 S. Abel St.  
Milpitas, CA 95035

Office of the Attorney General  
455 Golden Gate Avenue  
Suite 11000  
San Francisco, CA 94102  
FAGDocketing@doj.ca.gov

Re: H047816 **Hershops v. Superior Court**  
Santa Clara County Super. Ct. No. BB519233

Gentlepersons:

The court requests that real party in interest serve and file on or before February 23, 2020, points and authorities in preliminary opposition to the petition. Petitioner may serve and file a reply within 15 days after the preliminary opposition is filed in this court.

Very truly yours,

Baltazar Vazquez,  
Assistant CEO

Santa Clara County Superior Court  
Santa Clara County District Attorney  
Santa Clara County Public Defender

**APP 20**

# Appellate Courts Case Information

6th Appellate District

Change court ▼

## Parties and Attorneys

**Herships v. Superior Court**  
**Case Number H047816**

Party	Attorney
Howard Herships : Petitioner 701 S. Abel St. Milpitas, CA 95035	Pro Per
The Superior Court of Santa Clara County : Respondent	
The People : Real Party in Interest	Office of the Attorney General 455 Golden Gate Avenue Suite 11000 San Francisco, CA 94102  Office of the District Attorney 70 West Hedding Street, West Wing San Jose, CA 95110  Kyle J. Neddenriep Santa Clara County Public Defender 120 W Mission St San Jose, CA 95110  Kaci Rebecca Lopez Office of District Attorney 70 West Hedding Street, West Wing San Jose, CA 95110

[Click here](#) to request automatic e-mail notifications about this case.

COURT OF APPEAL		SIXTH APPELLATE DISTRICT, DIVISION	COURT OF APPEAL CASE NUMBER: H047816
ATTORNEY OR PARTY WITHOUT ATTORNEY: STATE BAR NO.: 173,659		SUPERIOR COURT CASE NUMBER: BB517233	
NAME: Kaci R. Lopez			
FIRM NAME: Santa Clara County Office of the District Attorney			
STREET ADDRESS: 70 West Hedding Street, West Wing			
CITY: San Jose		STATE: CA	ZIP CODE: 95110
TELEPHONE NO.: (408) 792-2805		FAX NO.:	
E-MAIL ADDRESS: klopez@dao.sccgov.org			
ATTORNEY FOR (name): The People			
APPELLANT: HOWARD HERSHIPS			
RESPONDENT: THE PEOPLE OF THE STATE OF CALIFORNIA			
<b>APPLICATION FOR EXTENSION OF TIME TO FILE BRIEF (CRIMINAL CASE)</b>			

1. I (name): Kaci R. Lopez request that the time to file (check one)

- appellant's opening brief (AOB)  
 respondent's brief (RB)  
 combined respondent's brief (RB) and appellant's opening brief (AOB) (see rule 8.216)  
 combined appellant's reply brief (ARB) and respondent's brief (RB) (see rule 8.216)  
 appellant's reply brief (ARB)

now due on (date): February 21, 2020 be extended to (date): April 21, 2020

2. I  have  have not received a rule 8.360(c)(5) notice.

3. I have received

- no previous extensions to file this brief.  
 the following previous extensions:

(number of extensions): extensions from the court totaling (total number of days):

Did the court mark any previous extension "no further?"  Yes  No

4. The last brief filed by any party was:  AOB  RB  RB and AOB  ARB and RB  
filed on (date): January 29, 2020

5. The record in this case is:

	Volumes (#)	Pages (#)	Date filed
Clerk's Transcript:	_____	_____	TBD
Reporter's Transcript:	_____	_____	TBD
Augmentation/Other:	_____	_____	_____

6. Defendant was convicted of (specify):

A misdemeanor count of violating Penal Code section 594(a)/(b)(1) on December 17, 2008

7. The conviction is based on a (check one):

- jury verdict  
 plea of guilty or no contest

**APP 22**



APPELLANT: HOWARD HERSHIPS RESPONDENT THE PEOPLE OF THE STATE OF CALIFORNIA	COURT OF APPEAL CASE NUMBER: H047816
--	---

8. The court imposed the following punishment:  
 1 year county jail (335 days suspended), 3 years formal probation, fines, fees and restitution to the victim

9. The defendant  is  is not on bail pending appeal.

10. The reasons that I need an extension to file this brief are stated

below.

on a separate declaration. You may use *Attached Declaration (Court of Appeal)* (form APP-031) for this purpose.

*(Please specify; see rule 8.63 for factors used in determining whether to grant extensions):*

The People need additional time to obtain the transcript/recording of the most recent proceeding held in the Santa Clara County Superior Court on January 17, 2020. The People submitted a request for the record on 2/13/20 and received an automatic reply that we would be contacted "within two weeks about the cost and how long it will take to complete the transcript." We requested that the record be "rushed," but we have not yet been contacted by the court. Since the record is necessary to evaluate Mr. Hershops claims, the People are requesting an additional 60 days - to April 21, 2020 - to receive and review the record and submit a preliminary opposition to this Court.

11. A proof of service of this application on all those entitled to receive a copy of the brief under rule 8.360(d)(1), (2), and (3) is attached (see rule 8.360(d)). You may use *Proof of Service (Court of Appeal)* (form APP-009) or *Proof of Electronic Service (Court of Appeal)* (form APP-009E) for this purpose.

I declare under penalty of perjury under the laws of the State of California that the information above is true and correct.

Date: 2/19/2020

Kaci R. Lopez  
 (TYPE OR PRINT NAME)

*Kaci R. Lopez*  
 (SIGNATURE OF PARTY OR ATTORNEY)

Order on Application is  below  on a separate document

**ORDER**

EXTENSION OF TIME IS:

Granted to (date): \_\_\_\_\_  
 Denied

Date: \_\_\_\_\_

**APP 23**

\_\_\_\_\_  
 (SIGNATURE OF PRESIDING JUSTICE)

IN THE COURT OF

COURT OF APPEAL SIXTH APPELLATE DISTRICT, DIVISION

ATTORNEY OR PARTY WITHOUT ATTORNEY: STATE BAR NO.: 173,659  
NAME: Kaci R. Lopez  
FIRM NAME: Santa Clara County Office of the District Attorney  
STREET ADDRESS: 70 West Hedding Street, West wing  
CITY: San Jose STATE: CA ZIP CODE: 95110  
TELEPHONE NO.: (408) 792-2805 FAX NO.:  
E-MAIL ADDRESS: klopez@dao.sccgov.org  
ATTORNEY FOR (name): The People

SUPERIOR COURT CASE NUMBER:  
BB517233

APPELLANT: HOWARD HERSHIPS  
RESPONDENT: THE PEOPLE OF THE STATE OF CALIFORNIA

APPLICATION FOR EXTENSION OF TIME TO FILE BRIEF  
(CRIMINAL CASE)

1. I (name): Kaci R. Lopez request that the time to file (check one)

- appellant's opening brief (AOB)  
 respondent's brief (RB)  
 combined respondent's brief (RB) and appellant's opening brief (AOB) (see rule 8.216)  
 combined appellant's reply brief (ARB) and respondent's brief (RB) (see rule 8.216)  
 appellant's reply brief (ARB)

now due on (date): 3/20/2020 be extended to (date): 4/21/2020

2. I  have  have not received a rule 8.360(c)(5) notice.

3. I have received:

- no previous extensions to file this brief.  
 the following previous extensions:

(number of extensions): 1 extensions from the court totaling (total number of days): 28 days

Did the court mark any previous extension "no further?"  Yes  No

4. The last brief filed by any party was:  AOB  RB  RB and AOB  ARB and RB  
filed on (date): January 29, 2020

5. The record in this case is:

	Volumes (#)	Pages (#)	Date filed
Clerk's Transcript:			TBD
Reporter's Transcript:			TBD
Augmentation/Other:			

6. Defendant was convicted of (specify):  
A misdemeanor count of violating Penal Code section 594(a)/(b)(1) on December 17, 2008.

7. The conviction is based on a (check one):

- jury verdict  
 plea of guilty or no contest

APP 24

APPELLANT: HOWARD HERSHIPS RESPONDENT THE PEOPLE OF THE STATE OF CALIFORNIA	COURT OF APPEAL CASE NUMBER H047816
--	--

8. The court imposed the following punishment:  
One year county jail (335 days suspended), 3 years formal probation, fines, fees and restitution to the victim

9. The defendant  is  is not on bail pending appeal.

10. The reasons that I need an extension to file this brief are stated

below.  
 on a separate declaration. You may use *Attached Declaration (Court of Appeal)* (form APP-031) for this purpose.

*(Please specify; see rule 8.63 for factors used in determining whether to grant extensions):*

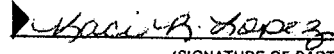
The People are still awaiting the electronic recording/transcript of the proceedings that are the subject of this writ, held in Santa Clara County Superior Court on 1/17/2020. As previously noted, the People submitted a request for the record on 2/13/2020 and received an automatic response from the court that I would be "contacted within two weeks about the cost and how long it will take to complete the transcript." To date, I have not received any response from the court. I attempted to follow up with the court on 3/20/2020 via email indicating that the record was needed for the preparation of a response to an appellate court order and, as of today, I have not received a response. I did not previously submit this request because I saw the order on this Court's website extending time by 30 days for any deadlines that occurred between 3/18 and 4/17/2020. I was advised by the Clerk of this Court this afternoon that a request for extension of time would need to be submitted. The People submit that the record of the underlying proceedings is necessary for a proper evaluation of and response to Mr. Hershops' claims and, therefore, request an additional extension of time to April 21, 2020 for the Superior Court to provide the People with the record of the underlying proceedings.

11. A proof of service of this application on all those entitled to receive a copy of the brief under rule 8.360(d)(1), (2), and (3) is attached (see rule 8.360(d)). You may use *Proof of Service (Court of Appeal)* (form APP-009) or *Proof of Electronic Service (Court of Appeal)* (form APP-009E) for this purpose.

I declare under penalty of perjury under the laws of the State of California that the information above is true and correct.

Date: 3/23/2020

Kaci R. Lopez  
(TYPE OR PRINT NAME)

  
(SIGNATURE OF PARTY OR ATTORNEY)


Order on Application is  below  on a separate document

ORDER

EXTENSION OF TIME IS:

Granted to (date): 04/21/2020  
 Denied

Date: 03/25/2020

  
**ACTING** (SIGNATURE OF PRESIDING JUSTICE) **APP25**

## County of Santa Clara

Office of the District Attorney  
70 West Hedding Street, West Wing, 5<sup>th</sup> Floor  
San Jose, California 95110  
Public: (408) 299-7400  
Telephone: (408) 792-2805  
E-Mail: [klopez@dao.sccgov.org](mailto:klopez@dao.sccgov.org)



---

Jeffrey F. Rosen  
District Attorney

April 21, 2020

Baltazar Vazquez  
Assistant CEO  
Court of Appeal of the State of California  
Sixth Appellate District  
333 W. Santa Clara Street, Suite 1060  
San Jose, CA 95113

RE: *Herships v. Superior Court*  
Sixth Appellate District, Case No. H047816  
Santa Clara County Superior Court, Case No. BB517233

Dear Mr. Vazquez:

This letter serves as the response of the Real Party in Interest to the court's request for opposition to the above-entitled petition for writ of mandate. Petitioner contends that the trial court improperly imposed a six-month county jail sentence without conducting a hearing to determine Petitioner's ability to pay outstanding restitution; that the trial court lacked hearing devices and was, therefore, not compliant with the Americans with Disabilities Act (ADA) at the time of the proceedings on January 17; and that the Public Defender "refused" to file a Notice of Appeal, allegedly to conceal their conflict of interest in this matter. The petition has been rendered moot by Petitioner's release from custody as a result of the County's COVID-19 response. It is also wholly without merit.

### **A. The Petition Must Be Denied as Moot**

In his petition, Petitioner seeks his "immediate release" from custody. On March 26, 2020, in response to the County of Santa Clara's "shelter in place" orders that went into effect on Tuesday, March 17, 2020, at 12:01 a.m. and the recommendation of the Adult Custody Health Medical Director to reduce the county jail population by twenty per cent, the superior court issued an order for the remaining custodial sentences to be stayed for several inmates that the parties deemed appropriate for release. The petitioner was among the inmates who were the subject of this order. (**Attachment A**, without court

order exhibit listing all affected inmates.) Pursuant to this order, Petitioner was released from custody.

