Nevada County Appellate Division Case No. A-522
Nevada County Case No. M11-1665

IN THE COURT OF APPEAL OF CALIFORNIA
THIRD APPELLATE DISTRICT

The People Of The State Of California

Plaintiff and Respondent

v.

Nancy Jo Sinkey,

Defendant and Appellant.

PETITION FOR TRANSFER TO THE COURT OF APPEAL, THIRD APPELLATE DISTRICT

Following Denial Of Application For Certification For Transfer To The Appellate Court By The Nevada County Superior Court, Sitting As Appellate Division

Following Affirmation Of Trial Court Judgment By The Nevada County Superior Court, Sitting As Appellate Division

Following Appeal from the Superior Court for Nevada County, Sean P. Dowling, Judge

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February 5, 2013

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I. Introduction

This is an Petition For Transfer to the Court of Appeals, Third Appellate District, pursuant to CRC 8.1006(b)(1), following the denial of Appellant's Application for Certification for Transfer to the Court of Appeal on January 28, 2013.

The denial of the Application For Certification For Transfer to the Court of Appeal followed upon the January 4, 2013, decision of the Nevada County Superior Court, Sitting As Appellate Division, affirming the conviction in the Nevada County Superior Court, Criminal Division, of the Appellant on a single count of violating Health and Safety Code §11550 ("H&S §11550"), entered on February 16, 2012. CT 141-142.

Counsel for Appellant was appointed pursuant to California Rule of Court 8.300. A transcript of the oral argument on January 4, 2013, was prepared at Appellant's request and a true and correct copy thereof was attached as Exhibit A to the Application for Certification for Transfer (hereafter the "TACH").

II. Issues Presented For Review

There are six issues presented for review in this Petition (A-F).

A. Denial Of Right To Effective Cross Examination Is A *Per Se* Constitutional Error

Issue: whether it was a *per se* violation of the Appellant's due process rights under the United States and California Constitutions to conduct an effective cross examination of the prosecution's expert toxicology expert when the trial court *denied* defense counsel's request for an opportunity to review new toxicology evidence produced by the prosecution in the middle of trial in violation of *Brady v. Maryland* (1963) 373 U.S. 83 (hereafter the "*Brady* evidence").

The issue was thoroughly discussed in Appellant's Opening Brief at pgs. 13-19.

The Appellate Division applied a "harmless error" standard to this issue. See TACH, pg. 2, line 21 through pg. 4, line 15. Appellant contends that the correct standard was the "*per se*" rule. The application of the harmless error standard by the Appellate Division is in *direct conflict* with the decision of the Court of Appeal, Second District, in *Fremont Indemnity Co. v. Worker's Comp. Appeals Bd.* (1984) 153 Cal. App. 3d 965, 971, where it was held that it was reversible error *per se* to deny or unduly restrict a party's right to cross-examine witnesses.

Review is needed to both secure uniformity of decision and to settle an important question of law.

B. **The Failure To Conduct A "Materiality" Review Of Evidence Produced In Violation Of *Brady v. Maryland* Is A Per Se Constitutional Error**

Issue: whether the trial court's failure to conduct a "materiality" review of the "*Brady* evidence" to determine its potential to affect the outcome of Appellant's trial is a *per se* violation the Appellant's due process rights under the United States Constitution and the California Constitution.

This issue was raised in Appellant's Opening Brief at pgs. 15-17.

The Appellate Division applied a "harmless error" standard to this issue. See TACH, pg. 2, line 21 through pg. 4, line 15. Appellant contends that the correct standard is the "*per se*" rule. The application of the harmless error standard by the Appellate Division is in *direct conflict* with the holdings of *United States v. Bagley* (1985) 373 U.S. 83, and *In Re Brown* (1998) 17 Cal. 4th 873, that *require* a trial court to conduct a "materiality" review of any *Brady* evidence. Absent such a "materiality" review, the *Brady* violation in this case must be deemed a *per se* violation of Appellant's due process rights under the United States and California Constitutions requiring reversal and remand to the trial court

to conduct a "materiality" review.[1]

Review is needed to both secure uniformity of decision and to settle an important question of law.

