Appellate Case No. E072470

IN THE COURT OF APPEAL FOR THE STATE OF CALIFORNIA
FOURTH APPELLATE DISTRICT, DIVISION TWO

M.G.,

Plaintiff and Appellant,

v.

MICHAEL HESTRIN, as District Attorney, etc.,

Defendant and Respondent.

Appeal from the Superior Court for the County of Riverside
The Honorable John D. Molloy, Presiding Judge
Case No. MCW1800102

REPLY BRIEF OF PLAINTIFF AND APPELLANT

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CERTIFICATE OF INTERESTED ENTITIES

Pursuant to California Rules of Court 8.208, Electronic Frontier Foundation states that it is a donor-funded, non-profit civil liberties organization. Electronic Frontier Foundation has no parent corporation and no publicly held corporation owns 10% more of its stock.

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INTRODUCTION

This Court must stay on the path set by the California Supreme Court in its landmark decision in *NBC Subsidiary (KNBC-TV), Inc. v. Superior Court*, 20 Cal. 4th 1178 (1999), which established California state courts as national leaders in broadly defining the First Amendment right of access to court records and proceedings.

Notably, the County's responding brief fails to cite, discuss, or in any way address *NBC Subsidiary*. Indeed, the County doesn't discuss any California state court case decided after *NBC Subsidiary*, or even acknowledge that any California state court has ever found a First Amendment right of access to any court proceeding.[1]

Following *NBC Subsidiary*, this Court should find that the public has a qualified First Amendment right of access to the specific type of court record at issue here: *post-investigation, expired wiretap orders and the applications and supporting materials submitted to court with them.*

The County's responding brief declines to address this issue, relying instead on cases and reasoning that apply only to access rights during ongoing investigations, or efforts to establish a right of access to the fruits of surveillance that are never submitted

[1] The County acknowledges only that "California common law recognizes a general presumption of accessibility to judicial records in criminal cases" and then argues that such a right is negated by a statutory command of closure. Resp. Br. at 7. Guerrero does not dispute either point. *See City of Milwaukee v. Illinois*, 451 U.S. 304, 313-14 (1981) (holding that a statutory provision prevails over a contrary common law right). But this appeal seeks recognition of a First Amendment right of access, not a common law right. *See Sander v. State Bar of Cal.*, 58 Cal. 4th 300, 309-10 (2013) (explaining that "access to court records is governed by long-standing common law principles *as well as* constitutional principles derived from the First Amendment right of public access to trials") (emphasis added). California courts have consistently "reaffirmed and strengthened" the First Amendment right to access the courts and judicial records "[i]n a variety of contexts." *Cal. Teachers Ass'n v. State of California*, 20 Cal. 4th 327, 335 (1999) (holding that constitutional right right of access extends to administrative tribunals). *See also, e.g.*, *People v. Woodruff*, 5 Cal. 5th 697, 757 (2018) (reaffirming First Amendment right to access judicial proceedings).

to a court.

In the alternative, this Court should find that Guerrero adequately demonstrated good cause to inspect the wiretap records. This Court must reject the County's argument that good cause requires proof of government misconduct or illegality.

I. THIS COURT SHOULD FIND A FIRST AMENDMENT RIGHT OF ACCESS TO POST-INVESTIGATION, EXPIRED WIRETAP ORDERS AND SUPPORTING DOCUMENTS

A. Respondent Seeks A Right of Access Only to Records Related to Post-Investigation, Expired Wiretap Orders.

Courts assessing whether the public has a right of access to investigatory orders like search warrants and wiretap orders, and their supporting applications and other papers, commonly distinguish between pre- and post-investigation access. *See United States v. Inzunza*, 303 F. Supp. 2d 1041, 1046 (S.D. Cal. 2004) ("The court emphasizes that an analysis of the historical tradition of openness depends on the particular stage of the proceeding at issue."). As noted in Guerrero's opening brief, courts have recognized that the public right of access to a particular document may change over time. *See In the Matter of Grand Jury Proceedings: Krynicki*, 983 F.2d 74, 75 (7th Cir. 1992) (explaining that "[d]octrines that initially seem to support secrecy thus turn out to be about the timing of the disclosure"). Thus, in *United States v. Loughner*, 769 F. Supp. 2d 1188, 1190, 1195 (D. Ariz. 2011), the court found a First Amendment right of access to search warrant applications and affidavits post-indictment, after it had declined to find a right of access to the same records pre-indictment.

