S277487

In the Supreme Court of the State of California

THE PEOPLE OF THE STATE OF CALIFORNIA,
Plaintiff and Respondent,

v.

TONY HARDIN,
Defendant and Petitioner.

Second Appellate District, Division Seven, Case No. B315434
Los Angeles County Superior Court, Case No. A893110
The Honorable Juan Carlos Dominguez, Judge

REPLY BRIEF

ROB BONTA (SBN 202668)
Attorney General of California
MICHAEL J. MONGAN (SBN 250374)
Solicitor General
LANCE E. WINTERS (SBN 162357)
Chief Assistant Attorney General
SUSAN SULLIVAN PITHEY (SBN 180166)
Senior Assistant Attorney General
*HELEN H. HONG (SBN 235635)
Deputy Solicitor General
IDAN IVRI (SBN 260354)
Supervising Deputy Attorney General
NIMA RAZFAR (SBN 253410)
Deputy Attorney General
600 West Broadway, Suite 1800
San Diego, CA 92101
(619) 738-9693
Helen.Hong@doj.ca.gov
Attorneys for Respondent

August 1, 2023

TABLE OF CONTENTS

Page

TABLE OF AUTHORITIES

Page

CASES

TABLE OF AUTHORITIES
(continued)

Page

TABLE OF AUTHORITIES
(continued)

Page

STATUTES

CONSTITUTIONAL PROVISIONS

OTHER AUTHORITIES

INTRODUCTION AND SUMMARY OF ARGUMENT

The question before this Court is whether the Legislature violated the Equal Protection Clause of the state and federal constitutions by excluding young adult offenders sentenced to life without the possibility of parole from youth offender parole consideration, while allowing parole-eligible young adult offenders to participate. Hardin concedes that his equal protection challenge is subject to rational basis review. (ABM 26-27.) That standard asks whether the "distinctions drawn by a challenged statute bear some rational relationship to a conceivable legitimate state purpose." (*Hernandez v. City of Hanford* (2007) 41 Cal.4th 279, 299.) If a statute "was intended to serve *multiple* purposes," it satisfies rational basis review so long as the differential treatment is "rationally related to one of the legitimate legislative purposes." (*Id.* at pp. 300, 302.)

Hardin asserts that the statutory exclusion of young adult offenders sentenced to life without the possibility of parole fails to satisfy that deferential standard. He devotes most of his brief to arguing, as the Court of Appeal reasoned in the decision below, that the Legislature's "sole purpose" in passing the youth offender parole statute was "rehabilitative, not punitive." (ABM 8, 27; *id.* at pp. 27-43.) Resting on that premise, Hardin argues that the Legislature had no rational basis for excluding offenders based on considerations of culpability. Further, Hardin contends, as the Court of Appeal reasoned below, that the exclusions from the parole program cannot satisfy rational basis review. (*Id.* at pp. 43-47.)

Hardin's arguments exhibit the same flaws as the opinion below. (See OBM 24-40.) A comprehensive examination of the youth offender parole statute's context and text reflects that the Legislature accounted for youth-related mitigating factors while also considering other penological interests. Accordingly, it was rational for the Legislature to decide that young adult offenders who commit the most serious offenses should have no opportunity for relief from lifetime incarceration.

ARGUMENT

I. THE YOUTH OFFENDER PAROLE STATUTE REFLECTS A COMBINATION OF LEGITIMATE PURPOSES, INCLUDING THE LEGISLATURE'S PENOLOGICAL INTERESTS

As explained in the opening brief, the youth offender parole statute reflects a combination of legitimate purposes. (OBM 24-30.) The statute's structure, text, and legislative history establish that the Legislature balanced its desire to account for youth-related mitigating factors with concerns about culpability and the appropriate level of punishment for certain particularly serious crimes. (*Ibid.*) These legislative purposes are reflected in the statute's graduated parole eligibility dates after 15, 20, or 25 years of incarceration and its exclusion of certain young adult offenders convicted of particularly serious offenses from the parole scheme altogether. (*Ibid.*)

Hardin disagrees, asserting that the Legislature "was motivated solely by an ameliorative purpose" when passing the youth offender parole statute. (ABM 40; see also, e.g., *id.* at pp. 8, 20, 27, 41.) None of his arguments supporting this assertion has merit.