### **B. The Petition Lacks Merit**

Additionally, to the extent that Petitioner asserts that the Public Defender “refused” to file a Notice of Appeal on Petitioner’s behalf, Petitioner’s claim is simply untrue. On February 14, 2020, Deputy Public Defender Kyle Neddenriep, who also assisted Petitioner at the hearing on January 17, 2020, filed a Notice of Appeal on Petitioner’s behalf. (**Attachment B.**) That appeal is currently pending before the appellate division of the Santa Clara County Superior Court under docket number 2020-AP-002650.

Finally, Petitioner’s claim regarding the trial court’s failure to comply with the ADA “due to the lack of ADA hearing devices” is without merit. In the electronic recording of the proceedings held on January 17, 2020, at the beginning of the hearing, the court specifically noted on the record that Petitioner was “being assisted by the amplification audio system of the court.” (**Attachment C; see Order for the Preparation of the Record on Appeal.**)<sup>1</sup> At no time during the hearing, which lasted for approximately ten minutes, did Petitioner assert any difficulty communicating with his attorney or the court.

Petitioner’s release from custody renders this petition moot. The petition also fails on the merits. Therefore, the petition for writ of mandate should be summarily denied.

Sincerely,

*/s/ Kaci R. Lopez*

Kaci R. Lopez  
Supervising Deputy District Attorney  
State Bar No. 173659

For JEFFREY F. ROSEN  
District Attorney, Santa Clara County

---

<sup>1</sup> Real Party in Interest received the Electronic Recording (ER) of the January 17, 2020 proceedings on April 20, 2020. The citation to that electronic record for the trial court’s statement is ER 1/17/20: 13-21. Currently, the electronic record is the only record of those proceedings available, but it is believed that a written transcript of those proceedings will be prepared in conjunction with Petitioner’s misdemeanor appeal. If requested by this Court, the electronic recording will be made available to this Court upon request.



Howard Hershings &lt;hhershings@gmail.com&gt;

---

**your filing in Sixth Appellate District Court of Appeal case No. H047816**

5 messages

---

**Howard Hershings** <hhershings@gmail.com>

Sun, Jul 19, 2020 at 5:53 AM

To: "Lopez, Kaci" &lt;klopez@dao.sccgov.org&gt;

Ms. Lopez,

Having received copies of your request for extension of time to file a responsive request by the Court in the above-entitled case did not include a proof of service.

I must assume that you never made any attempt to serve me with those documents, which have effectively denied me access to Court.

Clearly, I must assume that you have not complied with California Rules of Court, **Rule 8.817. requiring a Proof of Service by mail.**

**This would, therefore, be a willful violation and done to deny my rights of access to Court a serious violation of Constitutional Rights.**

--  
Howard Hershings

---

**Lopez, Kaci** <klopez@dao.sccgov.org>

Mon, Jul 20, 2020 at 7:55 AM

To: Howard Hershings &lt;hhershings@gmail.com&gt;

Cc: "Neddenriep, Kyle" &lt;kyle.neddenriep@pdo.sccgov.org&gt;

Mr. Hershings –

All of the People's filings in the Sixth District Court of Appeal were e-served on Deputy Public Defender Kyle Neddenriep who appeared with you at the hearing that was the subject of the writ.

Kaci Lopez

Kaci R. Lopez

Supervising Deputy District Attorney

Santa Clara County D.A.'s Office

Law &amp; Motion Unit

70 West Hedding Street, West Wing

San Jose, CA 95110

T: (408) 792-2805; F: (408) 279-3547

**APP 28**

[Quoted text hidden]

---

**Howard Hershings** <hhershings@gmail.com>

Mon, Jul 20, 2020 at 8:29 AM

To: "Lopez, Kaci" &lt;klopez@dao.sccgov.org&gt;, kyle.neddenriep@pdo.sccgov.org, saffordlegal@gmail.com

However, according to a letter I received from the Deputy Public Defender Kyle Neddenrip, as of Feb. 4, 2020, he ( The Public Defender's Officer), was no longer representing me in my criminal case.

As such, I was in Pro Se and you failed to serve me with copies and done to deny me access to court on the issues addressed in my Writ.

The Writ was filed because the Santa Clara Public Defender failed to and never communicate with me and refused to represent me in the criminal case. This was finally confirmed by the Feb 4, 2020 letter to me which I have attached.

More importantly, the Public Defender Kyle Neddenrip never informed me to even informed of the Court of Appeal, Sixth Appellate District request for a response, which blocked my rights to respond and never took any action to protect my rights under the ADA violations as well as the right to legal representation in my criminal case.

[Quoted text hidden]

--  
Howard Hershships

 File.PDF  
449K

**Lopez, Kaci** <klopez@dao.sccgov.org>  
To: Howard Hershships <hhershships@gmail.com>  
Cc: "Neddenriep, Kyle" <kyle.neddenriep@pdo.sccgov.org>

Mon, Jul 20, 2020 at 5:53 PM

Since I was unaware of the contents of the attached letter, addressed to you, from the Public Defender's Office until I received your email this morning, I served my Sixth District filings on that office. To have served you directly when I believed you were represented would have been improper.

[Quoted text hidden]

**Howard Hershships** <hhershships@gmail.com>  
To: "Lopez, Kaci" <klopez@dao.sccgov.org>

Tue, Jul 21, 2020 at 5:28 AM

Your contention is totally illogical as I filed the very subject matter of the Writ In Pro Se was that the sheriff's dept refused to release my federally issued hearing aids from my property which violated 28 CFR section 35.160, as well as the Superior Court, denied me any assistance listening device also in violation of 28 CFR section 35.160.

Additionally, both the Superior Court and the Sheriff's Department had both entered into a consent decree agreeing not to violate 28 CFR section 35.160.

Moreover, the basis of the writ was because Deputy Public Defender Kyle Neddenriep refused to communicate with me prior to the court appearances or during the court appearances as well as my having no ability to communicate due solely to being denied my federally issued hearing aids in direct violation of 28 CFR section 160 et seq.

These violations are now the very subject matter of an ADA complaint pending against both the State entities ( Superior Court and the Sheriff's Dept. and the Public Defender's Office as well as the Sheriff's Dept by the United States Department of Justice Civil Rights Division ADA enforcement team.

More importantly, this conduct mirrors the Ninth Circuit decision *Updike vs Multnomah County* 870 Fed 3rd 939, (9th Cir 2017), by placing a criminal defendant in court with no ability to communicate. Furthermore, what is equally outrageous here both the Court and the Sheriff's department had already where aware of these serious violations of the ADA and had entered into settlements and still decided to take these actions here.

I have been in contact with the United States Department of Justice and they are investigating these violations and I will be filing my ADA complaint as well as a Civil Rights Complaint against Santa Clara County entities for violating my right of access to Court, as these acts were and are willful as stated in *Simkins vs Bruce* 406 Fed 3rd 1239 (10 Cir 2005) to deny a defendant his federally protected rights of access to court as here I was denied any all opportunity to respond.

Naturally, the Deputy District Attorney did not what to notify me of the pending writ because of his malpractice.

[Quoted text hidden]

**APP 29**

County of Santa Clara  
Law Offices of the Public Defender  
120 West Mission Street  
San Jose, California 95110  
(408) 299-7700 FAX (408) 938-1106



Molly O'Neal  
Public Defender

February 4, 2020

Santa Clara County Department of Correction  
Elmwood Complex Facility  
Howard Herships BB51723 DVW719  
701 South Abel Street  
Milpitas, CA 95035

RE: Your Case

Dear Mr. Herships,

During our in-custody meeting you informed me that you have filed a writ to the Sixth Appellate District on your own behalf. You indicated that you intended to proceed pro per in that matter or secure private counsel.

At your direction I have contacted your wife, Karen Fletcher, who has informed me of the following: 1) your primary interest is litigating the validity of the underlying order for restitution (this is not something I can assist you with), 2) you are no longer interested in me filing any motions on your behalf (she indicated that after speaking with you on 2/3/2020, you no longer want me to represent you), 3) the two of you were trying to secure private counsel.

Based on your requests, I will not file a notice of appeal in your matter. Please be advised that should you elect to appeal your sentence, your notice of appeal must be filed within 30 days of the sentence.

Sincerely,

A handwritten signature in black ink, appearing to read "Kyle Neddenriep", written over a horizontal line.

Kyle Neddenriep  
Deputy Public Defender

**APP 30**



FILED  
FEB 24 2020

NOWARD HERSHIPS (DWM 179)

701 S. ABEL ST

MILPITAS, CA 95035

Clerk of the Court  
Superior Court of CA County of Santa Clara  
BY: *[Signature]* DEPUTY  
P. Abogado

FEB. 10, 2020

EXECUTIVE OFFICE OF THE COURT

SANTA CLARA COUNTY SUPERIOR COURT

191 N. FIRST ST.

SAN JOSE, CA 95113

RE: TO INITIATE NEGOTIATIONS WITH PUBLIC ENTITY TO  
SECURE COMPLIANCE BY VOLUNTARY MEANS, ABCFR 35.1730

DEAR SRS,

THIS LETTER IS TO PUT YOUR ADA COORDINATOR THAT THE  
COURT PROCEEDINGS IN DEPT. 47, IN CASE BB 517233,  
DISCRIMINATED AGAINST A DEFENDANT IN A CRIMINAL HEARING  
IN VIOLATION OF ADA.

DEFENDANT HERSHIPS, HAS AND USES HEARING AIDS TO  
COMMUNICATE WITH. DEFENDANT HERSHIPS EMPLOYED THE  
DEPUTY CLERK OF HIS PROSECUTOR, HOWEVER THERE  
WAS NO ASSISTIVE SERVICES, OR SOUND AMPLIFICATION DEVICES  
TO LISTEN AND COMMUNICATE WITH LEGAL COUNSEL.

THE COURT HEARING OF 1/17/20, PROCEEDED WITHOUT ANY OPPORTUNITY FOR DEFENDANT HERSHEPS TO DISCUSE ANY ISSUES IN THIS CASE, DUE TO THE FAILURE OF PROVIDING REASONABLE ACCOMODATIONS UNDER ADA.

THE COURT JUDGE DREW C TAKACHNE, FAILED TO ENGAGE IN A GOOD FAITH INTERACTIVE PROCESS BY SHOWING THAT: (1) THE JUDGE KNEW OF DEFENDANT'S DISABILITY; (2) THE DEFENDANT REQUESTED ACCOMMODATION AND ASSISTANCE OF DISABILITY AND THE JUDGE REFUSED; (3) THE JUDGE ACTED WITH A DELIBERATE INTERFERENCE IN VIOLATION OF DEFENDANT'S 6TH AND 14TH AMENDMENTS RIGHT TO LEGAL COUNSEL IN CRIMINAL CASES.

THE JUDGE PROCEEDED TO SENTENCE DEFENDANT TO 6 MONTHS IN COUNTY JAIL FOR FAILURE TO MAKE RESTITUTION, WHEN CLEARLY ESTABLISHED U.S. SUPREME COURT LAW PROHIBITS SAID ACTS UNTIL THERE IS A HEARING ON THE ABILITY TO PAY HEARING, BEARDEN V GEORGIA, 461 US 660 (1993).

EVEN MORE BEYOND THE PALE, IS THAT DEFENDANT'S WAS NO LONGER ON POSTRELEASE SUPERVISION, THE JUDGMENT OF RESTITUTION EXPIRED AS IT WAS OVER TEN YEARS, PENAL CODE 1214. APP 32-

THESE ACTS OF JUDGE ALL DONE TO DENY DEFENDANT ANY AND ALL ABILITY TO HAVE ANY MEANINGFUL ACCESS TO LEGAL COUNSEL, BY ACCOMMODATING DUE TO THE JUDGE'S LACK OF GOOD FAITH, AS THE ONLY LISTENING DEVICE IS WHAT THE JUDGE IS SAYING, AND ACTUALLY BLOCKS ALL COMMUNICATION. THIS INABILITY TO MEANINGFUL ACCESS TO LEGAL COUNSEL UNDER ADA REQUIREMENT, WAS A COGNIZABLE INJURY, WHICH DENIED DEFENDANT HERSHIPS, HIS RIGHT TO LEGAL REPRESENTATION, IN A CRIMINAL CASE.