C. *People v. Kelly* Requires That Scientific Evidence Be Scientifically Substantiated Or It Is Inadmissible

Issue: whether the trial court's admission into evidence of the results of the "DAR" field drug evaluation test, which was challenged by the defense as scientifically unsubstantiated, was not "harmless" error, but a reversible error under the mandatory evidence rule established under *People v. Kelly* (1976) 17 Cal. 3d 24, that *purportedly* scientific "evidence" must be established as reliable by the scientific community before it may be admitted at trial.

This issue was raised in Appellant's Opening Brief at pgs. 8-11.

The Appellate Division applied a "harmless error" standard to this issue and did not conduct any analysis of the DAR evidence to determine if it met the *Kelly* standard of admissibility. TACH, pg. 2, line 21 through pg. 4, line 15. Appellant contends that the correct standard was that of the *Kelly* decision which *requires* a preliminary showing of general acceptance of purportedly scientific evidence in the relevant scientific community before such evidence could be used at Appellant's trial. Absent such a scientific showing, the evidence introduced by the prosecution based upon the DAR test was inadmissible as a matter of law.

The decision of the Appellate Division is in conflict with the rule of *People v. Kelly* . Since there are no factual disputes about this issue, it should be reviewed on a *de novo* (independent) standard as a matter of law to both secure uniformity of decision and to settle an important question of law.

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[1] In other appellate decisions the appellate court had the substance of the *Brady* evidence in the record so that the appellate court could conduct a "materiality" review. In this case, the *Brady* evidence is not in the record because of the trial court's refusal to grant the Appellant's defense team any opportunity to analyze the new toxicology evidence.

D. **Prejudicial Comments That Exceed Judge's Authority Under California Constitution, Art. VI, § 10, Require Reversal**

Issue: whether the trial court's incorrect re-statement to the jury of the prosecution's expert testimony was "harmless" error, or an error that was seriously prejudicial to the Appellant and exceeded the trial court's authority under Cal. Const., art. VI, § 10, to comment on the evidence.

This issue was raised in Appellant's Opening Brief at pgs. 5-8.

The Appellate Division applied a "harmless error" standard to this issue. TACH, pg. 2, line 21 through pg. 4, line 15. The Appellate Division made no independent review of whether the trial court's mis-statement of the prosecution expert's testimony may have been prejudicial to the jury. The absence of any meaningful analysis by the Appellate Division is in conflict with the procedure for analysis of judicial comments to the jury established by the California Supreme Court in *People v. Brock*, (1967) 66 Cal. 2d 645, and followed in *People v. Cook* (1983) 33 Cal 3d 400, to determine whether a trial court's comments were constitutional.

Since there are no factual disputes about this issue, it should be reviewed on a *de novo* (independent) standard as an issue of law.

E. **There Was No Admissible Evidence For A Jury To Find Violation Of H&S §11550**

Issue: whether there was insufficient evidence that Appellant was either "under the influence" or had used a controlled substance a "short time" before her arrest as required for a conviction under H&S §11550.

This issue was raised in Appellant's Opening Brief at pgs. 20-22.

The Appellate Division applied a "harmless error" standard to this issue. TACH, pg. 2, line 21 through pg. 4, line 15. However, the Appellate Division did not conduct any review of Appellant's contention that there was insufficient evidence related to the "use" of a controlled substance necessary for a conviction under H&S §11550, either in fact or as a matter of law. TACH, pg. 2, line 21

through pg. 4, line 15. There does not appear to be any questions of fact. Therefore, it should be reviewed on a *de novo* (independent) standard as an issue of law.

F. A Jury Verdict Form That Fails To Charge The Offense And Makes A Confused Statement Of The Law Cannot Be The Basis For Criminal Conviction

Issue: whether the jury verdict form incorrectly charged the violation of H&S §11550 such that a jury could not expressly find against the Appellant as required by Penal Code §1162.

This issue was raised in Appellant's Opening Brief at pgs. 3-5.

The Appellate Division presumably applied a "harmless error" standard to this issue. TACH, pg. 2, line 21 through pg. 4, line 15. However, the Appellate Division did not conduct any review of, or even comment upon, Appellant's contention that the jury verdict form hopelessly conflated the two possible grounds for conviction under H&S §11550 and that there was no "unequivocal" and "express intention" by the jury as to the grounds for a finding of guilt.

Since there are no factual disputes about this issue, it should be reviewed on a *de novo* (independent) standard as an issue of law .