A. Hardin's attempt to use Eighth Amendment precedents to constrain the Legislature's objectives should be rejected

To support his assertion that an "ameliorative purpose" was the Legislature's "sole purpose" (ABM 8, 26), Hardin principally relies on the United States Supreme Court's Eighth Amendment precedents concerning excessive sentences imposed on *juvenile* offenders (those who committed their offenses before age 18). (ABM 13-18, 28-30 [citing *Roper v. Simmons* (2005) 543 U.S. 551; *Graham v. Florida* (2010) 560 U.S. 48; *Miller v. Alabama* (2012) 567 U.S. 460].) Hardin's argument is essentially this: The Eighth Amendment decisions rest on scientific research demonstrating that juvenile brains are not fully mature in the areas relating to impulse control and risk avoidance, and generally hold that the "distinctive attributes of youth diminish the penological justifications for imposing the harshest sentences on juvenile offenders." (*Miller*, *supra*, 567 U.S. at p. 472.) The decisions also broadly observe that the developmental features of juveniles are not "crime-specific"—meaning, the attributes of youth may contribute to the commission of various offenses. (*Miller*, *supra*, 567 U.S. at p. 473.) Therefore, Hardin contends, if the Legislature relies on the science about the developing brain to extend early parole opportunities to young adults who are outside the Eighth Amendment's protections for juvenile offenders, the Legislature cannot create categories of beneficiaries based on the seriousness of their crimes; all young adults must be included. (ABM 16, 28-30, 41-42.) In Hardin's view, accounting for the seriousness of an offense is "fundamentally incompatible" with the science showing that young adults "exhibit inhibited

judgment, greater impulsivity, and a greater capacity for rehabilitation," regardless of the crime of conviction. (*Id.* at pp. 29, 30.) This argument fails in two primary respects.

First, the Eighth Amendment precedents cited by Hardin cannot fairly be read to eliminate penal considerations as legitimate concerns, even for juvenile offenders. By the very terms of the constitutional provision they address, the Eighth Amendment decisions evaluate "cruel and unusual *punishments*." (U.S. Const., 8th Amend.) In analyzing whether juvenile sentences violate that constitutional limit, the United States Supreme Court considered "the goals of penal sanctions that have been recognized as legitimate—retribution, deterrence, incapacitation, and rehabilitation." (*Graham*, *supra*, 560 U.S. at p. 71.) The Court observed that the case for retribution imposed on juveniles "is not as strong" as compared to adults; deterrence does not "work" because "the characteristics that render juveniles less culpable than adults . . . make them less likely to consider potential punishment"; incapacitation is "inconsistent with youth"; and the lengthiest sentences fail to recognize "a child's capacity for change." (*Miller*, *supra*, 567 U.S. at pp. 472-473.) While the rehabilitative potential of juveniles was no doubt central to the Court's reasoning, the other "[p]enological justifications" were likewise critical considerations in the Court's analysis. (*Id.* at pp. 471, 472.)[1] And, moreover, that Court has

[1] This Court's decisions also recognize that constitutional limits on juvenile sentences are not solely focused on rehabilitative concerns. (See, e.g., *People v. Caballero* (2012) 55 (continued…)

not suggested that the "seriousness of a crime cannot be considered" in judging the constitutionality of juvenile sentences. (ABM 16.) To the contrary, the Court has emphasized that the "age of the offender *and the nature of the crime*" still bear on the overall assessment of whether a sentence is excessive. (*Graham*, *supra*, 560 U.S. at p. 69, italics added; see also *Miller*, *supra*, 567 U.S. at p. 474, fn. 6.)