VIOLATIONS OF ADA ACT OF 1990 SECTION 2,

① 42 USC SECT. 12101 ET SEQ. (THOMPSON V DRUGS 382 F3d, 941)

② ADA 1990 SECT. 502, 42 USC SECT. 12202.  
PRAKEL V INDIANA, 100 F SUPP 2d 661.

③ A WILLFUL AND INDIFFERENCE BY DENYING ALL ACCOMMODATIONS VIOLATION OF ADA 1990, 102 (B)(5)(A), 42 USC 12112 (B)(5)(A).

④ NOT EXCEEDING \$55,000.00 FOR 1/9/20  
NOT EXCEEDING \$110,000 FOR 1/17/20  
42 USC 12158

⑤ FILING A SUIT IN FEDERAL COURT  
28 CFR 36.501, FOR RELIEF, WYATT V WASHINGTON  
76 F SUPP 2d 1067 (CD CAL 2000).

WHEN HERSHERS NOTED THE COURT THAT HE NEEDED  
ACCOMMODATIONS FOR AMPLIFICATION DEVICES FOR  
THE COURT HEARINGS OF 11/20 AND 11/180,  
HERSHIPS IS A QUALIFIED INDIVIDUAL WITH A  
DISABILITY AS HE IS A DEFENDANT IN A  
CRIMINAL CASE SEEKING A COURT HEARING  
ON THE ABILITY TO PAY RESTITUTION.

FALLING TO ACCOMMODATE THE COURT'S BEST MEANS  
THE FIRST TEST OF "DELIBERATE INDIFFERENCE"  
THE SECOND TEST IS THE COURT DELIBERATE  
SATISFY ITS DUTY TO ACT IN RESPONSE TO  
ACCOMMODATE HERSHIP'S REQUEST DURING  
200 F3D AT 1139-40. IT WAS THE COURT'S  
DUTY TO UNDERTAKE A FACT-SPECIFIC  
INVESTIGATION TO HERSHIP'S DISABILITY. AT 1039.

THESE FAILURES OF THE SUPERIOR COURT, DENIED  
LEGAL REPRESENTATION IN CRIMINAL CASE  
AS HERSHERS CHASED BE'S CONSTITUTION TO  
CONFESSION OF GUILTY WITHOUT LEGAL REPRESENTATION  
WHEREAS HERE THAT IS WHAT THE COURT  
DID AND SUFFERED HERSHIP'S TO 6 MONTHS  
COURT SHALL BE HELD TO PROVIDE RESTITUTION,  
WHEN THE COURT MUST FIRST DETERMINE  
THAT HERSHIP'S HAD THE ABILITY TO DO SO.  
BENDEN V GEORGETA 461 US 660 (1983). APP 34

IT IS AXIOMATIC THAT A REVENUE DEPENDENT  
HHS RIGHT TO COMMUNICATE WITH APPOINTED  
LEGAL COUNSEL. THERE AREAL A COUNSEL MEMBER  
COULD COMMUNICATE WITH HERSHORS AS NO  
IMPLICATION DEVISE WAS EVER PROVED.

THE COURTS COULDN'T VIOLATE THE  
14TH AMENDMENT, AS THIS COULDN'T  
PREVENTED A LEGAL PROSECUTOR FROM  
HERSORS HAD NO ABILITY TO PAY  
RESISTANCE AS HERSORS ONLY THROUGH  
A PROSECUTOR'S BENEFITS, WITHOUT KENSON  
ATTORNEYS TO ATTACHED TO THE PRO  
WAS RESERVED.

HENS HRS HAS A RESERVATION UNDER 40 USC  
10131(C) HRS OF HERRE LIMITED IN A  
MAYOR LIFE SECURITY ADA SET SEC. 42 USC  
12102(C)(2), HRS IS PROTECTED BY THE  
ADA, AND THAT THIS COURT REFUSED  
ACCOMMODATIONS TO PREVENT ALL DONE  
IN BROAD BIRTH EFFORT TO PREVENT  
A HERREDS ON ABILITY TO PAY HERREDS  
REQUIRED BY BERRON RULES.

THE SUPREME COURT NEW HABIT THERE  
WAS A MEMORANDUM ON ABILITY TO PAY APP 35  
HERREDS WOULD PREVENT SO THE COURT  
BLOCK THE HERREDS, A 504 VIOLATION

THE COURT'S DELIBERATE INDIFFERENCE DOCUMENTS  
THE COURT'S DISSENTMENTED GUEST THE FUNDAMENTAL  
RIGHT THAT WAS AN ISSUE BE THE RIGHT TO LEGAL  
REPRESENTATION IN A CRIMINAL CASE.

HERE HERSHIPS NEVER WAS REPRESENTED TO  
COMMUNICATE WITH APPROVED LEGAL COUNSEL  
AS THE COURT NEVER PROVIDED ANY ASSISTANCE  
DEVICES, AND MADE NO EFFORTS INTO HERSHIPS'  
REQUEST.

TITLE II, AS APPLIES TO THE CASES OF CASE  
MILITARY THE FUNDAMENTAL RIGHTS OF  
INDIVIDUALS, CONSTITUTES A VIOLATION EXERCISE OF  
CONGRESS' POWER'S AUTHORITY TO ENFORCE  
THE CONSTITUTION AND THE 14TH AMENDMENT.  
TENNESSEE V LANE 541 US AT 332-34.

HERE THE COURT STATED HERSHIPS  
TO BE A CRIMINAL COURT CASE AND NOT A  
CIVIL REPRESENTATION THE DEPARTMENT.  
IT AM REQUESTS A REPRESENTATION WITH AN  
S OBY, AND ENFORCEMENT BY US JUDICIAL  
OFFICE.

2/1/20

2/1/20

Superior Court of California  
County of Santa Clara

191 North First Street  
San José, California 95113  
(408) 882-2700

REBECCA J. FLEMING  
Chief Executive Officer

ADMINISTRATION



April 8, 2020

**CONFIDENTIAL**

Howard Hershops  
701 S. Able Street  
Milpitas, CA 95035  
Email: hhershops@gmail.com

Re: Correspondence regarding Case Number BB517233

Dear Mr. Hershops,

This is in response to the correspondence the Court received on February 24, 2020 in case #BB517233. Due to recent events, it has taken some time to look into this matter. I apologize for the delayed response.

Pursuant to California Rules of Court 1.100(c)(3), an ADA Request (MC-410) must be made as far in advance as possible, and in any event must be made no fewer than five court days before the requested implementation date.

Court records indicate no ADA Request (MC-410) was made with the Court's ADA Coordinator prior to the scheduled hearing of January 17, 2020. Likewise, there is no record of a request made, in court, with the Judge for a listening device on the day of the hearing. Assistive listening devices are available in all courtrooms at the Hall of Justice.

In the future, you may contact the ADA Coordinator directly for assistance of your ADA Request by e-mail at [adacoordinator@scscourt.org](mailto:adacoordinator@scscourt.org) or by phone at (408) 882-2755. If you have any questions regarding the Court's response, please let me know.

Sincerely,

*Georgia Ku*

Georgia Ku  
ADA Coordinator  
Superior Court of California,  
County of Santa Clara

**APP 37**

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IN THE SUPERIOR COURT OF THE STATE OF CALIFORNIA  
IN AND FOR THE COUNTY OF SANTA CLARA  
BEFORE THE HONORABLE DREW C. TAKAICHI, JUDGE

THE PEOPLE OF THE STATE OF CALIFORNIA, )  
PLAINTIFF, )  
VS. )  
HOWARD RALPH HERSHIPS, )  
DEFENDANT. )

Case No.: BB517233

TRANSCRIPT OF PROCEEDINGS

JANUARY 17, 2020

Volume 3, Pages 601-607

**APP 38**



[START BB517233 People vs. Herships 1-17-20 D42.mp3]

MALE VOICE 1: -calendar, [unintelligible], the matter of Mr. Herships.

JUDGE DREW TAKAICHI: Just one moment.

MALE VOICE 1: [unintelligible] 9:15 or nine o'clock?

THE CLERK: 9:15.

MALE VOICE 1: Okay, [unintelligible]?

JUDGE TAKAICHI: Yes. And the Defendant is present, in custody, being assisted by the amplification audio system of the court.

MALE VOICE 1: Hi, I'm [unintelligible] on behalf of the person who is presently in custody. Your Honor, this was not a previously Public Defender matter, but the Public Defender is happy to receive or - or be appointed to represent Mr. Herships since he is in custody and is not presently [unintelligible].

This matter is quite old. Probation would have terminated years ago, but it has been sitting in revoked status. Mr. Herships indicates to me he [unintelligible] [crosstalk]

MS. STORTON: [Interposing] Your Honor, I'm sorry, I couldn't hear counsel, Your Honor.

MALE VOICE 1: Sure. He was being transported from Plasser [phonetic] County on January 2<sup>nd</sup>, so he has been sitting in custody on this 2005 case, I believe originally, for a number of days. He is not in a

**APP 39**

1  
2 position to pay the restitution today. He continues to  
3 receive disability benefits. I believe that the People's  
4 request is that he be sentenced to a year in custody.  
5 Our request is that Mr. Herships be released as he has  
6 been in custody, as he represents, since the 2<sup>nd</sup> of this  
7 month.

8 JUDGE TAKAICHI: Ms. Storton?

9 MS. STORTON: So, the Defendant owes \$5,615.13 to  
10 Victim's [unintelligible]. He has never made a payment.  
11 Throughout the probationary pre - before he disappeared,  
12 Your Honor, for over eight years, he falsely claimed, on  
13 numerous occasions that payments had been stayed pending  
14 appeal. That was never proven. He played games for  
15 years on this case until being convicted, and then played  
16 games even after being convicted. He was at large for  
17 eight and a half years.

18 Even while he was at large, he had the ability -  
19 this man has the ability to work, Your Honor, and do  
20 something productive, but chooses not to. While he was  
21 at large, he filed a document in 2018 complaining about a  
22 couple of our judges in this county, which was sort of  
23 consistent with his behavior throughout the pendency of  
24 this case.

25 We know that he committed, in July of 2019, out of  
26 county, a vehicular violation of 23.23.5, driving while  
27 using a cellphone. So, he is paying money for a  
28 cellphone. He is filing documents. He is on the lam.

**APP 40**

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But he is not paying restitution. So, we are asking the Court, either sentence him to the maximum term of one year in county jail, or if the Defendant wants to start getting serious about paying restitution, the Court should impose a new three year grant requiring him to make payments and keep him on a monthly court review schedule. That is the only thing that might - might bring forth some money. But to date, he has done nothing on this case.

JUDGE TAKAICHI: And counsel?

MALE VOICE 1: Your Honor, it is the Defense's position that Mr. Hershops' conduct in alleging that certain judges are biased against him, and claiming that [unintelligible] pending appeal has a lot more to do with a like a 1368 type status rather than any malice by Mr. Hershops. He continues to have sort of beliefs that I don't necessarily argue the reality with respect to some federal lawsuits that he has pending against both his victim and various government agencies.

Based on my brief discussion with him here, and [unintelligible] he receives disability benefits, I don't think he is in a position to pay. I don't think he has been fleeing the jurisdiction. I think, quite frankly, he just had no idea that this matter was pending, and he is sort of moved to a different county and living [unintelligible].

JUDGE TAKAICHI: So, let me ask, do we need to

**APP 41**

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formally set a hearing for a BOP and or sentencing? So,  
I can hear all the circumstances? It doesn't sound like  
there is going to be agreement plan proposed. So,-

MS. STORTON: [Interposing] Well, is the - is the  
Defendant going to tell the Court that he is now going to  
be in agreement to follow the Court's orders, which are  
to pay restitution?

JUDGE TAKAICHI: Well, I'm hearing that, that  
doesn't sound like it is going to be the case, because  
the - the inference from the offer of proof is he is  
claiming he may not have ability to pay.

MS. STORTON: Well, if he is rejecting probation,  
and probation conditions, Your Honor, the Court should  
simply sentence him. Which the Court has the right to  
do, whether he is in violation or not.

JUDGE TAKAICHI: That is true. So, why don't we go  
ahead then with sentencing on this matter. Anything  
further to add to your offer of proof, regarding the  
Court's consideration for sentencing?

MS. STORTON: No, Your Honor, I will submit the  
matter.