III. Argument In Support Of Application For Certification

A. The Right To Effective Cross Examination Was Denied

1. The Denial Of The Right Of The Defense To Examine The *Brady* Evidence Was A Per Se Violation

As described in detail in Appellant's Opening Brief in this appeal, pgs. 13-19, the trial court repeatedly refused to grant the defense any opportunity to review the new *Brady* evidence concerning the toxicology testing produced by the prosecution for the first time at trial. Thus, the Appellant's only defense witness, a toxicology expert, was *never able* to review this evidence and provide Appellant's defense counsel with the information needed to conduct an effective cross examination of the prosecution's toxicology witness.

Even though the failure to produce this toxicology evidence was, itself, a violation of *Brady v. Maryland* and the trial court was required to determine its "materiality" to the outcome of the trial (see the discussion in Section III.B, *infra*), the trial court flatly refused to give the Appellant's defense team the opportunity to review the new evidence.

Why is this important: because this new toxicology evidence might have been able to establish that there was either no use or no use within a short time of arrest as required for conviction under H&S §11550. See *People v. Velasquez* (1975) 54 Cal. App. 3d 695.

The Appellate Division's application of a "harmless error" standard to this issue is in *direct conflict* with the decision of the Court of Appeal, Second District, in *Fremont Indemnity Co. v. Worker's Comp. Appeals Bd.* (1984) 153 Cal. App. 3d 965, 971. In *Fremont*, the Second District expressly held that it was reversible error *per se* to deny or unduly restrict a party's right to cross-examine witnesses. That is exactly what happened in this case.

Clearly, further review of this issue by the Third District Court of Appeal is necessary to secure uniformity of decision and to settle the very important question of whether the trial court's action in denying Appellant's defense team any time to evaluate the new toxicology evidence was a *per se* constitutional violation mandating reversal.

2. **The Right To Have *Brady* Evidence Evaluated For "Materiality"To The Outcome Of The Trial Was Denied**

As described in Appellant's Opening Brief at pages 15-17, there was never any trial court review of the "materiality" of the *Brady* evidence in this case to determine its potential to affect the outcome of Appellant's trial.

Why is this important: because Appellant has the constitutional right to demonstrate that the *Brady* evidence met the "materiality" test under *United States v. Bagley* (1985) 373 U.S. 83, and *In Re Brown* (1998) 17 Cal. 4th 873, and

could have *affected* the outcome of the trial. As stated by the California Supreme Court in *In Re Brown*, the:

> touchstone of materiality is a 'reasonable probability' of a different result, and the adjective is important. The question is not whether the defendant would more likely than not have received a different verdict with the evidence, but whether in its absence he received a fair trial, understood as a trial resulting in a verdict worthy of confidence. *In re Brown* at 886.

The Appellate Divisions application of a "harmless error" standard to this issue is in *direct conflict* with the holdings of *United States v. Bagley* and *In Re Brown.* Without a "materiality" review by either the trial court or the Appellate court, the *Brady* violation in this case must be deemed a *per se* violation of Appellant's due process rights under the United States and California Constitutions requiring reversal and remand to the trial court to conduct a "materiality" review.[2]

Review is clearly needed to both secure uniformity of decision and to settle an important question of law.

B. **The "DAR" Test Results Were Inadmissible Evidence**

As described in Appellant's Opening Brief at pages 8-11, there was never any trial court review of the scientific reliability of the DAR test despite the objection of Appellant's defense team.

Why is this important: because the DAR results were admitted into evidence without scientific substantiation of reliability. Appellant, as a matter of law, had the right to challenge the scientific reliability of this evidence and prevent its admission into evidence under the rule of *People v. Kelley*.

The Appellate Division applied a "harmless error" standard to this issue

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[2] In other appellate decisions the appellate court had the substance of the *Brady* evidence in the record so that the appellate court could conduct a "materiality" review. In this case, the *Brady* evidence is not in the record because of the trial court's refusal to grant the Appellant's defense team any opportunity to analyze the new toxicology evidence.

and, just like the trial court, did not conduct any analysis of the DAR evidence to determine if it met the *Kelly* standard of admissibility. TACH, pg. 2, line 21 through pg. 4, line 15.

Indeed, nowhere in the trial or appellate record does the prosecution present any argument or references to the DAR test ever being approved under a *Kelly* evaluation. The prosecution simply stated at page 5 of its Reply brief that the "DAR evaluation was developed in 1989". This was a tacit admission that the DAR test has never had a *Kelly* evaluation of its admissibility as evidence.