Second, there is no legal basis to import constitutional restrictions that may apply to the punishment of juveniles under the Eighth Amendment to the very different context of an equal protection, rational basis review of a statute that affects the punishment of young adults. Hardin argues otherwise, asserting that "the penological justifications . . . are equally lessened for *all* youthful offenders." (ABM 28.) Granted, in the case of juveniles, the United States Supreme Court ultimately concluded that the mitigating aspects of youth "weaken rationales" for the harshest sentences, even for the most serious offenses. (*Miller*, *supra*, 567 U.S. at p. 473.) This Court has described those decisions to mean that for juveniles, the "mitigating features of youth can be

---

(…continued)

Cal.4th 262, 266 ["No legitimate penological interest . . . justifies a life without parole sentence for juvenile nonhomicide offenders."]; *People v. Franklin* (2016) 63 Cal.4th 261, 274 [considering "penological justifications" for juvenile sentences]; *People v. Gutierrez* (2014) 58 Cal.4th 1354, 1391 [notwithstanding "impetuosity" and "irresponsibility" of juveniles, it is "beyond question" that a "juvenile offender" who commits a "vicious murder" "deserve[s] severe punishment"].)

dispositively relevant." (*Gutierrez*, *supra*, 58 Cal.4th at p. 1381.) But while the Legislature may be constitutionally compelled in the context of juvenile sentences to give dispositive weight to the hallmark features of youth, it is not similarly constrained when it makes the election, in its discretion, to expand the youth offender parole statute to certain young adults. (See, e.g., *In re Bolton* (2019) 40 Cal.App.5th 611, 622 ["The Eighth Amendment proportionality guarantee applies very differently to prison terms for adult offenders."].) In the United States Supreme Court's words, "children are different." (*Miller*, *supra*, 567 U.S. at p. 481; see also *Harmelin v. Michigan* (1991) 501 U.S. 957, 995.) And "a sentencing rule permissible for adults may not be so for children." (*Miller*, *supra*, 567 at p. 481; see also *Roper*, *supra*, 543 U.S. at p. 574 ["The age of 18 is the point where society draws the line for many purposes between childhood and adulthood."]; *Gutierrez*, *supra*, 58 Cal. 4th at p. 1380 [same].) In setting the eligibility for early parole consideration, the Legislature was thus free in its discretion to account for the seriousness of young adult offenders' offenses and to conclude that considerations of retribution, deterrence, and incapacitation justify lifetime incarceration.

B. The terms of the youth offender parole program establish that the Legislature had both rehabilitative and penological objectives

The People in their opening brief discuss how the structure and operation of the youth offender parole program as extended to young adults show that the Legislature was balancing both rehabilitative and penological aims. (OMB 24-30.) Hardin

makes a number of arguments to discount what is plain from the statute, but none is persuasive.

Hardin argues that the Legislature's decision to proceed through a parole process, rather than a resentencing statute, indicates the Legislature's deliberate decision to focus on rehabilitation, to the exclusion of culpability or punishment. (ABM 31-33, 36.) In Hardin's view, a remedial parole process "affords no room for considerations of punishment or retribution" because the parole process is "amelioriative," "measures rehabilitation," and is "forward-looking." (*Id.* at pp. 31, 32, 41.) But that narrow understanding of the purpose of parole cannot be reconciled with the origins of the youth offender parole statute.

As noted (*ante* pp. 8-11), a series of Eighth Amendment decisions served as the impetus for California's initial youth offender parole statute (focusing in juveniles). In those decisions, the United States Supreme Court left it to "the State, in the first instance, to explore the means and mechanisms for compl[ying]" with its Eighth Amendment obligations (*Graham*, *supra*, 560 U.S. at p. 75), and expressly endorsed statutes "[e]xtending parole eligibility to juvenile offenders" as a way to remedy unconstitutional juvenile sentences. (*Montgomery v. Louisiana* (2016) 577 U.S. 190, 212.) Whatever remedy a State might choose, however, nothing in those decisions precluded a State from considering the several aims of criminal punishment, including retribution, deterrence, incapacitation, and rehabilitation—as our Legislature did. (See *ante* pp. 8-11; OBM 24-30.)