For this reason, the Ninth Circuit expressly declined to reach the issue of a post-indictment right of access to search warrant materials in *Times Mirror Company v. United States*, 873 F.2d 1210, 1211, 1212, 1216 (9th Cir. 1989), the trial court's and the County's chief authority in this case. As the court explained in the very first paragraph of the opinion, "We affirm, holding that members of the public have no right of access to search warrant materials while a pre-indictment investigation is under way. We need not and do not decide at this time the question whether the public has a First Amendment

right of access to warrant materials after an investigation is concluded or after indictments have been returned." *Id.* at 1211.

And it was on this basis that the district court in *Loughner*, which, unlike this Court, was bound to follow *Times Mirror*, distinguished that case. "Because *Times Mirror* was predicated on the need for secrecy during an investigation and before a final indictment is returned, that decision no longer guides the outcome here." *Loughner*, 769 F. Supp. 2d at 1192. *See also United States v. Kott*, 380 F. Supp. 2d 1122, 1124 (C.D. Cal. 2004); *Inzunza*, 303 F. Supp. 2d at 1046 (each distinguishing *Times Mirror* on the same basis).

Indeed, when the Ninth Circuit finally encountered the issue of post-investigation access, it acknowledged that the need for secrecy was much different for records after the investigation had concluded, and distinguished *Times Mirror* on that basis. *See United States v. The Business of the Custer Battlefield Museum & Store Located at Interstate 90, Exit 514, South of Billings, Mont.*, 658 F.3d 1188, 1193-94 (9th Cir. 2011).[2]

This Court has applied the law similarly. For example, in *People v. Jackson*, 128 Cal. App. 4th 1009, 1022 (2005), the Court applied the First Amendment presumption of openness, set forth in *NBC Subsidiary*, to a search warrant affidavit when access was sought after the search was executed and an indictment returned.

This practice sensibly reflects the fact that the interests underlying the history and utility test that is used to determine the First Amendment right of access, *see NBC Subsidiary*, 20 Cal. 4th at 1218-21, are categorically different while an investigation is ongoing. *See Butterworth v. Smith*, 494 U.S. 624, 632 (1990) (noting, in the context of grand jury secrecy, "When an investigation ends, there is no longer a need to keep information from the targeted individual in order to prevent his escape—that individual

[2] The Ninth Circuit, after finding a common law right to access search warrant materials post-investigation, declined to decide whether there was also a First Amendment right to access such materials. *See Custer Battlefield*, 658 F.3d at 1196.

presumably will have been exonerated, on the one hand, or arrested or otherwise informed of the charges against him, on the other.").

The Ninth Circuit's analysis in *Times Mirror* illustrates the need for this ongoing/post-investigation dichotomy. The County excerpts a large block quotation from the case in which the court cautioned against finding a First Amendment right of access based solely on transparency values that are applicable to many court proceedings. Resp. Br. at 11. That reasoning is inconsistent with the California Supreme Court's treatment of those same values in *NBC Subsidiary*[3] – but even so, that was only the start, not the end, of the Ninth Circuit's analysis. Immediately after that excerpt, the court explained that "[f]or these reasons, the Supreme Court has implicitly recognized that the public has no right of access to a particular proceeding *without first establishing that the benefits of opening the proceedings outweigh the costs to the public*." *Times Mirror*, 873 F.2d at 1213 (emphasis added).

The court then undertook this balancing in its utility analysis. The court found the interests in promoting self-governance, enhancing the quality and safeguarding the integrity of the fact-finding process, and providing a community therapeutic value to be "clearly legitimate." *Id.* at 1215. But the Court found they were "outweighed by the damage to the criminal investigatory process that could result from open warrant proceedings," namely that the subject of search warrants might flee, destroy evidence, or coordinate testimony once they learned they were under investigation. *Id.*

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[3] *NBC Subsidiary*, 20 Cal. 4th at 1212 & n.29. The California Supreme Court categorically asserted that "the public has an interest, in all civil cases, in observing and assessing the performance of its public judicial system, and that interest strongly supports a general right of access in ordinary civil cases." *Id*. at 1210. The Court acknowledged that the contention that "the laudable goal of permitting the public to learn how their government works, if not subjected to practical limitations, would theoretically warrant permitting the public to sit and contemporaneously eavesdrop upon everything their government does" was "well-taken." *Id.* at 1212. But it found that such concerns were "accounted for in decisions that have been careful not to extend the public's right of access beyond the adjudicative proceedings and filed documents of trial and appellate courts." *Id*.