JUDGE TAKAICHI: Anything further, counsel, on the  
issue of sentencing?

MALE VOICE 1: No, Your Honor, submitted.

JUDGE TAKAICHI: All right. So, probation, by its  
terms - well, first of all, was in revoke status. It has  
since expired. So, probation is terminated. Based on

**APP 42**

1  
2 the circumstances presented, to the Court, relatively  
3 larger sum of restitution owed, has nothing paid since  
4 2005 on restitution.

5 I am hearing that the Defendant was receiving  
6 disability benefits. He had some limited ability to make  
7 payments on restitution, but chose not to. I did not  
8 hear any information that would contradict the People's  
9 argument that the Defendant was at large for eight and a  
10 half years. I didn't hear anything that would controvert  
11 that he also incurred another violation of the law.

12 Under these circumstances, the Court will impose a  
13 six month county jail sentence. Probation is, of course,  
14 terminated. Defendant will get his credits for his  
15 recent in custody status. I think I heard January 2nd-

16 MS. STORTON: [Interposing] 16 plus 16, for 32, Your  
17 Honor.

18 JUDGE TAKAICHI: I will credit, for time served, 16  
19 plus 16. And that will conclude the matter.

20 [END BB517233 People vs. Herships 1-17-20 D42.mp3]

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27 **APP 45**

1 People v. Howard Ralph Hershops

2 Case# BB517233

3 Hearing Date: January 17, 2020

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6 C E R T I F I C A T E

7  
8 I, Joyce A. Waser, a transcriber for Ubiquis do hereby  
9 certify: That said proceeding were listened to and  
10 transcribed by me and were prepared using standard  
11 electronic transcription equipment under my direction and  
12 supervision; and I hereby certify that the foregoing  
13 transcript of the proceedings is a full, true, and accurate  
14 transcript to the best of my ability.

15 I further certify that I am neither counsel for nor  
16 related to any party to said action, not in any way  
17 interested in the outcomes thereof.  
18 In witness whereof, I have hereunto subscribed my name this  
19 23<sup>rd</sup> day of June 2020.  
20

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22 *J. Waser*

23 Signature of Transcriber  
24  
25

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27 **APP 46**

SCANNED

**FILED**  
FEB 28 2020

Clerk of the Court  
Superior Court of CA County of Santa Clara  
BY \_\_\_\_\_ DEPUTY

HOWARD HERSHENS (DVW179)

701 SABLE ST

BLANWOOD COMMUNITY  
MAYPETS, CA 95035

LUPRO PER

SUPERIOR COURT OF CALIFORNIA  
FOR THE COUNTY OF SANTA CLARA

PEOPLE OF THE STATE  
OF CALIFORNIA,

PLAINTIFF,

VS

HOWARD HERSHENS,

DEFENDANT,

CASE NO. BB 517233

NOTICE OF MOTION TO  
CORRECT ERROR IN  
PRESENTENCE CREDITS

DATE: FEB. 28, 2020

TIME: 9:15 AM

DEPT: 42

TO: THE DISTRICT ATTORNEY OF SANTA CLARA  
COUNTY

PLEASE TAKE NOTICE, THAT ON FEB 28, 2020 OR  
AS SOON THERE AFTER AS DEFENDANT MAY BE  
HEARD IN COURT ROOM OF THE ABOVE ENTITLED  
COURT, DEFENDANT WILL MOVE COURT FOR  
AN ORDER CORRECTING THE ERRONEOUS  
COMPUTION OF PRESENTENCE CREDITS GIVEN  
DEFENDANT ON JAN 17, 2020, AND TO ORDER  
APPROPRIATE CREDIT FOR PRESENTENCE  
CUSTODY TIME

APP 47

**FILED**  
MAR 03 2020

Clerk of the Court  
Superior Court of CA County of Santa Clara  
BY Kenny Resz DEPUTY

SUPERIOR COURT OF CALIFORNIA  
COUNTY OF SANTA CLARA

In re

Case No. BB517233

HOWARD HERSHIPS,

ORDER

Ex Parte.

Howard Hershships, hereinafter referred to as Defendant, has filed an ex parte motion in which he claims that he is entitled to additional credits based upon the terms and conditions of probation that were initially imposed in this matter on October 2, 2009.

At sentencing in 2009, Defendant was placed on formal probation, and a one-year jail sentence was imposed and suspended. As a condition of probation, Defendant was ordered to serve thirty (30) days in jail.

On January 17, 2020, this Court imposed a six-month jail term based upon Defendant's violation of probation, and further ordered that probation will terminate upon Defendant's release from custody. Because the Court did not terminate probation and reinstate the previously imposed one-year term,

ORDER  
(HOWARD HERSHIPS; BB517233)

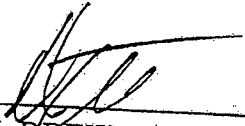
**APP 48**



1 Defendant is not entitled to his prior credits against his present sentence, which is  
2 a term of his probation and a consequence of his violation of that probation.

3 Based upon the orders that this Court issued on January 17, 2020, the  
4 sentence of one-year in the county jail, imposed on October 2, 2009, is hereby  
5 deleted.

6  
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8 Dated: 03.03, 2020.

  
HON. DREW TAKAICHI  
JUDGE OF THE SUPERIOR COURT

9  
10 cc Petitioner  
11 District Attorney

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IN THE SUPERIOR COURT OF THE STATE OF CALIFORNIA  
IN AND FOR THE COUNTY OF SANTA CLARA  
BEFORE THE HONORABLE DREW C. TAKAICHI, JUDGE

THE PEOPLE OF THE STATE OF CALIFORNIA, )

PLAINTIFF, )

VS. )

Case No.: BB517233

HOWARD RALPH HERSHIPS, )

DEFENDANT. )

TRANSCRIPT OF PROCEEDINGS

MARCH 6, 2020

Volume 4, Pages 901-905

**APP 50**

UBIQUE REPORTING, INC., 2222 MARTIN STREET, SUITE 212, IRVINE, CA 92612 (800) 979-5009

1 (START BB517233 People vs. Hershships 3-06-20 D42.mp3)

2 MALE VOICE 1: This is Mr. Hershships. Line 19. Your  
3 Honor, Judge Takaichi had sentenced Mr. Hershships to PTOR  
4 six months, from the restitution calendar, I believe.  
5 Mr. Hershships filed a motion directly to the Judge, asking  
6 for certain credits that he had gotten from the original  
7 sentence, to be added to this sentence. Judge Takaichi  
8 filed an Order, which I have given to Mr. Hershships,  
9 denying that request. I believe this motion - I believe  
10 that precludes this Court from doing - taking any action  
11 on it today. But Mr. Hershships would like to address the  
12 Court.

13 MR. HOWARD HERSHIPS: I (unintelligible) well, this  
14 is an area is regarding a (unintelligible) by another  
15 Judge, I can't overrule (unintelligible). The problem we  
16 have here, Your Honor, is the fact that I wasn't really  
17 represented in - in the original proceedings, because I  
18 didn't have my hearing aids. And the Court couldn't give  
19 me my - any (unintelligible) rights.

20 JUDGE DREW TAKAICHI: Did you ask for one?

21 MR. HERSHIPS: Yes, I did.

22 JUDGE TAKAICHI: And what proof of that do you have?

23 MR. HERSHIPS: Excuse me?

24 JUDGE TAKAICHI: What is your proof that you asked  
25 for a hearing aid device?

26 MR. HERSHIPS: I asked for the bell. I told him I  
27 couldn't hear anything.

**APP 51**

1 MALE VOICE 1: So, if you'd like, [unintelligible]  
2 we can pull the recording from that day. And  
3 [unintelligible]. If you would like to do that. But  
4 that's not-

5 JUDGE TAKAICHI: [Interposing] Do you want to put it  
6 over-

7 MALE VOICE 1: -rule on it today.

8 MR. HERSHIPS: Well, you know,-

9 JUDGE TAKAICHI: [Interposing] He is basically  
10 asking for a reconsideration.

11 MR. HERSHIPS: Yeah, I was asking for a  
12 reconsideration.

13 JUDGE TAKAICHI: All right. Then, we are going to  
14 put it over, so your attorney can investigate your  
15 obligations.

16 MR. HERSHIPS: First of all, I never had a hearing-

17 JUDGE TAKAICHI: [Interposing] Okay. I don't think  
18 you are hearing me at all. So, I am going to say it  
19 again. We are putting it over so your attorney can  
20 investigate your allegation. And also make a motion for  
21 reconsideration. What date would you like?

22 MALE VOICE 1: How much longer do we have-

23 MR. HERSHIPS: [Interposing] As soon as possible,  
24 because if I get my [unintelligible] I'm being released  
25 on Monday.

26 MALE VOICE 1: Let's try next week.

27 JUDGE TAKAICHI: Say it again.

**APP 52**

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MALE VOICE 1: Let's try next Friday.

JUDGE TAKAICHI: Okay. All right. We will put the matter over until March 13 at nine o'clock for further proceedings.

MALE VOICE 1: Thank you, Your Honor.

THE CLERK: [unintelligible]?

JUDGE TAKAICHI: PD is appointed.

[END BB517233 People vs. Hershops 3-06-20 D42.mp3]

**APP 53**

1 People v. Howard Ralph Herships

2 Case: BB517233

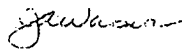
3 Hearing Date: March 6, 2020

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6 C E R T I F I C A T E

7  
8 I, Joyce A. Waser, a transcriber for Ubiquis do hereby  
9 certify: That said proceeding were listened to and  
10 transcribed by me and were prepared using standard  
11 electronic transcription equipment under my direction and  
12 supervision; and I hereby certify that the foregoing  
13 transcript of the proceedings is a full, true, and accurate  
14 transcript to the best of my ability.

15 I further certify that I am neither counsel for nor  
16 related to any party to said action, not in any way  
17 interested in the outcomes thereof.

18 In witness whereof, I have hereunto subscribed my name this  
19 23<sup>rd</sup> day of June 2020.

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22 Signature of Transcriber

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26 **APP 54**

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IN THE SUPERIOR COURT OF THE STATE OF CALIFORNIA  
IN AND FOR THE COUNTY OF SANTA CLARA  
BEFORE THE HONORABLE DREW C. TAKAICHI, JUDGE

THE PEOPLE OF THE STATE OF CALIFORNIA, )  
 )  
 ) PLAINTIFF, )  
 )  
 ) VS. )  
 )  
 ) HOWARD RALPH HERSHIPS, )  
 )  
 ) DEFENDANT. )

Case No.: BB517233

TRANSCRIPT OF PROCEEDINGS

MARCH 13, 2020

Volume 5, Pages 1201-1204

**APP 55**

UBIQUUS REPORTING, INC., 2222 MARTIN STREET, SUITE 212, IRVINE, CA 92612 (800)979-5009

1 [START BB517233 People vs. Hershops 3-13-20 D42.mp3]

2 JUDGE DREW TAKAICHI: All right. That is Howard  
3 Hershops, Line 12.

4 MR. STEWART: Your Honor, this is a matter where  
5 there was a credits issue. Judge Takaichi issued an ex-  
6 parte ruling in this matter last week. This continued it  
7 a week for the - for the Public Defender to look into it.

8 JUDGE TAKAICHI: Okay.

9 MR. STEWART: We believe that a court date in front  
10 of Judge Takaichi would be the best way to resolve this.

11 JUDGE TAKAICHI: Okay.

12 MR. STEWART: May we have one next week?

13 JUDGE TAKAICHI: I don't know where he is now.

14 MR. STEWART: I don't either.

15 MS. STORTON: Your Honor, we will object to that.  
16 Judge Takaichi currently already made a ruling. He was  
17 the one who sentenced the Defendant in the case. There  
18 is nothing wrong with the credits. The Defendant  
19 currently has an appeal. All issues are going to be  
20 addressed through the appeal.

21 [CROSSTALK]

22 JUDGE TAKAICHI: When did - when did Judge Takaichi  
23 make a ruling?

24 MR. STEWART: So, Judge Takaichi made a ruling to  
25 remand my client originally, without a hearing - without  
26 a finding of BOP. Then issued a ruling on client's ex-  
27 parte contact regarding reconsideration. We believe that



1 both of those required a hearing. And we would like to  
2 see Judge Takaichi to at least have the reconsideration  
3 be done in open court rather than ex-parte.