Additionally, Hardin attempts to avoid clear precedent on the deferential review given to legislative sentencing decisions (see, e.g., *People v. Wilkinson* (2004) 33 Cal.4th 821, 840; see also OMB 30-34), by observing that, technically, the young offender parole statute does not change an offender's sentence. (ABM 34-41.) This is a distinction without a difference that ignores how the statute operates in practice. It is true that the statute is not formally a "sentencing statute" (ABM 34), and the parole scheme does not amend a youth offender's sentence in the "very literal sense" (*id.* at p. 39). But as this Court has recognized, the statute still alters criminal sentences in substantial ways. It "effectively reforms" a sentence that is the "functional[] equivalent of life without parole" into a sentence offering parole. (*Franklin*, *supra*, 63 Cal.4th at pp. 281, 286.) The youth offender parole statute does so through the "operation of law," by automatically extending an opportunity for parole during the 15th, 20th, or 25th year of an eligible offender's incarceration. (*Id.* at p. 286) As another Court of Appeal recently observed, by changing the minimum time an offender must spend in custody before becoming eligible for release, "[a]ctually, section 3051, *is*, in part, a sentencing statute." (*People v. Ngo* (2023) 89 Cal.App.5th 116, 125, review granted May 17, 2023, S279458.) In this way, it reflects the Legislature's view of the "proper response to [the] commission of a particular criminal offense, based on a variety of considerations such as retribution, deterrence, and rehabilitation." (*Jones v. United States* (1983) 463 U.S. 354, 368-369.) Such judgment calls are left to the Legislature under

rational basis review. (See, e.g., *Wilkinson*, *supra*, 33 Cal.4th at p. 840.)

Hardin also attempts to explain away the statute's penal purpose as reflected in its staggered eligibility dates. (See Penal Code § 3051, subds. (a)(2), (b)(1)-(b)(3); see also OBM 27-28.) As supporters noted, those provisions require offenders to serve "at least 15 years of his or her sentence, and even longer *for more serious crimes*." (Sen. Comm. on Public Safety, Rep. on Sen. Bill No. 261 (2015-2016 Reg. Sess.) Apr. 27, 2015, pp. 4-5 [emphasis added].) Hardin dismisses that history, arguing in a footnote that calling some crimes "more serious than others does not demonstrate that *this* statute has a penological purpose." (ABM 31, fn. 11.) But legislators observed that the minimum incarceration term would hold young adult offenders "accountable and responsible for what they did. They must serve a minimum of 15 to 25 years in prison depending on their offense." (Assem. Comm. on Public Safety, Rep. on Sen. Bill No. 261 (2015-2016 Reg. Sess.) June 29, 2015, p. 2.) That leaves no doubt that the Legislature in enacting the early parole statute intended to further penal objectives as well. (See *Franklin*, *supra*, 63 Cal.4th at p. 278 ["The statute establishes what is, in the Legislature's view, the appropriate time to determine whether a [youthful] offender has 'rehabilitated' . . . so that he or she may have 'a meaningful opportunity to obtain release.'"].)

Hardin's surprising alternative explanation for the graduated scheme is that the minimum incarceration periods serve as a "proxy" or "rough guideline" for when an offender

"might first be expected to demonstrate meaningful rehabilitation." (ABM 36, 37.) Hardin postulates that offenders may first be expected to be rehabilitated at the 15-, 20-, or 25-year mark—with the date of an offender's developmental maturation somehow corresponding to the length of the sentence affixed by a judge for the offender's controlling offense. (Compare *Ngo*, *supra*, 89 Cal.App.5th at p. 125 ["all three sets of youthful offenders have been simultaneously maturing and outgrowing their youthful impulses"].) Hardin offers no support for that remarkable theory, and to describe it is to reject it.