What the Ninth Circuit called "costs to the public" and "damage to the criminal investigatory process," however, are absent once the investigation has closed.[4] The balancing of interests that led the Ninth Circuit to reject a First Amendment right of access is therefore entirely inapplicable to the issue before this Court.

Moreover, Guerrero is not relying simply on transparency values that are generic to all court proceedings. As set forth in Guerrero's opening brief, there is great utility in allowing public oversight of the wiretap order issuance process, especially in light of the grossly disproportionate volume of wiretaps issued in Riverside County. Access to the documents at issue would facilitate public oversight over the courts' seemingly indiscriminate approvals of these extraordinarily invasive government searches. Courts have a heavy constitutional responsibility *not* to authorize use of these powerful "instruments of tyranny and oppression" except under the most exacting circumstances. *Olmstead v. United States*, 277 U.S. 438, 476 (1928). The public has a commensurate interest in ensuring that the courts do not authorize the use of these invasive technologies except upon adequate showings of cause and necessity. The First Amendment should grant it a qualified right to do so.

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[4] The Ninth Circuit explained that its conclusion that the interest in closure outweighed the interest in access to search warrant materials during an ongoing investigation was "reinforced" by the additional fact that it would be unfair to communicate to the public that the subject of the investigation might be guilty of a crime when the prosecuting attorney has not yet decided whether there is enough evidence to bring charges. *See id.* at 1216. This concern, too, is alleviated once the prosecuting attorney either initiates a prosecution, in which case the public will learn of the charges, or decides to end the investigation without bringing charges, indicating that ta lack of probable cause to believe that the target of the investigation committed a crime. This is not to say that all privacy interests disappear once a wiretap order expires. There may be good reasons to keep a particular application and order under seal. But those concerns must be addressed on a case-by-case basis, not by categorical closure. *See Globe Newspapers, Inc. v. Superior Court*, 457 U.S. 596 (1982) (striking down a Massachusetts law categorically closing the courtroom during the testimony of a minor sexual offenses victim because closure must be decided on a case-by-case basis).

This Court should reject the conclusion of the Second Circuit in *In re New York Times*, 577 F.3d 401 (2d Cir. 2009), as wrongly decided. That court did, as the County argues, reject a First Amendment right of access to federal wiretap orders and applications. *Id.* But the Second Circuit's analysis is inconsistent with *NBC Subsidiary* in at least two respects.

First, the Second Circuit put far greater emphasis on the history prong than California state courts following *NBC Subsidiary* are commanded to. *Compare NBC Subsidiary*, 20 Cal. 4th at 1214 & nn.32-33 ("In any event, although evidence of such a historical tradition is a factor that strengthens the finding of a First Amendment right of access, the absence of explicit historical support would not, contrary to respondent's implicit premise, negate such a right of access." (internal citation omitted)), *with In re New York Times*, 577 F.3d at 410 (emphasizing that the test "requir[es] both logic *and* experience" (citation and quotation marks omitted)).

Second, *NBC Subsidiary* conducted a lengthy analysis of the history and utility of transparency. 20 Cal. 4th at 1219-21. And courts following it have accordingly scrutinized statutes that require sealing with comparable care to determine whether they foreclose a First Amendment right of access. *See In re Marriage of Burkle*, 135 Cal. App. 4th 1045, 1052-53 (2006) ("When a statute mandates sealing presumptively open court records in divorce cases, as section 2024.6 does, the state's justification for the mandatory sealing must be scrutinized to determine whether the statute conforms to the requirements enunciated in *NBC Subsidiary*."). In contrast, the Second Circuit's cursory analysis of the "logic" prong was cabined to a single sentence and showed uncritical deference to legislative concerns. *See In re New York Times*, 577 F.3d at 410 (stating only that "[T]he Times does not present any good reason why its preferred public policy ('logic') – monitoring the government's use of wiretaps and potential prosecutions of public officials – is more compelling than Congress's concerns for privacy and confidentiality.").

B. Guerrero Seeks Only A Right of Access to Court Records, Not Related Documents Never Submitted to the Court.

Further, Guerrero seeks only to establish a public right of access to the *court records* associated with expired wiretap orders, not to the intercepted communications themselves or any other information never submitted to a court.