4 MS. STORTON: The People disagree with Mr. Stewart's  
5 characterization of what has happened, Your Honor. The  
6 Defendant was sentenced. The Judge ordered probation to  
7 terminate upon release. He filed an appeal. His request  
8 for additional credits has been denied. We believe the  
9 case should go off calendar.

10 JUDGE TAKAICHI: The matter is off calendar.  
11 Request is denied.

12 MR. HERSHIPS: Can I address the issue, Your Honor?

13 JUDGE TAKAICHI: No, we are done. All right, next  
14 matter.

15 [END BB517233 People vs. Hershops 3-13-20 D42.mp3]  
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APP 57

1 People v. Howard Ralph Hershops

2 Case# BB917233

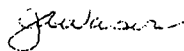
3 Hearing Date: March 13, 2020

4  
5  
6 C E R T I F I C A T E

7  
8 I, Joyce A. Waser, a transcriber for Ubiquis do hereby  
9 certify: That said proceeding were listened to and  
10 transcribed by me and were prepared using standard  
11 electronic transcription equipment under my direction and  
12 supervision; and I hereby certify that the foregoing  
13 transcript of the proceedings is a full, true, and accurate  
14 transcript to the best of my ability.

15 I further certify that I am neither counsel for nor  
16 related to any party to said action, not in any way  
17 interested in the outcomes thereof.

18 In witness whereof, I have hereunto subscribed my name this  
19 23<sup>rd</sup> day of June 2020.

20  
21 

22  
23 Signature of Transcriber

24  
25 **APP 58**

SANTA CLARA COUNTY  
DEPARTMENT OF CORRECTION

VISITOR'S PROPERTY RECEIPT

Date 11/21/2020 20\_\_

Received From Akershyns, Howard

Street Address Dw 717 / 20000957

City \_\_\_\_\_ State \_\_\_\_\_ Zip \_\_\_\_\_

RECEIVED FOR ACCOUNT OF \_\_\_\_\_ BOOKING NO. \_\_\_\_\_

The Following Monies or Articles Described Below

CASH  MONEY ORDER  AMOUNT \$  
CHECK  MAIL

DESCRIPTION (Itemize/Date below)		AMOUNT	DATE
[REDACTED]			
[REDACTED]			
[REDACTED]			
[REDACTED]			
[REDACTED]			

REMARKS \_\_\_\_\_

TO BE USED FOR BAIL

RECEIPT NO. \_\_\_\_\_ RECEIVED BY \_\_\_\_\_

1003158 [Signature] #10608

6617A REV. 8/06 OFFICER'S SIGNATURE NO. 430.03  
VANGUARD PRINTING 650-568-9921 27444-CG

County of Santa Clara  
Law Offices of the Public Defender  
120 West Mission Street  
San Jose, California 95110  
(408) 299-7700 FAX (408) 938-1106



Molly O'Neal  
Public Defender

July 1, 2022

Howard Hershops  
Email: [hhershops@gmail.com](mailto:hhershops@gmail.com)  
*Sent via email*

Re: June 5, 2022 CPRA request

Dear Mr. Hershops:

The Santa Clara County Office of the Public Defender is in receipt of your 6/5/2022 email to Aryn Harris with County Counsel requesting certain records from the Public Defender's Office. As I previously communicated to you, my office first became aware of your request on 6/21/2022. Specifically, you wrote:

Ms. Harris,

I am requesting pursuant to 28 CFR section 35.105 (c) (1) (2) (3) of the Self-evaluations done under the Americans with Disability Act for both the Public Defender's Office as well as the County Jail.

The relevant sections of the Federal Regulations 28 CFR section 35.105 (c) (1) (2) (3) requires a description of areas examined and any problems identified and the description of any modification made.

--  
Howard Hershops

The Public Defender's Office has no records that are responsive to your request.

Kind regards,

Charlie Hendrickson  
Assistant Public Defender  
Santa Clara County

**APP 60**

Chief Assistant Public Defender: Jose G. Guzman  
Assistant Public Defenders: Damon Silver, Charlie Hendrickson, Sarah McCarthy

5/23/2022

Gmail - Submitted Filing Notification for Case No. 20AP002650 (People vs Howard Hershships)



Howard Hershships <hhershships@gmail.com>

# Submitted Filing Notification for Case No. 20AP002650 (People vs Howard Hershships)

1 message

no-reply@efilingmail.tylertech.cloud <no-reply@efilingmail.tylertech.cloud>  
To: hhershships@gmail.com

Mon, May 23, 2022 at 7:51 AM

## Filing Submitted

Envelope Number: 9043722

The filing below has been submitted to the clerks office for review. Please allow up to 24 business hours for clerk office processing.

Contact Your Service Provider With Any Questions



ODYSSEY  
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No Lawyer? Start Here  
Need Help? Help Visit: <https://california.tylerhost.net/ofswb>  
Email: [efiling.support@tylertech.com](mailto:efiling.support@tylertech.com)

### Filing Details

Court	Santa Clara Superior Court
Date/Time Submitted:	5/23/2022 7:51 AM PST
Filing Type:	Motion (No Fee)
Activity Requested:	EFile
Filed By:	Howard Hershships

### Fee Details

Waiver Selected  
Case Fees \$0.00  
Motion (No Fee) \$0.00  
Grand Total \$0.00

Total: \$0.00

**APP 61**

### Document Details

Lead File:	File.PDF
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5/23/2022

Gmail - Submitted Filing Notification for Case No. 20AP002650 (People vs Howard Herships)

Lead File Page Count:	36
File Copy	<a href="https://california.tylerhost.net/ViewDocuments.aspx?FID=c4383ba9-305d-4dc3-a917-170e83c260f6">https://california.tylerhost.net/ViewDocuments.aspx?FID=c4383ba9-305d-4dc3-a917-170e83c260f6</a> This link is active for 365 days.



ODYSSEY  
**eFileCA**

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California E Filing Disclaimer: This is an official government communication. As the recipient, you are responsible for the lawful use of this information. This e-mail and any attachments are intended solely for the individual or agency to which they are addressed. They may be confidential and/or contain privileged or otherwise non-public information. Do not disseminate this e-mail and any attachments unless you are authorized to do so under applicable court rules or statutes. If you are not the intended recipient of this e-mail, do not copy, distribute, or take any action in reliance upon this e-mail or any attachments and delete this e-mail and any attachments immediately. Please consider the environment before printing this e-mail.

**APP 62**

1 Howard R. Herships  
2 P.O. Box 1501  
3 Carmichael, Ca 95609-1501  
4 Ph. 415 933-5190  
5 hherships@gmail.com

6 In Pro Se

7 IN THE SUPERIOR COURT OF CALIFORNIA  
8 COUNTY OF SANTA CLARA  
9 APPELLATE DIVISION

10  
11 People of the State of California,  
12 Plaintiff,

13 vs.

14 Howard Ralph Herships,  
15 Defendant

Case No.: 1-20-AP-002650

DEFENDANT'S APPLICATION AND  
MOTION PURSUANT TO RULES 8.806 &  
8.808 0TO DISQUALIFY THE  
APPELLATE DIVISION OF THE SANTA  
CLARA COUNTY SUPERIOR COURT  
TO HEAR THIS APPEAL OF RIGHT AS  
THE COURT HAS A "DIRECT,  
PERSONAL ,SUBSTANTIAL, [AND],  
PECUNIARY" INTEREST IN THE CASE  
CONSTITUTIONALLY PROHIBITING  
ANY MEMBER OF THE SANTA CLARA  
COUNTY SUPERIOR COURT FROM  
HEARING AN APPEAL OF RIGHT

16  
17  
18  
19  
20  
21 To the Presiding Judge of the Appellate Division of the Superior Court of Santa Clara  
22 County, the Clerk of the above entitled Court, and all involved counsel:

23 Defendant moves this Court for an order disqualifying the Appellate Division of this  
24 Court to hear this appeal of right as the issues on the face of the record shows and proves  
25 that the Santa Clara County Superior Court violated Defendants rights under the  
26 Americans with Disability Act when at all times the Santa Clara County Superior Court  
27

28 MOTION TO DISQUALIFY THE SANTA CLARA SUPERIOR COURT APPELLATE PANEL

PAGE 1

**APP 63**

1 was already under a "Settlement" with the United States Department of Justice see Exhibit  
2 1.

3  
4 Defendant asked for assisted listening devices and the Court never made any  
5 inquiries and proceeded in its untoward ways, which violated the conditions of the  
6 settlement.

7 The records of the January 17, 2020, court transcript show these violations of Title  
8 28 CFR § 35.160 (b) (2) by the Superior Court of both the Settlement Agreement with the  
9 United States Department of Justice and 28 CFR § 35.160 (b) (2).and attached as Exhibit 1.  
10

11 The record in this case presented more than mere allegations of violations of ADA  
12 but by actual denial to disabled defendant the use of his hearing aids which denied legal  
13 representation in a criminal case. Appellant also presents proof that Santa Clara County  
14 never implemented a Federal Consent Decree requiring the implementation since March  
15 20, 2019 see Exhibit 2.  
16

17 The Santa Clara County Jail who at all times was under a Federal Consent Decree  
18 in Chavez vs. Santa Clara County requiring that the County comply with 28 CFR § 35.160  
19 (b) (2) for prisoner in custody who posses their own hearing aids.  
20

21 These acts done by the Santa Clara County Superior Court who was already on  
22 notice of the "Settlement with the United States of America" shows a "Discriminator  
23 Animus" by the Santa Clara County Superior Court.

24 These violations after the United States Department of Justice Settlement put the  
25 Court on record of their obligations and did nothing to protect the disabled defendant.  
26

27 In fact, the Judge Drew Takaichi further retaliated against the disabled defendant  
28

**APP 64**



1 when the Judge refused to hold a hearing mandated by both a California Supreme Court  
2 decision in *People vs. Lara* 54 Cal 4<sup>th</sup> 896 at 903, (2012) that required a hearing with legal  
3 representation as the United States Supreme Court in *Wolff vs. Mc Donnell* 418 U.S. 539 at  
4 566-567 (1974) held that prisoner has a liberty interest in receive prisoner's conduct credits.

5  
6 Defendant filed in Pro Se motion for conduct credits with the Superior Court Santa  
7 Clara County requesting a hearing on Feb. 26, 2020.

8  
9 On March 3, 2020, the trial court denied those credits Ex Parte which was in excess  
10 of the Court's jurisdiction under *All Auto Equity Sales vs. Superior Court* 57 Cal 2<sup>nd</sup> 450  
11 (1962) as the California Supreme Court in *People vs. Lara* 54 Cal 4<sup>th</sup> 896 at 903, held that  
12 2900.5 credit vest with the prisoner and that the Court has no discretion to deny those  
13 credits as California Rules of Court, Rule 4.130 requires the Sheriff to calculate those days  
14 a prisoner in being held in custody. See Exhibit 3

15  
16 Additionally, the California Supreme Court held that the controlling Federal Law  
17 requires that a "liberty interest" applies under *Wolff vs. Mc Donnell* 418 U.S. 539 at 566-  
18 567 and that a Superior Court is required to hold a hearing.

19  
20 However, here the Superior Court Judge decided to retaliate against Defendant  
21 knowing that Defendant being hearing impaired would have no ability to contest the  
22 Court's retaliation, which the Court proceeded to further punish Defendant due solely  
23 because of defendant's disability without any means of contesting the Judge's ruling.<sup>1</sup>

24  
25  
26  
27 <sup>1</sup> Petitioner had filed a Writ of Mandate on Jan. 29, 2020 with the Sixth Appellate District  
28 addressing Petitioner's hearing impairments and the denial of any ability to communicate with either the Court or  
appointed legal counsel. The Court was served electronically so the Judge knew at all times that defendant was

1 These acts shows actual retaliation as defined by Title 42 U.S.C. sections 12203,  
2 12132 and 12133

3  
4 Moreover, Defendant filed a Writ of Mandate in to the Sixth Appellate District and  
5 the Court order responsive pleading on Feb. 7, 2020, and gave Defendant 15 days to file  
6 any reply.

7 In fact, the Deputy District Attorney Kaci Lopez refused to serve any responsive  
8 pleading on defendants and then falsely represented to the Sixth Appellate Court (1) that  
9 the violations under the ADA were "moot" because Defendant was released and (2) that by  
10 proving a direct feed from the Judge's bench complied with 28 CFR § 35.160 (b) (2) both  
11 contentions were actually beyond frivolous but were actually done to retaliate against  
12 Defendant in violation of Title 42 U.S.C. sections 12203, 12132, and 12133.