Hardin's effort to set aside the statutory exclusions as evidence of the Legislature's penological aims (ABM 22, 41-43) is equally flawed. (OBM 27-29.) By their terms, those exclusions reflect the Legislature's judgment that certain offenders should not be afforded an automatic parole opportunity—due to the nature of their crimes, concerns about a heightened recidivism risk, a demonstrated lack of effort to rehabilitate, or a combination of concerns.[2] Hardin contends that the Court cannot

[2] See, e.g., *Ngo*, *supra*, 9 Cal.App.5th at p. 123 ("difference in culpability" explains exclusion of offenders sentenced to life without the possibility of parole because they have been convicted of the "most heinous crime known to our Penal Code"); *People v. Williams* (2020) 47 Cal.App.5th 475, 493, review granted July 22, 2020, S262229 ("the risk of recidivism provides a rational basis for the Legislature to treat violent felony sex offenders sentenced under the one-strike law differently"); *People v. Wilkes* (2020) 46 Cal.App.5th 1159, 1166 (a person sentenced under the Three Strikes Law who has "been convicted of two serious or violent felonies before the instant offense is a recidivist who has engaged

(continued…)

assume that the exclusions reflect penal purposes because the legislative history does not spell out the "justifications for [the] exclusions." (ABM 22.) But there is no requirement that the legislative history must specify the Legislature's purpose. Indeed, a statute's words "generally provide the most reliable indicator of legislative intent." (*Lopez v. Sony Electronics, Inc.* (2018) 5 Cal.5th 627, 634.) The exclusions on their face plainly reflect penal concerns. (*Ante,* p. 15, fn. 2.)

Hardin also argues that the exclusions are not probative of legislative purpose because they do not share a "common thread of culpability." (ABM 42.) He observes that the exclusion of offenders sentenced to life without the possibility of parole could be based on the principle that "a serious crime deserv[es] serious punishment" (*ibid.*); that the exclusion of offenders who commit certain offenses after age 26, once the offender is deemed to have "fully matured," reflects the Legislature's concern with evidence of that offender's diminished rehabilitative potential (*id.* at p. 43); and that the exclusion of one-strike offenders must reflect something other than the seriousness of the offense given that parole is made available to youthful offenders convicted of first degree murder (*id.* at p. 42). But that variety only underscores that in enacting the youth offender parole program, the

---

(…continued)

in significant antisocial behavior and who has not benefited from the intervention of the criminal justice system").

Legislature had multiple objectives, including several penological concerns.

II. THE LEGISLATURE'S EXCLUSION OF YOUNG ADULT OFFENDERS CONVICTED OF SERIOUS CRIMES IS RATIONALLY RELATED TO LEGITIMATE PENOLOGICAL PURPOSES

Once Hardin's "sole purpose" argument is disposed of, it is clear that the Legislature acted permissibly in declining to extend the parole scheme to young adult offenders convicted of the most serious crimes and sentenced to parole-ineligible life terms. (See *Hernandez v. City of Hanford* (2007) 41 Cal.4th 279, 302 [rational basis review requires only that differential treatment is "rationally related to one of the legitimate legislative purposes" of a statute].) Indeed, Hardin acknowledges that there is a "well-developed body of case law" establishing the Legislature's "prerogative to distinguish crimes based on severity and to set different punishments on that basis." (ABM 35.) Consistent with that principle, the great majority of courts that have addressed whether the statute violates equal protection have concluded that the statute satisfies rational basis review.[3]

[3] See *In re Williams* (2020) 57 Cal.App.5th 427, 436; *People v. Acosta* (2021) 60 Cal.App.5th 769, 780; *People v. Jackson* (2021) 61 Cal.App.5th 189, 200; *People v. Sands* (2021) 70 Cal.App.5th 193, 204; *People v. Morales* (2021) 67 Cal.App.5th 326, 348; *People v. Bolanos* (2022) 87 Cal.App.5th 1069. Another Court of Appeal recently held in a published decision that section 3051 "does not violate equal protection merely because it singles out youthful offenders sentenced to LWOP from all other youthful offenders." *Ngo*, *supra*, 89 Cal.App.5th at p. 127.