This distinguishes the single California state court case on which the County relies. In that case, *Oziel v. Superior Court*, 223 Cal. App. 3d 1284 (1990), news media sought access to a videotape of the execution of a search warrant of a psychotherapist's home that had not been submitted to any court. The court correctly framed the highly specific issue before it as "whether the public, including the media, has any right to disclosure of the videotapes before they have been offered as an exhibit or admitted into evidence in any court proceeding, and before either [the psychotherapist], or [the criminal defendants], have been afforded a hearing on the issues of the suppression or return of the videotapes or suppression of any items depicted thereon." *Id*. at 1294-95. In assessing the right of access, the court noted the significant difference between access to "*property* seized under color of a search warrant, as opposed to the affidavit, return or other documents and records of the court relating to the warrant." *Id*. at 1295.[5]

The logic of *Oziel* is plainly inapplicable to this case, in which Guerrero seeks only public access to documents that are part of the judicial record—wiretap orders, applications, and supporting documents submitted to the court that formed the basis for its decision—rather than any fruits of the wiretap.[6]

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[5] The court then assumed arguendo that the videotape was a judicial record, applied the history and utility test, and found neither utility in nor a history of providing access to such evidence in light of the target's constitutional right to privacy. *Oziel*, 223 Cal. App. 3d at 1296-97. The court emphasized that the target had an extraordinary privacy interest in the videotapes of the search of his home, which included footage of his wife in her bathrobe, and various rooms and personal property in his home, interests not present in this case. *Id*. at 1289, 1300-01.

[6] *Oziel* is certainly not the definitive case on the right of access to search warrant materials. As set forth in Guerrero's opening brief, in *People v. Jackson*, this Court found

C. California Statutes Do Not Foreclose A Qualified First Amendment Right of Access to Post-Investigation, Expired Wiretap Applications and Orders.

As set forth in Guerrero's opening brief, rather than foreclosing a First Amendment right of access, a statute commanding closure must be analyzed for its consistency with the First Amendment. *See, e.g.*, *Burkle*, 135 Cal. App. 4th at 1052-53; *People v. Connor*, 115 Cal. App. 4th 669, 695-96 (2004) (interpreting a statute that presumed sealing of records to avoid a conflict with the First Amendment right of access). *See also Globe Newspaper Co. v. Superior Court*, 457 U.S. 596 (1982) (U.S. Supreme Court striking down, on First Amendment grounds, a Massachusetts statute requiring closure in sex crime trials involving juvenile victims).

Moreover, as set forth in Guerrero's opening brief, Penal Code Section 629.66 is capable of a constitutional application. First, it applies to the initial sealing of the materials while the investigation is ongoing and before the order has expired. Again, Guerrero does not contend that a First Amendment right of access attaches at that point. Second, Section 629.66 may still be applied on a case-by-case basis to seal particular records when secrecy is shown to be necessary and the qualified First Amendment test satisfied. *See Globe Newspaper*, 457 U.S. at 609.

Lastly, this Court must also reject the County's argument that there can be no First Amendment right of access to post-investigation, expired wiretap orders because such orders are issued in *ex parte* proceedings. Resp. Br. at 7. The California Supreme Court rejected a similar argument in *NBC Subsidiar*y: "In any event, respondent's assertion that chambers proceedings are categorically 'not part of the trial process'; —and hence are not subject to the First Amendment right of access—is erroneous." *NBC Subsidiary*, 20 Cal. 4th at 1215.

This Court should thus find a First Amendment right of access to post-

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that the public has a qualified First Amendment right of access to search warrant affidavits after an investigation has terminated. 128 Cal. App. 4th at 1022.

investigation, expired wiretap orders, applications, and associated papers submitted to the court.

II. ALTERNATIVELY, GUERRERO IS ENTITLED TO ACCESS TO THE RECORDS PERTAINING TO THE WIRETAP OF WHICH HE WAS A TARGET PURSUANT TO SECTION 629.68

As set forth in Guerrero's opening brief, Guerrero alternatively seeks to inspect the wiretap order, application, and supporting documents submitted to the court, as well as the records of the intercepted communications under California Penal Code Section 629.68. This access is qualitatively different than the First Amendment access otherwise sought. While the First Amendment right of access pertains to public access to the court records, Section 629.68 provides special access only to targets of wiretaps, such as Guerrero, and also includes some records not submitted to or issued by the court.

Section 629.68 wholly pertains to the provision of information to a wiretap target. The section chiefly provides for the issuance of a court order that requires the requesting agency to produce an inventory to the target and "other known parties to intercepted communications," specifies the minimum contents of that inventory, and provides for a possible postponement of the inventory. The inspection provision naturally flows from the receipt of the inventory – the target is being notified of the wiretap and then being given the chance to inspect records related to it.