13  
14 Moreover, Deputy District Attorney Kaci Lopez actually concealed from the Sixth  
15 Appellate District that the Santa Clara County Superior Court was in violation of a  
16 Settlement Agreement with the United States of America under the ADA which requires  
17 the Court to inquire the best assisted hearing deceives so that the party can communicate,  
18 whereas here all Defendant was requiring was Defendants hearing aids specially set for  
19 Defendants hearing impairment, which was denied.

20  
21 These acts were also done in retaliation by the Santa Clara Public entity as (1) there  
22 is no "mootness" from violations such as these as acts of retaliations are a cause of action  
23 under Title 42 U.S.C. section 12133 pursuant to Title 29 U.S.C. § 794 (a) for damages as  
24  
25

26  
27 **APP 66**

28 hearing impaired and decided to retaliated against Defendant in violation of 42 U.S.C. sections 12203, 12132 and 12133.

MOTION TO DISQUALIFY THE SANTA CLARA SUPERIOR COURT APPELLATE PANEL

PAGE 4

1 both the County and State have no immunity and (2) it is Defendant's choice of just what  
2 assisted hearing device that a party can request and at all that was necessary was to release  
3 Defendants' hearing aids held by the Santa Clara County.  
4

5 Defendant herein moves this Court to disqualify itself in this appeal of rights and  
6 transfer this case to the California Supreme Court as here the issue of disqualification is a  
7 Constitutional issue as clearly the Santa Clara County Superior Court has a "direct stake  
8 in the outcome of this case, because the Court can be held liable for violations of under  
9 Title 29 U.S.C. section 794 (a) as the Ninth Circuit put it in *Updike vs. Multnomah County*  
10 *870 Fed 3rd 939 (9<sup>th</sup> Cir 2017 Cert Denied)* stated the law as follows:  
11

12 "Nor could the County or State really dispute this:  
13 The State and County's alleged failure to provide  
14 Updike with an ASL interpreter or the use of  
15 auxiliary services constitute concrete and  
16 particularized injuries sufficient to satisfy  
17 Article-III. Further, Updike's inability to  
18 effectively communicate with corrections staff  
19 or even communicate at all with his lawyer or  
20 family was caused by the Defendants' failure to  
21 provide him with accommodation and meaningful  
22 access. Finally, a decision favorable to Updike  
23 would redress his injuries. *See Lujan,*  
24 504 U.S. at 560-61, 112 S.Ct. 2130."

25 Here a criminal defendant had no ability to communicate to either the Court of  
26 appointed legal counsel and when the defendant requested accommodations Court made no  
27 inquiry to defendant's hearing impairment, which resulted in no legal representation and  
28 sentence to the county jail in violation of Defendants Federal Constitutional Rights.

Moreover, at no time did Defendant have any ability to communicate with legal  
counsel during any of the court proceedings and in fact when Petitioner filed a Writ of

1 Mandate on Jan. 29, 2020, into the Sixth Appellate, the Public Defender's Office withdrew  
2 from legal representation for filing a writ of Mandate against the Public Defender see  
3 Exhibit 4.  
4

5 The United States Supreme Court in *Tumey vs. Ohio* 273 U.S. at 523 "it certainly  
6 violates the Fourteenth Amendment ... to subject [a person's] liberty or property to the  
7 judgment of a court the judge of which has a direct, personal substantial, pecuniary  
8 interest in reaching a conclusion against him in a case."  
9

10 This places the Appellate Division of the Santa Clara County Superior Court  
11 interest in this case turns these violations of the ADA the Santa Clara County Court can be  
12 held liable under Title 29 U.S.C. section 794 (a) as it places this very Court must rule on its  
13 own liability which is prohibited under *In re Murchison* 349 U.S. 133 at 136 (1955) ruling  
14 on its own liability prohibited by the United States Constitution.  
15

16 These undisputed facts places this very court in having to decide if this Court  
17 violated ADA the "settlement" with the United States of America and if these violations  
18 under the ADA resulted a "discriminatory animus" against a qualified individual imposing  
19 liability on this very court.  
20

21 Clearly, this Court cannot hear an Appeal of Right where this court must rule on its  
22 own violations of the Americans with Disability Act in which this very Court was under a  
23 "Settlement Agreement with the United States of America" and was on notice at all times  
24 of continuing course of conduct, which resulted in a cause of action under Title 29 U.S.C.  
25 SECTION 794 (a) for damages against the Santa Clara County Superior Court was  
26 required to affirmatively to effectively implement 28 CFR § 35.160 (b) (2) .  
27

1  
2  
3 **WHEREFORE, Defendant requests that this Court disqualify itself as the violations**  
4 **of the Americans with Disability Act, which proves retaliatory conduct by three public**  
5 **entities as well as the Santa Clara County Superior Court imposing liability under Title 29**  
6 **U.S.C. section 794 (a) for this very conduct.**  
7

8 Dated May 22, 2022

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10 Howard Hershops  
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POINTS AND AUTHORITIES

1

THE RECORD IN THIS CASE PRESENTS MORE  
MERE ALLEGATIONS OF BIAS AND PREJUDICE  
IT SHOWS ACTUAL PROOF OF ACTS OF  
RETALIATIONS AGAINST A QUALIFIED HEARING  
IMPAIRED CRIMINAL DEFENDANT WHO WAS  
RETALIATED AGAINST BECAUSE OF BEING  
HEARING IMPAIRED.

The controlling case law is *Aetna Life Ins. Co. vs. Lavoie* 475 U.S. 813 (1986) in which  
a judge in a 5 to 4 decision require recusal of the court as the Judge had a pecuniary interest in  
the case.

In this case the three judges of the Appellate Panel are all members of the Santa Clara  
County Superior Court who must address issues on a direct appeal of right in which must decide  
if fact the Santa Clara Superior Court violated the Settlement with the United States of America  
for violations of the Americans with Disability Act based upon the failures to inquire into  
defendant's denial of the use of defendants hearing aids which denied defendant any and all  
ability to communicate with court appointed legal counsel.

Moreover here at all times defendant was not only blocked from gaining relief from the  
Court but here the Santa Clara County Public Defender's Office withdrew from legal  
representation abandoning a criminal defendant and the Santa Clara County District Attorney's  
Office refused to provide their opposition to Petitioner's Writ of Mandate.

If those above acts are not enough to show retaliation in violation of 42 U.S.C. Sections  
12203, 12132 and 12133 then clearly, the retaliation by the Santa Clara County Superior Court  
Judge denied Defendant's right to a hearing for the custody credits served on these very charges

**APP 70**

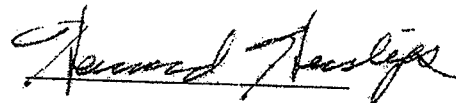
1 And did so in full retaliation in the Judges March 3, 2020. Ex Parte Order which was prohibited  
2 by the California Supreme Court decision in *People vs. Lara* 54 Cal 4<sup>th</sup> 896 at 903 (2012).  
3

4 While the decision in *Aetna Life Ins. Co. vs. Lavoie* only directly effective Justine Embry  
5 the other justice were only had a slight pecuniary interest based upon the class action status in  
6 the Blue Cross class action at 475 U.S. at 826-827.

7 In this case all members being judges of the Santa Clara County Superior Court have a  
8 direct pecuniary interest in the outcome of this appeal as the above violations of the ADA created  
9 a cause of action under Title 29 U.S.C. § 794 (a) imposing damages against the Superior Court as  
10 the ADA accepts Federal Funds therefore waived the 11 th Amendment.  
11

12 This Court cannot hear an Appeal of Right in which the very Court can be sued for  
13 damages under Federal Law as it places the Court to hear their own case prohibited upon see In  
14 re *Murchison* 349 U.S. 133 at 136 (1955).  
15

16 Dated May 22, 2022



18 Howard Herships  
19  
20  
21  
22  
23  
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25  
26  
27

28 **APP 71**

Proof of Service

I declare I am a citizen of the United States, over 18 years and on May 23, 2022,

I cause to be served Defendant's Motion to Disqualify the Appellate Panel of the Superior Court

Santa Clara County Appellate Division in this Appeal of Right

I certified that served the Santa Clara County District Attorney's Office at

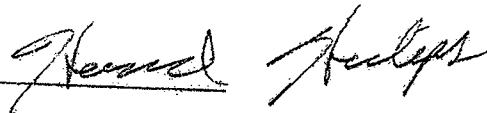
Allyson Bragg, at [abragg@dao.sccgov.org](mailto:abragg@dao.sccgov.org)

Danielle Rich, at [drich1@dao.sccgov.org](mailto:drich1@dao.sccgov.org)

[Motions\\_dropbox@dao.sccgov.org](mailto:Motions_dropbox@dao.sccgov.org)

[saffordlegal@gmail.com](mailto:saffordlegal@gmail.com)

[department12@scscourt.org](mailto:department12@scscourt.org)

By 

Howard Herships

**APP 72**



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Proof of Service

I declare I am a citizen of the United States, over 18 years and on May 23, 2022,

I cause to be served Defendant's Motion to Disqualify the Appellate Panel of the Superior Court

Santa Clara County Appellate Division in this Appeal of Right

I certified that served the Santa Clara County District Attorney's Office at

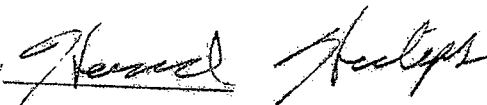
Allyson Bragg, at [abragg@dao.sccgov.org](mailto:abragg@dao.sccgov.org)

Danielle Rich, at [drich1@dao.sccgov.org](mailto:drich1@dao.sccgov.org)

[Motions\\_dropbox@dao.sccgov.org](mailto:Motions_dropbox@dao.sccgov.org)

[saffordlegal@gmail.com](mailto:saffordlegal@gmail.com)

[department12@scscourt.org](mailto:department12@scscourt.org)

By 

Howard Herships

APP 73

Filed  
May 25, 2022  
Clerk of the Court  
Superior Court of CA  
County of Santa Clara  
20AP002650  
By: afloresca

Signed: 5/25/2022 10:33 AM  
*[Signature]*

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8 SUPERIOR COURT OF CALIFORNIA  
9 COUNTY OF SANTA CLARA  
10 APPELLATE DIVISION  
11

12  
13 PEOPLE OF THE STATE OF  
14 CALIFORNIA,  
15 Plaintiff and Respondent,

16  
17 v.

18 HOWARD RALPH HERSHIPS,  
19 Defendant and Appellant.  
20

No. 20AP002650

Trial Ct No. BB517233

**ORDER STRIKING "PRO SE"  
FILING**

21  
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28  
**APP 74**

1 Appellant Howard Ralph Hershops filed a notice of appeal from his  
2 misdemeanor conviction on February 14, 2020. This was followed on February 18,  
3 2020, with a request for appointment of counsel, as Hershops had been represented  
4 by appointed counsel from the Office of the Public Defender in the trial court.  
5 William Safford was appointed as counsel on appeal in this case by order filed April  
6 13, 2020. The record was initially prepared but counsel filed a notice of omission in  
7 August of 2020. That was followed by a motion to augment the record in November  
8 2021, which also noted additional omissions from the normal record on appeal. That  
9 motion to augment was granted by order filed on November 9, 2021. The  
10 augmented record was completed on April 28, 2022, and the appellant's opening  
11 brief is now due on May 31, 2022.

12 On May 23, 2022, Hershops himself "Pro Se" filed what he captions  
13 "Defendant's Application and Motion Pursuant to Rules 8.806 & 8.808 to Disqualify  
14 the Appellate Division of the Santa Clara County Superior Court to Hear This  
15 Appeal of Right as the Court Has a 'Direct, Personal, Substantial, [And], Pecuniary'  
16 Interest in the Case Constitutionally Prohibiting Any Member of the Santa Clara  
17 County Superior Court From Hearing An Appeal of Right."

