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IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA

FOURTH APPELLATE DISTRICT

DIVISION THREE

CITY OF DANA POINT,

Plaintiff and Respondent,

v.

JACK R. FINNEGAN,

Defendant and Appellant.

G051155

(Super. Ct. No. 30-2014-00746296)

O P I N I O N

Appeal from a judgment of the Superior Court of Orange County,  
Franz E. Miller, Judge. Affirmed. Request for judicial notice. Denied.

Jack R. Finnegan, in pro. per., for Defendant and Appellant.

Rutan & Tucker, A. Patrick Munoz and Jennifer Farrell for Plaintiff and  
Respondent.

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## INTRODUCTION

Starting in 2011, respondent City of Dana Point (the City) issued several notices of building code and municipal code violations and notices to stop work and correct violations with respect to a residential property owned by appellant Jack R. Finnegan. Claiming the property was substandard and remained in violation of code provisions because of Finnegan's construction of front and rear retaining walls, the City filed a petition for appointment of a receiver pursuant to Health and Safety Code section 17980.7, subdivision (c). The trial court granted the petition and appointed a receiver.

We affirm. Finnegan has asserted a myriad of challenges to the court's order appointing a receiver. Those challenges are without merit for the reasons we will explain.

## BACKGROUND

Finnegan owns unoccupied real property on Manzanita Drive in the City (the property). Finnegan resides in San Clemente.

### I.

#### THE CITY ISSUES NOTICES OF VIOLATION AND STOP WORK NOTICES.

On November 4, 2011, the City issued a notice of violation and stop work notice to Finnegan, regarding the property, which stated: "Building a block wall next to the curb on the public right-of-way without approvals and a building permit or encroachment permit. [¶] \*STOP WORK; submit a plan; obtain approvals and permits by 11-11-11. [¶] Thank you." Five days later, the City issued a second notice of violation and stop work notice, reiterating: "Building a block retaining wall next to the curb in the public R.O.W. [¶] To correct: STOP WORK; submit plans and obtain

approvals. If approvals are obtained, obtain an encroachment permit and a building permit by 11-16-11.” On November 16, the City issued a third notice of violation and stop work notice, stating: “Work without permits: [¶] Building a block retaining wall on the right-of-way. The right-of-way measures 5 feet back from the curb. Installation of unpermitted drainage pipe in R.O.W. Stop work immediately, and remove the block wall and drainage pipe from R.O.W. You must remove the block wall from the right-of-way and the drainage pipe immediately. Failure to do so by 11-30-11 will result in this case being referred to the City Attorney for follow-up and legal action.” The Orange County Fire Authority issued a “red-tag” notice for the front retaining wall.

On December 6, 2011, the City issued a fourth notice of violation and stop work notice for the front retaining wall, stating: “Building a block retaining wall in the R.O.W. and within 36 inches of a fire hydrant. [¶] STOP WORK. The wall must be removed from the right-of-way and must be a min of 36 inches from fire hydrant. [¶] This will be referred to City Attorney. OCSD [(Orange County Sheriff’s Department)] was called. Refused to stop work.”

## II.

### THE CITY ISSUES AN ADMINISTRATIVE CITATION AND ADDITIONAL NOTICES OF VIOLATION.

On December 7, 2011, the City issued administrative citation No. 50160 to Finnegan, requiring that he remove the block retaining wall from the right-of-way. It cited the City Municipal Code section 14.01.020 requiring a permit on a right-of-way and section 14.01.025 addressing construction of a block retaining wall on a right-of-way.

After Finnegan failed to comply with the notices, the City’s code enforcement officer, Sandra Fiebing, asked the Orange County Sheriff’s Department to assist her in inspecting the property. A deputy sheriff informed Finnegan that his decision to continue working on the front retaining wall was a criminal violation. The

deputy sheriff prepared a criminal report of Finnegan's violation of section 115.3 of the California Building Code.

On January 5, 2012, the City issued a notice of violation and stop work notice for a retaining wall being constructed in the back of the property. It stated: "Building a retaining wall in the back yard without a building permit. [¶] CBC Division II, Chapter 1, Section 105 Permits 105.1 Required. [¶] The following actions are required: [¶] Stop work; submit engineered plans and obtain approvals and a building permit by 1-19-12."

In a letter dated January 10, 2012, the City's Community Development, Building and Safety Department sent Finnegan a letter stating that he had received an administrative citation (No. 50160), requiring him to correct the violation involving the front retaining wall by the correction date on the citation, pay the fine within 30 days after the date the citation is served, or contest the administrative citation within that same timeframe. (The rear retaining wall was not referenced in the administrative citation or the letter.) The letter stated: "Because of your failure to pay the administrative citation within thirty (30) days from the date of issuance, you now owe the City of Dana Point \$125.00 (original fine plus 25% late payment charge)." (Italics omitted.) The letter instructed Finnegan to remit payment in the full amount to the City within 30 calendar days of the date of the letter.

### III.

THE CITY PROVIDES NOTICE OF A HEARING ON THE ADMINISTRATIVE CITATION;  
FINNEGAN DOES NOT APPEAR; THE ADMINISTRATIVE CITATION IS UPHELD.

On March 9, 2012, the City's director of community development sent Finnegan a notice that an administrative hearing on the administrative citation that he received was scheduled for March 22, 2012. Finnegan did not appear at the administrative hearing.