As such, Section 629.68 is not an "unsealing" provision. "Unsealing" typically refers to a court record becoming *publicly* accessible. Section 629.68, which does not use the term "unsealing," is, in contrast, a specific limited disclosure provision whereby the court may "make" the records "available to the person," that is, the target of the wiretap, "for inspection." Cal. Penal Code § 629.68. It is not a general "unsealing" provision that allows for records to become publicly accessible.

A. Guerrero, as the Target of the Wiretap, Demonstrated Good Cause.

The parties disagree about whether a wiretap target bears the burden of showing "good cause" to earn inspection of his wiretap records. But that conflict need not be

resolved because Guerrero has in fact shown good cause, and the trial court abused its discretion in finding otherwise. He is a person whose communications were intercepted who needs to inspect the records so that he can decide whether to seek relief for the invasion to his privacy pursuant to Penal Code Section 629.86. Decl. of Registered Owner of Target Telephone Number 951-314-0550 ¶ 8, Suppl. Clerk's Tr. on Appeal at 61.

"Good cause" is not a demanding standard; it certainly does not require the full and final adjudication of illegality or impropriety of the wiretap that the County implies. Even the Second Circuit in *In re New York Times*, interpreting the parallel provisions of the federal Wiretap Act, found that "good cause" would be demonstrated by an "aggrieved person." *See In re New York Times Co.*, 577 F.3d at 407-08. *See also National Broadcasting Co. v. U.S. Dep't of Justice*, 735 F.2d 51, 55 (2d Cir. 1984) (citing S. Rep. No.1097, 90th Cong., 2d Sess., 67, 105, reprinted in (1968) U.S. Code Cong. & Ad. News 2112). An "aggrieved person," in turn, is defined as "any person who was a party to any intercepted wire or oral communication or a persons against whom the interception was directed." 18 U.S.C. § 2510(11).

Guerrero, an aggrieved person, has thus demonstrated good cause.

The County, believing that Guerrero must prove that the wiretaps were improper before being entitled to disclosure, contends that Guerrero relies solely on "newspaper articles and political critiques about Riverside County in general." Resp. Br. at 16. But even if Guerrero were required to demonstrate some level of impropriety, that characterization is false. Guerrero primarily relies on the statistical data from the California Electronic Interceptions Reports issued by the Attorney General's office. Those reports show the volume of wiretaps issued by Riverside Superior Court during the relevant timeframe, which was so vastly disproportionate that it led a federal judge to conclude that "the sheer volume of wiretaps applied for and approved in Riverside County suggests that constitutional requirements cannot have been met." *United States v.*

Mattingly, 2016 WL 3670828, *9 (W.D. Ky. 2016).[7] Guerrero also pointed to the fact that he did not receive the statutorily required inventory and notice of the wiretap, an omission the County now concedes was, at a minimum, "some error in the delivery of the notice." Resp. Br. at 18. And of course, there is no prohibition against the use of news articles to demonstrate good cause.[8]

The fact that Guerrero was himself the target of the wiretap, the fact that he needs to inspect the records to assess whether to file a claim under Section 629.86, the County's conceded error in failing to satisfy the statutorily required inventory and notice, and the well-founded doubts about the legality of wiretaps issued in Riverside County, are more than sufficient to demonstrate "good cause" for Guerrero to inspect the wiretap application and order.

B. Section 629.68 Does Not Require A Showing of Good Cause by the Target.

Should this Court want to resolve the conflict in statutory interpretation, it should find that the target does not bear the burden of showing good cause in order to be granted the right to inspect their wiretap records.

Section 629.68 does not by its language place the burden on the target to show

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[7] In Guerrero's opening brief, counsel inadvertently omitted a word from the direct quotation from the case. The correct quotation is "While the sheer volume of wiretaps applied for and approved in Riverside County suggests that constitutional requirements cannot have been met, the legality of that system is *not* the issue before the Court." *United States v. Mattingly*, 2016 WL 3670828, *9 (W.D. Ky. 2016) (emphasis added). Counsel apologizes for the error.

[8] The County incorrectly contends that it would be "unreasonable" if "criticism of the number of wiretaps acquired in Riverside County constitutes good cause" because that "would effectively eviscerate Section 629.66's mandatory sealing within Riverside County." Resp. Br. at 16. But as set forth above, granting inspection under Section 629.68 does not result in an unsealing of records such that they become public court documents. The records will remain sealed, pursuant to Section 629.66, with respect to everyone but Guerrero, and other targets who request inspection.

good cause to inspect the records. Rather, the court allows inspection when the judge determines it to be "in the interests of justice." Section 629.68 has a "good cause" requirement, but it only applies to a requesting agency that wants to delay serving the required inventory to the target. The Legislature thus knew how to burden a party with a good cause requirement in Section 629.68 when it wanted to. But it chose for the inspection provision to let the reviewing judge be guided by "the interests of justice" instead.