Without substantiation under the process dictated by *People v. Kelly*, it was error as a matter of law to allow the scientifically unsubstantiated DAR results to be admitted into evidence. The DAR test is analogous to a polygraph test which has never been proven to be reliable, and thus, are not admissible into evidence.

Review is clearly needed to both secure uniformity of decision with *People v. Kelly*.

C. **The Trial Court's Comments On The Evidence Prejudiced The Jury**

As described in Appellant's Opening Brief at pages 5-8, the trial court incorrectly re-stated the testimony of the prosecution's expert witness on the central issue to the case.

Why is this important: because the re-statement by the trial court incorrectly summarized the testimony of the prosecution's witness in a manner that was *overwhelmingly prejudicial* to Appellant. This re-statement far exceeded the trial court's authority under Cal. Const., art. VI, § 10, to comment on the evidence.

There were two alternative factual findings under H&S §11550 upon which the jury could return a verdict of guilty: (1) that the Appellant willfully "used" methamphetamine, a controlled substance, a short time before her arrest; or (2)

that the Appellant was "under the influence" when she was arrested.[3]

The prosecution's expert witness, Officer Hutson, when being questioned about the half-life of methamphetamine, testified that it is typically no more than 12 hours, CT 70, lines 15-23, and that the "effects" (not the "high") would not last more than 24 hours. CT 71, line 19 though CT 71, line 4. *This was not testimony about the Appellant, but about people in general*. Then the prosecution began to question Officer Hutson about his opinion as to whether the Appellant was under the influence at the time of her arrest. The defense objected for lack of foundation and was sustained. CT 73, lines 4-10. The prosecution then tried to get Officer Hutson's opinion about whether the *purported* statement by Appellant that she had used methamphetamine two days before was truthful.[4] The defense objected. The trial court then overruled the objection and told the jury that the:

> "[w]itness [Officer Hutson] has already testified that the outward symptoms are consistent with use up to a maximum of 24 hours. At least so far the testimony has shown that."

The record is clear that Officer Hutson never testified that *Appellant's symptoms* were "consistent with use up to a maximum of 24 hours." What Officer Hutson did testify was that the "effects" on a *typical person* would not last more than 24 hours. CT 71, line 19 though CT 71, line 4.

The critical importance of the trial court's incorrect re-statement of Officer Hutson's testimony is demonstrated by the jury's finding of "[u]se a short time before the arrest" in the jury verdict form (see III.E, *infra*). There was no other

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[3] This language is from Cal Crim Jury Instruction 2400 that was given to the jury.

[4] The truth as to when Appellant allegedly used methamphetamine (if at all), could have only been determined by a careful analysis of the full toxicology report which was the *Brady* evidence not given to the Defense until the middle of trial and which the trial court refused to allow the defense any time to review before having to complete cross examination of the prosecution's witnesses and the testimony of the defense expert.

admissible evidence to support such a finding by the jury.

The Appellate Division applied a "harmless error" standard to this issue. TACH, pg. 2, line 21 through pg. 4, line 15. The Appellate Division made no independent review of whether the trial court's mis-statement of the prosecution expert's testimony was seriously prejudicial to Appellant. The absence of any meaningful analysis by the Appellate Division is in conflict with the procedure for analysis of judicial comments to the jury established by the California Supreme Court in *People v. Brock*, (1967) 66 Cal. 2d 645, and followed in *People v. Cook* (1983) 33 Cal 3d 400, to determine whether a trial court's comments were constitutional.

Since there is no factual dispute about the trial court's misstatement of Officer Hutson's testimony about the central issue in the case, this error should be reviewed on a *de novo* (independent) standard as a question of law and the case reversed and remanded.

D. **There Was No Admissible Evidence For A Jury To Find Violation Of H&S §11550**

As described in Appellant's Opening Brief at pages 20-22, there was insufficient evidence that Appellant was either "under the influence" or had used a controlled substance a "short time" before her arrest as required for a conviction under H&S §11550.

The Appellate Division applied a "harmless error" standard to this issue. TACH, pg. 2, line 21 through pg. 4, line 15. However, the Appellate Division did not conduct any review of Appellant's contention that there was insufficient evidence related to the "use" of a controlled substance necessary for a conviction under H&S §11550, either in fact or as a matter of law. TACH, pg. 2, line 21 through pg. 4, line 15.