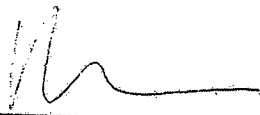
18 Although a criminal defendant has a right to represent himself or herself in  
19 the trial court, this right derives from the Sixth Amendment and does not apply on  
20 appeal. (*In re Barnett* (2003) 31 Cal.4th 466,472-473 (*Barnett*); *People v. Scott*  
21 (1998) 64 Cal.App.4th 550, 554, 560-579.) Further, a criminal defendant  
22 represented on appeal by appointed counsel has no right to submit filings pro se,  
23 and such filings may be rejected by the clerk or stricken if filed mistakenly.  
24 (*Barnett*, at pp. 473-474; *People v. Kellet* (1969) 1 Cal.App.3d 704, 714 [where  
25 defendant is represented by counsel on appeal, court need not consider contentions  
26 made by defendant on his or her own behalf and such documents may be stricken  
27 from the court files].)

28 **APP 75**

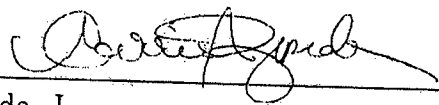
1 As a criminal defendant represented by appointed counsel on appeal has no  
2 right to separate filings or submissions on his or her own behalf (except in the case  
3 of briefs filed under *People v. Wende* (1979) 25 Cal.3d 436), we strike the document  
4 filed by Hershops on May 23, 2022, and direct the clerk of the appellate division to  
5 permanently delete it from the court's docket in this case. The clerk is also directed  
6 to serve a copy of this order on counsel of record and on Hershops at the address  
7 listed on his filing of May 23, 2022.

8 IT IS SO ORDERED.

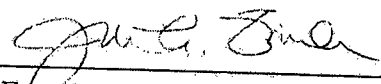
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12 Date: May 24, 2022

  
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Williams, P.J.

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16 Date: May 25, 2022

  
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Zepeda, J.

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Emede, J.

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**APP 76**



**SUPERIOR COURT OF CALIFORNIA  
COUNTY OF SANTA CLARA**  
DOWNTOWN COURTHOUSE  
191 NORTH FIRST STREET  
SAN JOSÉ, CALIFORNIA 95113  
CIVIL DIVISION

Filed  
May 25, 2022  
Clerk of the Court  
Superior Court of CA  
County of Santa Clara  
20AP002650  
By: afloresca

Signed: 5/25/2022 10:39 AM

RE: **People vs Howard Hershships**  
Case Number: **20AP002650 // BB517233**

**PROOF OF SERVICE**

**Order Striking Pro Se Filing** was delivered to the parties listed below the above entitled case as set forth in the sworn declaration below.

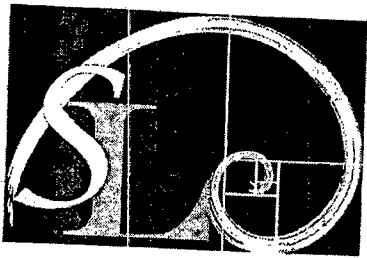
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If you, a party represented by you, or a witness to be called on behalf of that party need an accommodation under the American with Disabilities Act, please contact the Court Administrator's office at (408) 882-2700, or use the Court's TDD line (408) 882-2690 or the Voice/TDD California Relay Service (800) 735-2922.

**DECLARATION OF SERVICE BY MAIL:** I declare that I served this notice by enclosing a true copy in a sealed envelope, addressed to each person whose name is shown below, and by depositing the envelope with postage fully prepaid, in the United States Mail at San Jose CA on May 25, 2022. CLERK OF THE COURT, by Arthur Floresca, Deputy.

cc: HOWARD HERSHIPS PO Box 1501 Carmichael CA 95609-1501  
San Jose Facility - Criminal Santa Clara County Superior Court 191 N First Street San Jose CA 95113  
Kaci R Lopez District Attorneys Office 70 W Hedding St West Wing 6th Floor San Jose CA 95110  
William H Safford Safford Legal PO Box 13241 Chicago IL 60613

**APP 77**



**Safford LEGAL**  
Social Justice Law Firm

P.O. Box 13241  
Chicago, Illinois 60613

Electronically Filed  
by Superior Court of CA,  
County of Santa Clara, com  
on 6/3/2022 11:33 AM  
Reviewed By: A. Floresca  
Case #20AP002650  
Envelope: 9135051

June 3, 2022

Presiding Judge Helen Williams, Appellate Division  
SANTA CLARA COUNTY SUPERIOR COURT  
191 North First Street  
San Jose, California 95113  
[submitted via electronic filing]

**Re: Request for Marsden Inquiry – *People v. Hershops*, 1-20-AP-002650 [BB517233]**

Presiding Judge Williams:

As you know, I represent Appellant Howard Hershops in the matter of *People v. Hershops*, 1-20-AP-001650, an appeal taken from the January 17, 2020, revocation and sentencing hearing in Criminal Division docket BB517233. I write to convey a request that you conduct an inquiry into the quality of my representation in this case, to determine whether Mr. Hershops has been afforded the effective assistance of counsel.

I do not have access to the documents Mr. Hershops has filed in the past week. I have not seen a copy of the writ petition which he filed in the Sixth District Court of Appeal (docketed as H050077), and if he has submitted any motions to the Appellate Division this week, I am unaware of them. However, Mr. Hershops and I have corresponded extensively.

I cannot reveal the content of my communications with Mr. Hershops. (Rules Prof. Conduct, rule 1.6(a); Bus. & Prof. Code, § 6068, subd. (e)(1).) However, based on those communications, I am compelled to conclude that Mr. Hershops believes I have, through “inexcusable neglect”, “excluded a crucial defense from the appeal.” (*In re Greenfield* (1970) 11 Cal.App.3d 536, 543; accord *People v. Lang* (1974) 11 Cal.3d 134, 142 [reversing where “appellate counsel failed to raise crucial assignments of error which arguably might have resulted in reversal, thereby depriving defendant of the effective assistance of counsel to which he was constitutionally entitled”].) More broadly, I conclude that Mr. Hershops believes the quality of my representation fails to meet “an objective standard of reasonableness under prevailing professional norms.” (*People v. Harris* (1993) 19 Cal.App.4th 709, 714.)

**APP 78**

If Mr. Herships is correct about any of this, then this Court has an obligation to take action to protect his right to effective assistance of court-appointed counsel, including, if warranted, striking a brief and removing counsel. (*People v. Freeman* (2013) 220 Cal.App.4th 607, 610 [“court has the obligation to ensure adequate representation of counsel, even to the extent of removing retained counsel”], citing *People v. Daniels* (1991) 52 Cal.3d 815, 846, and *Alexander v. Super. Ct.* (1994) 22 Cal.App.4th 901, 911-912.) Mr. Herships has “a right not only to counsel on appeal . . . , but to competent counsel on appeal.” (*Harris, supra*, 19 Cal.App.4th 709, 713-714, citing *Douglas v. California* (1963) 372 U.S. 353, 356-357, and *Evitts v. Lucey* (1985) 469 U.S. 387.)

The law governing the question of when and how these issues should be handled in an appeal is not spelled out as clearly as it is for trial courts, so I fall back on the *Marsden* framework as a model. (*People v. Marsden* (1970) 2 Cal.3d 118, 123-126.) Given what has been articulated by Mr. Herships, I believe I have an obligation to treat his comments as: (1) an assertion that he has been deprived of his right to effective counsel; and (2) a *de facto* request for my removal. By conveying that assertion now, I enable the Court to provide Mr. Herships with “ample opportunity to explain and if possible to document the basis of his contention.” (*Id.* at p. 125.)

To be clear, I am *not* asking to be removed as counsel. I stand by the work I have done in this case, and unless this Court removes me, I intend to continue representing Mr. Herships to the best of my ability. However, after consulting with colleagues and carefully considering my ethical obligations, I believe I have a duty to make the Court aware of Mr. Herships’s concerns, so the Court can ensure he has been provided with effective assistance. (*Freeman, supra*, 220 Cal.App.4th 607, 611 [court which proceeds despite inadequate briefing by appellant’s counsel does “a disservice to appellant and the appellate process”].) Mr. Herships may make his own explicit request at some point, but my obligation exists whether he does so or not.<sup>1</sup>

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<sup>1</sup> I also note that, on May 25, 2022, this Court struck a motion filed independently by Mr. Herships. The Court cited *Barnett, inter alia*, as holding that “a criminal defendant represented on appeal by appointed counsel has no right to submit filings *pro se*”. (See *In re Barnett* (2003) 31 Cal.4th 466, 473-474.) The filing which this Court struck had nothing to do with the question of whether Mr. Herships is adequately represented in this matter.

Mr. Herships may file papers independently, asserting a denial of his right to effective assistance of counsel on appeal. If so, I believe this Court will receive and consider such papers. (*Barnett, supra*, 31 Cal.4th 466, 469 [appellate court will “file and consider *pro se* motions limited to matters concerning the inmate’s representation”], citing *Marsden, supra*.)

If you have any questions, please do not hesitate to contact me. I do not intend to file any formal papers on this subject unless directed by the Court to do so. And, if the Court conducts an inquiry which requires a response from me, my duty to protect confidential communications will most likely require that I provide such response through an *in camera* hearing or a sealed filing. (Rules Prof. Conduct, rule 1.6(a); Bus. & Prof. Code, § 6068, subd. (e)(1); see, also, *People v. Crandall* (1988) 46 Cal.3d 833, 894 fn. 6 [“in camera hearing provided an opportunity to inquire into the specific interactions between client and counsel pertinent to defendant's complaints”], and Cal. Rules of Court, rule 8.46(d).)

Thank you,



William Safford  
*Counsel for Appellant*




CERTIFICATE OF SERVICE

I, the undersigned, am a citizen of the United States, over 18 years of age, and not a party to the above-entitled action. I hereby certify that, on this 3rd day of June, 2022, I caused a true and accurate copy of the foregoing letter, titled "Request for *Marsden* Inquiry", to be served upon each of the following, either by electronic service with the consent of the party served, or placement with the United States Postal Service in a sealed envelope with postage prepaid, as indicated below:

Kaci Lopez, Supervising Deputy  
Cheri Hawkins, Deputy  
Pablo Wudka-Robles, Deputy  
SANTA CLARA COUNTY DISTRICT ATTORNEY  
klopez@dao.sccgov.org  
chawkins@dao.sccgov.org  
pwudka-robles@dao.sccgov.org  
motions\_dropbox@dao.sccgov.org

Howard Hershships, Appellant  
hhershships@gmail.com

By:   
William Safford 286948  
Counsel for Appellant

APP 81

June 8, 2022  
Clerk of the Court  
Superior Court of C  
County of Santa Cl  
20AP002650  
By: afloresca

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SUPERIOR COURT OF CALIFORNIA  
COUNTY OF SANTA CLARA  
APPELLATE DIVISION

PEOPLE OF THE STATE OF  
CALIFORNIA,  
Plaintiff and Respondent,

No. 20AP002650  
Trial Ct No. BB517233

**ORDER**

v.  
HOWARD RALPH HERSHIPS,  
Defendant and Appellant.

The court acknowledges the letter dated June 3, 2022, filed by appointed counsel for appellant Howard Ralph Hershships, William Safford. The court also acknowledges (and did not intend to convey otherwise in its order of May 25, 2022, striking appellant's "Pro Se" filing) that the law allows for pro se filings in a reviewing court that address the adequacy of representation by appointed counsel on appeal. (*In re Barnett* (2003) 31 Cal.4th 466, 469 [appellate court will accept and

**APP 82**

1 consider pro se filings from criminal defendants represented by appointed counsel  
2 limited to matters concerning the defendant's representation].)

3         The court also acknowledges both the emailed letter dated June 4, 2022,  
4 received from appellant Howard Ralph Hershops in response to Mr. Safford's letter,  
5 which response does not appear to have been filed to date, and an email to the court  
6 of June 7, 2022, enumerating claimed deficiencies in the opening brief filed by  
7 counsel. Mr. Hershops also filed a letter dated June 7, 2022, in the court file, which  
8 the clerk has designated as confidential and which has been sealed from public  
9 view. Notwithstanding that both the June 4, 2022 letter from Mr. Hershops and his  
10 email of June 7, 2022, were also emailed to counsel for respondent, the People, the  
11 court directs the appellate division clerk to file that letter and email in the court file  
12 in this case but to likewise do so under seal, as the letter and email contain  
13 challenges to the adequacy of the appellate representation Mr. Hershops has  
14 received in this case from appointed counsel, which assertions may be considered by  
15 the court in a confidential setting. Counsel for the People may not use these  
16 communications in any way and is directed not to publish any statements made by  
17 Mr. Hershops in these communications.