Hardin nonetheless briefly attempts to defend the reasoning of the Court of Appeal that the culpability-based lines drawn by the Legislature are irrational. (ABM 43-47; see also Opn. 21-24.) Hardin asserts, for example, that the Legislature did not act rationally in excluding offenders convicted of special-circumstance murder serving life sentences without the possibility of parole while at the same time including youthful offenders sentenced in the aggregate to long sentences that will exceed their natural life spans. (ABM 43-44.) In Hardin's view, the "functionally equivalent sentence[s]" reflect equivalent culpability, as "measured by the length of the original sentence." (*Id.* at pp. 44-45.) Based on that definition of culpability, Hardin argues that there is no "distinction between aggregate sentences that are the functional equivalent of life without parole and life without parole sentences." (*Id.* at p. 45.)

The Legislature, however, was not obliged to adopt that measure of culpability. It is that body's prerogative to "determin[e] which class of crimes deserves certain punishments and which crimes should be distinguished from others." (*Wilkinson*, *supra*, 33 Cal.4th at p. 840.) The Legislature could permissibly conclude that an offender who commits one of the most serious offenses should be denied the opportunity for parole based on penological rationales, while an offender who commits several less serious offenses, but receives an aggregate life term, should be offered the opportunity for parole. (See *ibid.*; *People v. Chatman* (2018) 4 Cal.5th 277, 289; *People v. Turnage* (2012) 55 Cal.4th 62, 78 ["any plausible reason for distinguishing . . . need

not exist in *every* scenario in which the statutes might apply. It is sufficient if the [reason] 'sometimes'" supports the distinction].)

Hardin does not address, let alone dispute, that only a handful of the most serious offenses in California support a sentence of life without the possibility of parole. (OBM 31-32.) And among those offenses, special-circumstance murder is, in the Legislature's judgment, "the most heinous crime known to our Penal Code, and one of the few crimes subject to the death penalty in California." (*Ngo*, *supra*, 89 Cal.App.5th at p. 123; see *ibid.* [describing crime as "worst of the worst"].) Hardin appears to agree that the Legislature could rationally reserve the most serious punishment for such offenses (ABM 40-41), and he offers no reason that the Legislature could not rely on similar considerations to deny offenders convicted of special-circumstance murder the opportunity for parole. (See also OBM 33-35.)

Moreover, as another Court of Appeal recently observed, "many combinations of circumstances" could result in a functional life sentence. (*Ngo*, *supra*, 89 Cal.App.5th at p. 126.)[4] Given that diversity, the Legislature was not required to assume that a collection of offenses leading to what is effectively a life-long sentence is always equivalent in culpability to a single

[4] An example of such "combination[] of circumstances" is described in *People v. Brewer* (2021) 65 Cal.App.5th 199, 202, a case in which an adult defendant sentenced to an aggregate determinate sentence of 63 years for "a string of armed robberies and attempted robberies" described his sentence to be the "functional equivalent of a life sentence without parole."

serious offense supporting a life-without-parole term. And though Hardin speculates about scenarios where offenders convicted of several offenses might be characterized as similarly culpable to an offender convicted of one serious offense, that effort is misplaced. (ABM 38, fn. 12, 13; *id.* at p. 44.) Under rational basis review, a legislature is permitted to rely on "gross generalizations and rough accommodations." (*Johnson v. Dept. of Justice*, 60 Cal.4th 871, 887.) "A classification is not arbitrary or irrational simply because" a critic may perceive "an 'imperfect fit between means and ends'" or "'because it may be to some extent underinclusive and overinclusive.'" (*Ibid.*)

Hardin also repeats the Court of Appeal's argument that special-circumstance murders are not more serious than other first degree murders, both "as a matter of statutory definition" and in practice. (ABM 45-46; see also Opn. 22-23.) With respect to the statute, Hardin observes that "there are now more than 20 factors qualifying as special circumstances." (ABM 45.) With respect to practice, Hardin refers to a report which purports to establish that a significant majority of first degree murders could have been charged as special-circumstance murders. (*Id.* at p. 46; Opn. 22.) But both the statutory and practical concerns Hardin repeats have been addressed in several decisions holding that the special-circumstance statute genuinely narrows the class of persons eligible for the death penalty and "reasonably justif[ies] the imposition of a more severe sentence on the defendant compared to others found guilty of murder." (*Zant v. Stephens* (1983) 462 U.S. 862, 877; see *People v. McDaniel* (2021) 12

Cal.5th 97, 155; *People v. Redd* (2010) 48 Cal.4th 691, 756.) And under rational basis review, these concerns are properly addressed to the Legislature and not the courts.