Nor does Section 629.68, neither by its terms nor logically, incorporate the good cause requirement from Penal Code Section 629.66, as the County contends. Section 629.66, in contrast to Section 629.68, pertains to public access, requiring that wiretap application and orders be sealed and then disclosed "only upon a showing of good cause before a judge."

The County's contention that the express exception in Section 629.66 for disclosures pursuant to California Penal Code Section 629.70(b) and (c) imposes a good cause burden on all other disclosures is foreclosed by three common rules of statutory interpretation.

First, a more specific law, like the Section 629.68, will prevail over a more general one, like Section 629.66, when they appear to conflict. *See RadLAX Gateway Hotel, LLC v. Amalgamated Bank*, 566 U.S. 639, 645 (2012); *Miller v. Sup. Ct.*, 21 Cal. 4th 883, 895 (1999). This is especially so where, like here, "the two are interrelated and closely positioned, both in fact being parts of the same statutory scheme." *RadLAX*, 566 U.S. at 645 (quoting *HCSC–Laundry v. United States*, 450 U.S. 1, 6 (1981)) (alteration omitted).

Second, when a legislature "includes particular language in one section of a statute but omits it in another'—let alone in the very next provision—this Court 'presume[s]' that [the legislature] intended a difference in meaning." *Loughrin v. United States*, 573 U.S. 351, 358 (2014).

Third, the court's interpretation should not lead to nonsensical results. *See Gattuso v. Harte-Hanks Shoppers, Inc*., 42 Cal. 4th 554, 567 (2007). The good cause requirement of Section 629.66 applies only to the disclosure of wiretap "applications and orders,"

while Section 629.68 addresses inspection of "the intercepted communications, applications, and orders." Thus, even the County's reading imposes a good cause requirement on only a subset of the records governed by Section 629.68, and arguably the ones for which the interests in confidentiality are least compelling. This would be an absurd result – with a single inspection provision being subject to two separate standards.

These canons—which both the County and the trial court disregarded—make clear that Section 629.68 does not require a target who wants to inspect their wiretap records to show good cause for doing so.

CONCLUSION

For the above-stated reasons, this Court should find a qualified First Amendment right of access to post-investigation, expired wiretap orders and the applications and supporting materials submitted to court with them, and then find that the public has access to the particular records at issue here. In the alternative, this Court should find that the trial court abused its discretion in denying Guerrero the right to inspect the records pertaining to him pursuant to Penal Code Section 629.68.

Dated: January 17, 2020

Respectfully submitted,

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CERTIFICATE OF WORD COUNT

I, counsel for appellant, certify pursuant to California Rules of Court 8.204(c) that this Brief is proportionally spaced, has a typeface of 13 points or more, contains 4,515 words, excluding the cover, the tables, the signature block, verification, and this certificate, which is less than the total number of words permitted by the Rules of Court. Counsel relies on the word count of the Microsoft Word word-processing program used to prepare this brief.

Dated: January 17, 2020

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PROOF OF SERVICE

I, Victoria Python, declare:

I am a resident of the state of California and over the age of eighteen years and not a party to the within action. My business address is 815 Eddy Street, San Francisco, California 94109.

On January 17, 2020, I served the foregoing documents:

REPLY BRIEF OF PLAINTIFF AND APPELLANT

on the interested parties in this action as stated in the service list below:

X BY TRUEFILING: I caused to be electronically filed the foregoing document with the court using the court's e-filing system. The following parties and/or counsel of record are designated for electronic service in this matter on the TrueFiling website:

Ivy B. Fitzpatrick
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X BY FIRST CLASS MAIL: I caused to be placed the envelope for collection and mailing following our ordinary business practices. I am readily familiar with this firm's practice for collecting and processing correspondence for mailing. On the same day that correspondence is placed for collection and mailing, it is deposited in the ordinary course of business with the United States Postal Service, in a sealed envelope with postage fully prepaid:

Riverside Superior Court
Clerk of the Court
4100 Main Street
Riverside, CA 92501

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

Executed on January 17, 2020 at San Francisco, California.

/s/ Victoria Python
Victoria Python