The prosecution stated in its Reply brief that Officer Hutson testified that Appellant had said she had used methamphetamine *two* days earlier. This is insufficient evidence for two reasons. First, as a *matter of law* under *People v.*

Velasquez, any use by Appellant a full *two* days before her arrest is insufficient because the effects of methamphetamine are very short, in the range of 3-5 hours,[5] and a person cannot be convicted under H&S §11550 for being an addict or in a state of withdrawal. *They have to be under the influence at the time of the arrest*. Consequently, even if the statement by Appellant were true, by itself, it is not only insufficient, it would prove that Appellant was not in violation of H&S §11550 because she was long past being "under the influence" of the substance.

Second, the prosecution stated in its Reply brief that the urine test was "positive" and that this proved that Appellant was under the influence at the time of the arrest. However, this is scientifically unsubstantiated, and in fact, scientifically incorrect. As demonstrated by the expert for the defense, Mr. Donelson, a positive urine test does not prove anything about when the drug was taken and that it could have been used *up to a week before* the time of arrest. CT 271, lines 15-27; CT 273 line 5, through CT 274, line 7. Thus, a positive urine test, without other corroborating evidence, cannot be the sole basis for a conviction under H&S §11550.

The argument of the prosecution that the People could rely upon the positive urine test alone is especially erroneous in this case because the prosecution only disclosed a one page summary toxicology report prior to trial and the complete toxicology report was revealed for the first time at the beginning of the prosecution expert's (Ms. Bland's) cross examination. Then, as shown above, the trial court refused the Appellant's any time to evaluate the complete toxicology report, thereby preventing Appellant's defense team from doing the

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[5] Indeed, the evidence on this point from by both sides proved that the half life of methamphetamine is a only a few hours and within 12 hours a person is no longer under the influence of the chemical. See the testimony of Officer Hutson at CT 70, line 15 through CT 72, line 4; and the testimony of Alan Donelson, the defense expert, at CT 263, lines 12-27.

type of analysis that could have shown that Appellant's use of methamphetamine, if any, was far too remote from the time of arrest and that, as a matter of law, Appellant was not under the influence at the time of arrest as required by law. See H&S §11550 and *People v. Vasquez*.

Finally, the combination of these two pieces of evidence does nothing to support a conviction because the evidence does not in any way prove that Appellant was under the influence at the time of arrest as required by the law. Actually, the evidence tends to prove the opposite: that Appellant definitely was not under the influence at the time of arrest.

There is no factual dispute about the evidence adduced at trial, only a dispute as to whether, as a matter of law, there was evidence to support a conviction under H&S §11550. This question of law should be reviewed on a *de novo* (independent) standard and the case reversed and remanded to ensure that the decision of the Appellate Division is not in disagreement with that of *People v Jones* (1987) 189 Cal. App. 3d 398; *People v. Vasquez*; and *Bosco v. Justice Court* (1978) Cal. Ap. 3d 179.

E. **The Jury Verdict Form Incorrectly Charged The Violation Of H&S §11550**

As described in Appellant's Opening Brief at pages 3-5, the jury verdict form hopelessly conflated the two possible grounds for conviction under H&S §11550, thereby making the verdict equivocal and lacking in "express intention" of the jury as required by PC §1162 and corresponding case law following *People v. Tilly* (1904) 135 Cal. 61.

Why is this important: because it is a *cornerstone* of the criminal justice system that, as stated in PC §1162, "... no judgment of conviction can be given unless the jury expressly find against the defendant upon the issue, or judgment is given against him on a special verdict." Any verdict form that is ambiguous as to the grounds for conviction must be "regarded as insufficient." *People v. Tilly* at

62-63.

The Court gave the jury Cal Crim Jury Instruction 2400 that was specifically tailored to violations of H&S §11550. Reporter's Transcript of Trial Proceedings, Augmented Record of Appeal Transcript, p.27. Instruction 2400 gives two *alternative* grounds for conviction: first, that "[t]he defendant willfully used methamphetamine, a controlled substance, a short time before her arrest; second, that "[t]he defendant was willfully under the influence of methamphetamine, a controlled substance, when she was arrested." CT 111.