As did the court below, Hardin asks this Court to apply a version of rational basis review that is unprecedentedly searching. But under settled standards, rational basis is of a "deferential nature." (*Turnage*, *supra*, 55 Cal.4th at p. 77.) The only question is whether there exists a "*rational* relationship between [the] disparity in treatment and some legitimate government purpose." (*Chatman*, *supra*, 4 Cal.5th at p. 289.) The decision to deny an opportunity for parole to young adult offenders convicted of crimes that are, in the Legislature's judgment, the most serious offenses satisfies that deferential standard.

CONCLUSION

The judgment of the Court of Appeal should be reversed.

Respectfully submitted,

ROB BONTA
Attorney General of California
MICHAEL J. MONGAN
Solicitor General
LANCE E. WINTERS
Chief Assistant Attorney General
SUSAN SULLIVAN PITHEY
Senior Assistant Attorney General

s/ Helen H. Hong

HELEN H. HONG
Deputy Solicitor General
IDAN IVRI
Supervising Deputy Attorney General
NIMA RAZFAR
Deputy Attorney General
Attorneys for Respondent

August 1, 2023

CERTIFICATE OF COMPLIANCE

I certify that the attached Reply Brief uses a 13 point Century Schoolbook font and contains 3898 words.

ROB BONTA
Attorney General of California

s/ Helen H. Hong

HELEN H. HONG
Deputy Solicitor General
Attorneys for Respondent

August 1, 2023

DECLARATION OF ELECTRONIC SERVICE AND SERVICE BY U.S. MAIL

Case Name: **People v. Tony Hardin** No.: **S277487**

I declare: I am employed in the Office of the Attorney General, which is the office of a member of the California State Bar, at which member's direction this service is made. I am 18 years of age or older and not a party to this matter. I am familiar with the business practice at the Office of the Attorney General for collecting and processing electronic and physical correspondence. In accordance with that practice, correspondence placed in the internal mail collection system at the Office of the Attorney General is deposited with the United States Postal Service with postage thereon fully prepaid that same day in the ordinary course of business. Correspondence that is submitted electronically is transmitted using the TrueFiling electronic filing system. Participants who are registered with TrueFiling will be served electronically. Participants in this case who are not registered with TrueFiling will receive hard copies of said correspondence through the mail via the United States Postal Service or a commercial carrier.

On August 1, 2023, I electronically served the attached **Reply Brief** by transmitting a true copy via this Court's TrueFiling system.

Service Via TrueFiling
William Temko
Counsel for Petitioner

Courtesy Copy Via Email
Steven Katz, Deputy District Attorney

CAP – L.A.

I declare under penalty of perjury under the laws of the State of California and the United States of America the foregoing is true and correct and that this declaration was executed on August 1, 2023, at San Diego, California.

Helen H. Hong
Declarant for eFiling

/s/ Helen H. Hong
Signature

Because one or more of the participants in this case have not registered with the Court's TrueFiling system or are unable to receive electronic correspondence, on August 1, 2023, a true copy thereof enclosed in a sealed envelope has been placed in the internal mail collection system at the Office of the Attorney General at 600 West Broadway Street, Suite 1800, San Diego, CA 92101, addressed as follows:

The Honorable Juan Carlos Dominguez, Judge
Los Angeles County Superior Court
Pomona Courthouse South
400 Civic Center Plaza
Department H
Pomona, CA 91766

I declare under penalty of perjury under the laws of the State of California and the United States of America the foregoing is true and correct and that this declaration was executed on August 1, 2023, at San Diego, California.

Helen H. Hong
Declarant for U.S. Mail

/s/ H. Hong
Signature