18         The court further requests Mr. Safford to respond to Mr. Hershops's letters of  
19 June 4 and 7, 2022, and his email of June 7, 2022, and to do so concurrently with  
20 the filing of the appellant's reply brief. Mr. Safford's response will likewise be filed  
21 under seal. The court will then allow Mr. Hershops the opportunity to reply in  
22 writing and will issue an order at a later date to that effect with a deadline.

23         In the meantime, Mr. Hershops is ordered to cease sending letters and emails  
24 to the court as we have his aforementioned communications and are thus well  
25 apprised of his complaints about his representation on appeal. And Mr. Hershops  
26 will be given a later opportunity to fully reply in writing to his counsel's response,  
27 as noted above. Any further emails to the court sent directly by Mr. Hershops while  
28 he is represented by counsel are inappropriate and will be deleted. Mr. Hershops

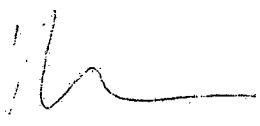
**APP 83**

1 must wait to present any remaining concerns about his representation in his filed  
2 reply.

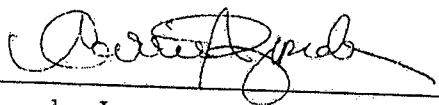
3 At this juncture at which the appellant's opening brief has just been filed,  
4 the court is not in a position to analyze or ascertain whether counsel's  
5 representation has been inadequate or whether "through 'inexcusable neglect,'"  
6 counsel has "excluded a crucial defense from the appeal." (Safford Letter of June  
7 3, 2022.) Should the court require further briefing on this topic after reviewing and  
8 assessing Mr. Hersh's claims concerning his representation on appeal in  
9 conjunction with our review of full briefing and the record, the court will request  
10 the same and may defer submission of the cause to fully address this issue at that  
11 time.

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13 IT IS SO ORDERED.

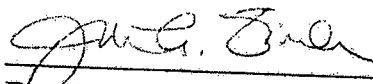
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Williams, P.J.

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Zepeda, J.

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23 Date: June 7, 2022

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Emede, J.

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28 **APP 84**



**SUPERIOR COURT OF CALIFORNIA  
COUNTY OF SANTA CLARA**  
DOWNTOWN COURTHOUSE  
191 NORTH FIRST STREET  
SAN JOSE, CALIFORNIA 95113  
CIVIL DIVISION

June 8, 2022  
Clerk of the Court  
Superior Court of C  
County of Santa Cl  
20AP002650  
By: afloresca

RE: **People vs Howard Hershops**  
Case Number: **20AP002650 / BB517233**

Signed: 6/8/2022 01:18 PM

**PROOF OF SERVICE**

Order re: **Pro Se** filing was delivered to the parties listed below the above entitled case as set forth in the sworn declaration below.

---

If you, a party represented by you, or a witness to be called on behalf of that party need an accommodation under the American with Disabilities Act, please contact the Court Administrator's office at (408) 882-2700, or use the Court's TDD line (408) 882-2690 or the Voice/TDD California Relay Service (800) 735-2922.

**DECLARATION OF SERVICE BY MAIL:** I declare that I served this notice by enclosing a true copy in a sealed envelope, addressed to each person whose name is shown below, and by depositing the envelope with postage fully prepaid, in the United States Mail at San Jose, CA on June 08, 2022. CLERK OF THE COURT, by Arthur Floresca, Deputy.

cc: HOWARD HERSHIPS PO Box 1501 Carmichael CA 95609-1501  
San Jose Facility - Criminal Santa Clara County Superior Court 191 N First Street San Jose CA 95113  
Kaci R Lopez District Attorneys Office 70 W Hedding St West Wing 6th Floor San Jose CA 95110  
William H Safford Safford Legal PO Box 13241 Chicago IL 60613

**APP 85**

Filed  
July 26, 2022  
Clerk of the Court  
Superior Court of CA  
County of Santa Clara  
20AP002650  
By: afloresca

Signed: 7/26/2022 08:52 AM  
*afloresca*

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8 SUPERIOR COURT OF CALIFORNIA  
9 COUNTY OF SANTA CLARA  
10 APPELLATE DIVISION  
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13 PEOPLE OF THE STATE OF  
14 CALIFORNIA,

15 Plaintiff and Respondent,

16  
17 v.

18 HOWARD RALPH HERSHIPS,

19 Defendant and Appellant.  
20  
21

No. 20AP002650

Trial Ct No. BB517233

**ORDER PERMITTING SEALED  
REPLY BY MR. HERSHIPS TO  
HIS COUNSEL'S LETTER RE  
CLAIMED IAC**

22 In its Order filed on June 8, 2022, the court directed Mr. Safford as  
23 appellant's appointed appellate counsel to respond to Mr. Hershhip's prior  
24 communications to the court about claims of ineffective assistance of counsel and to  
25 do so under seal concurrently with the reply brief. Mr. Safford has complied by  
26 letter response dated July 20, 2022, and that letter has been filed under seal (and  
27 mailed via U.S. mail to Mr. Hershships). The court's Order of June 8, 2022, further  
28 indicated that the court would allow Mr. Hershships to reply to Mr. Safford's response

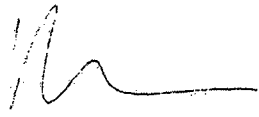
APP 86'

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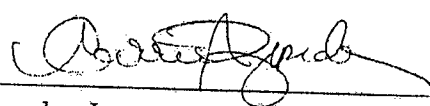
by a date certain, and that the reply would be likewise filed under seal. The court now directs Mr. Herships to file any reply to Mr. Safford's letter that he wishes, and that he do so by August 29, 2022. The court will refrain from setting the appeal for oral argument until this deadline has passed. The clerk of the appellate division is directed to send a copy of this Order directly to Mr. Herships through the U.S. mail at the address for him listed on the proof of service of Mr. Safford's letter of July 20, 2022.

IT IS SO ORDERED.

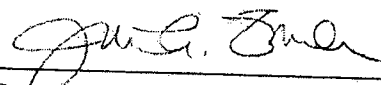
Date: July 25, 2022

  
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Williams, P.J.

Date: July 25 2022

  
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Zepeda, J.

Date: July 25, 2022

  
\_\_\_\_\_  
Emede, J.



**SUPERIOR COURT OF CALIFORNIA  
COUNTY OF SANTA CLARA**  
DOWNTOWN COURTHOUSE  
191 NORTH FIRST STREET  
SAN JOSÉ, CALIFORNIA 95113  
CIVIL DIVISION

Filed  
July 26, 2022  
Clerk of the Court  
Superior Court of CA  
County of Santa Clara  
20AP002650  
By: afloresca

RE: **People vs Howard Hershops**  
Case Number: **20AP002650 / BB517233**

Signed: 7/26/2022 08:58 AM

**PROOF OF SERVICE**

**Order directing Appellant to file Reply** was delivered to the parties listed below the above entitled case as set forth in the sworn declaration below.

---

If you, a party represented by you, or a witness to be called on behalf of that party need an accommodation under the American with Disabilities Act, please contact the Court Administrator's office at (408) 882-2700, or use the Court's TDD line (408) 882-2690 or the Voice/TDD California Relay Service (800) 735-2922.

**DECLARATION OF SERVICE BY MAIL:** I declare that I served this notice by enclosing a true copy in a sealed envelope, addressed to each person whose name is shown below, and by depositing the envelope with postage fully prepaid, in the United States Mail at San Jose, CA on July 26, 2022. CLERK OF THE COURT, by Arthur Floresca, Deputy.

cc: HOWARD HERSHIPS PO Box 1501 Carmichael CA 95609-1501  
San Jose Facility - Criminal Santa Clara County Superior Court 191 N First Street San Jose CA 95113  
Kaci R Lopez District Attorneys Office 70 W Hedding St West Wing 6th Floor San Jose CA 95110  
William H Safford Safford Legal PO Box 13241 Chicago IL 60613

**APP 89!**



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

HOWARD R. HERSHIPS,  
Petitioner,

v.

THE SUPERIOR COURT OF SANTA CLARA COUNTY,  
Respondent;

THE PEOPLE,

~~Real Party in Interest.~~

H050077

Santa Clara County Super. Ct. No. 20-AP-002650

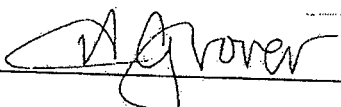
BY THE COURT:

The petition for writ of mandate and requests for judicial notice are denied.

(Grover, Acting P.J., Danner, J., and Wilson, J.  
participated in this decision.)

**APP 90**

Date: 07/29/2022

 Acting P.J.

# Appellate Courts Case Information

Supreme Court

Change court ▼

## Docket (Register of Actions)

**HERSHIPS v. S.C. (PEOPLE)**

Division SF

Case Number S275898

Date	Description	Notes
08/09/2022	Petition for review with request for stay filed	Petitioner: Howard R. Hershyps Pro Per Filed per CRC rule 8.25(b)
08/09/2022	Record requested	Court of Appeal record imported and available electronically.
08/15/2022	Motion for judicial notice filed	Petitioner: Howard R. Hershyps Pro Per
08/24/2022	Petition for review & application for stay denied	The request for judicial notice is denied.
08/25/2022	Returned record	The petition for review and application for stay are denied. petition for review

[Click here](#) to request automatic e-mail notifications about this case.

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**APP 91**

SUPREME COURT  
FILED

AUG 24 2022

Court of Appeal, Sixth Appellate District - No. H050077

S275898

Jorge Navarrete Clerk

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IN THE SUPREME COURT OF CALIFORNIA

Deputy

En Banc

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HOWARD R. HERSHIPS, Petitioner,

v.

SUPERIOR COURT OF SANTA CLARA COUNTY, Respondent;

THE PEOPLE, Real Party in Interest.

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The request for judicial notice is denied.

The petition for review and application for stay are denied.

CANTIL-SAKAUYE

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*Chief Justice*

APP 92

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**SUPERIOR COURT OF CALIFORNIA** Filed  
**COUNTY OF SANTA CLARA**

DOWNTOWN COURTHOUSE  
191 NORTH FIRST STREET  
SAN JOSE, CALIFORNIA 95113  
CIVIL DIVISION

September 7, 2022  
Clerk of the Court  
Superior Court of CA  
County of Santa Clara  
20AP002650  
By: raragon

File Copy

RE: **People vs Howard Hershops**  
CASE NUMBER: **20AP002650 / BB517233**

**NOTICE TO APPEAR IN COURT**

TO ALL PARTIES AND THEIR ATTORNEYS OF RECORD IN THE ABOVE ENTITLED CASE:  
YOU ARE HEREBY DIRECTED TO APPEAR IN THIS COURT FOR A HEARING:

Date: **November 18, 2022** Time: **2:00 PM** Dept.: **Department 14**

For: **Oral Argument / Misdemeanor Appeal**

Location:

**191 N. First Street**

**San Jose California 95113**

Please note that this is by remote appearance only. Please see the MS Teams link for the PM Session in Dept. 14 on the date of the hearing at 2:00 PM:  
[https://www.scscourt.org/general\\_info/ra\\_teams/video\\_hearings.shtml/](https://www.scscourt.org/general_info/ra_teams/video_hearings.shtml/)

Date: September 07, 2022

Julie A Emede, Judge of the Superior Court

If you, a party represented by you, or a witness to be called on behalf of that party need an accommodation under the American with Disabilities Act, please contact the Court Administrator's office at (408) 882-2700, or use the Court's TDD line, (408) 882-2690 or the Voice/TDD California Relay Service, (800) 735-2922.

**DECLARATION OF SERVICE BY MAIL:** I declare that I served this notice by enclosing a true copy in a sealed envelope, addressed to each person whose name is shown below, and by depositing the envelope with postage fully prepaid, in the United States Mail at San Jose, CA on September 07, 2022. CLERK OF THE COURT, by Rachel Aragon, Deputy

cc: HOWARD HERSHIPS PO Box 1501 Carmichael CA 95609-1501  
William H Safford Safford Legal PO Box 3486 Barrington IL 60011  
Kaci R Lopez District Attorneys Office 70 W Hedding St West Wing 6th Floor San Jose CA 95110

**APP 93**