This jury instruction is taken almost verbatim from H&S §11550 that reads in pertinent part: [n]o person shall use, or be under the influence of any controlled substance ..." It is clear from the language of the statute and the relevant case law[6] that the People can either *charge and prove* that: (a) Appellant *used* the controlled substance a short time before arrest; or (b) Appellant was *under the influence* of the controlled substance at the time of the arrest

The jury verdict form could have simply repeated the language from Cal Crim 2400 as the charging language, *but it did not*. Rather, the verdict form in this case conflated these two factually different grounds for conviction under H&S §11550 such that a jury could not expressly find against the Appellant as required by Penal Code §1162.

First, the jury verdict form language, CT 142, only charges the crime of being "Under the Influence of a Methamphetamine" and *does not charge* the crime of "use" of the substance a short time before arrest. Consequently, the verdict form is totally unsuitable for a finding of guilt for the "use" of the substance a short time before arrest and is only suitable for a finding of guilt for being under the influence at the time of the arrest.

Second, the verdict form provides a choice of two boxes that can be

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[6] See *People v Jones; People v. Vasquez*; and *Bosco v. Justice Court*.

checked for determining the *basis* for the finding of guilty for being under the influence at the time of arrest: one box for "Use a short time before arrest" and a second box for "Under the influence at the time of arrest".[7]

The first box for "Use a short time before arrest" is clearly derived from the first alternative under Cal Crim 2400 dealing with "use", and not from the second part of 2400 that deals with being "under the influence". However, the charging language on the verdict form only speaks of being "under the influence" and says nothing about being guilty on the basis of "use". Thus, the verdict form hopelessly confused the two different grounds for conviction under H&S §11550. The first box on the verdict form where the jury can denote the basis for its decision, i.e., that there was "use a short time before arrest", does not support a finding of guilt under the actual charging language. Only the second box would support a jury finding under the charging language.

However, the jury was obviously confused because it checked the first box for "use a short time before arrest" rather than the second box for "under the influence at the time of arrest". Thus, the jury found Appellant guilty of being "under the influence" (the charging language) and not guilty for "use", but they did so by an express finding of "use a short time before arrest" (i.e., box 1 checked) and not on a finding of being "under the influence at the time of arrest (i.e., box 2 unchecked).

Because of this error, it is not possible to discern the jury's true intent as to whether there was a finding of guilt for "use" or a finding of guilt for "under the influence".

The Appellate Division applied a "harmless error" standard to this issue. TACH, pg. 2, line 21 through pg. 4, line 15. However, the Appellate Division did not conduct any review of, or even comment upon, Appellant's contention that the

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[7] The verdict form also directs the jury to "check all [boxes] that apply".

jury verdict form hopelessly conflated the two possible grounds for conviction under H&S §11550. There are no factual disputes about what the verdict form stated. Thus, it is a question of law requiring *de novo* review as to whether the jury verdict form could be used for the conviction of Appellant under H&S §11550. The decision of the Appellate Division is in direct conflict with PC §1162 and the corresponding case law developed under *People v. Tilly*.

IV. **Conclusion**

Based upon each of the foregoing six grounds for this Petition For Transfer, this appeal should be transferred to the Court of Appeal, Third Appellate District.

Respectfully Submitted,

Dated: February 5, 2013

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Patrick H. Dwyer,
Attorney for Appellant

Certificate of Word Count

I hereby certify under penalty of perjury that, to the best of my knowledge and belief, the total number of words in the body of this Application For Transfer (i.e., Sections I through IV) is approximately 4,682.

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Patrick H. Dwyer,
Attorney for Appellants

Date: February 5, 2013

PROOF OF SERVICE

I hereby certify under penalty of perjury that I am not a party to this action and that I served a copy of the Appellant's Petition For Transfer in the matter of The People v. Nancy Jo Sinkey, Case No. M11-1665, appeal No. A-522 by personal delivery upon the following:

1. Kyra Patterson, Deputy District Attorney, Nevada County District Attorney's Office, 110 Union Street, Nevada City, CA 95959 (one copy);

2. The Nevada County Superior Court, sitting as Appellate Division, 201 Church Street, Nevada City, California 95959 (one copy); and

3. The Attorney General of the State of California, 1300 I Street, Suite 1101, P.O. Box 944255, Sacramento, CA 94244-2550 (one copy)

_____
Signature

_____
Print Name

Date: February 5, 2013