The hearing officer issued the administrative hearing decision which stated: “Pursuant to Dana Point Municipal Code (DPMC) section 1.10.100(f), Mr. Finnegan’s failure to appear at said hearing constitutes a forfeiture of the fine and a failure to exhaust his administrative remedies. Accordingly, the order of the Citation is deemed a final determination. For the record, I did perform a review of the events that ended in the issuance of the Administrative Citation #50160.” The hearing officer summarized the evidence that was presented by the City, and concluded, “[a]fter hearing all of the testimony and reviewing the City’s staff report dated February 14, 2012, which I introduced as Exhibit ‘A’, I determined that Administrative Citation #50160 had in fact been issued properly. I have upheld the City Determination, incorporated Exhibit ‘A’ and the taping of the procedures by reference and closed the appeal hearing at 10:15 A.M.”

#### IV.

FOLLOWING THE ISSUANCE AND EXECUTION OF AN INSPECTION AND ABATEMENT WARRANT ON THE PROPERTY, THE CITY’S PROSECUTOR FILES A CRIMINAL COMPLAINT AGAINST FINNEGAN; THE JURY FINDS FINNEGAN GUILTY OF SIX MISDEMEANOR COUNTS; FINNEGAN APPEALS.

In April 2012, the City obtained an inspection and abatement warrant to “allow the City entry on the Property for the purpose of inspecting the retaining wall located in the right of way in front of the Property and remove any portion thereof that constitutes a violation of 2010 California Fire Code section 507.5.5 which regulation provides that ‘[a] 3-foot (914mm) clear space shall be maintained around the circumference of the fire hydrants except as otherwise required or approved.” The City executed the warrant and removed the offending portion of the front retaining wall.

In March 2013, the City’s deputy city prosecutor filed a second amended misdemeanor complaint against Finnegan (the criminal action), alleging he (1) violated the City Municipal Code section 14.01.020 by constructing a retaining wall on the

right-of-way in front of the property without first obtaining a permit from the City; (2) violated California Building Code section 115.3 (incorporated by reference into the City Municipal Code section 8.02.001) by constructing the front retaining wall on a right-of-way after being served with a stop notice to cease such construction; (3) violated the City Municipal Code section 14.01.025 by digging up a surface on a highway or installing, or causing to be installed, a structure on a highway; (4) violated California Fire Code section 507.5.5A (incorporated by reference into the City Municipal Code section 8.24.001) by constructing an unnecessary wall within less than a three-foot clear space maintained around the circumference of fire hydrants and without first getting the necessary approval; (5) violated California Building Code section 105.1 (incorporated by reference into the City Municipal Code section 8.02.001) by constructing “a wall with a surcharge,” in the rear area of the property without first getting a permit from the City; and (6) violated California Building Code section 105.1 (incorporated by reference into the City Municipal Code section 8.02.001) by constructing the rear retaining wall exceeding three feet in height, measured from the bottom of the footing to the top of the wall, without first getting a permit from the City.

A jury found Finnegan guilty of all six counts.<sup>1</sup> On August 28, 2013, the court imposed a sentence of two years’ informal probation, with fines, restitution, and terms and conditions, and additional orders that included Finnegan remove the front retaining wall within 180 days of the order and obtain all appropriate and necessary permits for its removal, and, as to the rear retaining wall, secure the necessary building

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<sup>1</sup> The second amended misdemeanor complaint included a seventh count for Finnegan’s violation of section 105.1 of the California Building Code (incorporated by reference into the City Municipal Code section 8.02.001) by constructing a wall exceeding four feet in height in the rear area of the property, without first getting a permit from the City. The disposition of that count is not clear in our record.

permit to allow the wall to remain. Finnegan appealed from the judgment of conviction in the criminal action.<sup>2</sup>

## V.

### THE TRIAL COURT IN THE CRIMINAL ACTION FINDS FINNEGAN IN VIOLATION OF PROBATION; FINNEGAN APPEALS.

In July 2014, the trial court in the criminal action found Finnegan in violation of his probation. At the sentencing hearing in August, the court stated: “[B]ecause I do believe there is absolutely no willingness on the part of Mr. Finnegan to comply with any probation terms that regard taking down the wall or getting permits, this court does not believe reinstating probation with any similar terms would be of any benefit to anyone. [¶] So at this point, the defendant is sentenced as follows: [¶] On count 1, \$700 plus penalty assessment; count 2, \$700 plus penalty assessment; count 4, \$700 plus penalty assessment; and count 5, \$700 plus penalty assessment. [¶] The sentences on counts [3] and 6 are stayed pursuant to Penal Code section 654. Payment is to be made by October 28th, 2014.”

Finnegan appealed from the court’s determination in the criminal action that he was in violation of his probation. That determination is not before us in this appeal.

## VI.

### THE CITY INITIATES THE INSTANT ACTION BY FILING A PETITION SEEKING APPOINTMENT OF A RECEIVER FOR THE PROPERTY.

In September 2014, the City initiated the instant action by filing a petition, entitled “Petition for Order Appointing a Receiver and Requiring Reimbursements (Health & Safety Code § 17980.7).” The petition sought to take possession and control over the property under Health and Safety Code section 17980.7, subdivision (c) and

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<sup>2</sup> That appeal is not before this court in the instant case.

Code of Civil Procedure section 564, subdivision (b)(3), on the ground those statutes authorize the trial court to appoint a receiver “over substandard property if the property owner has repeatedly failed to comply with notices and orders to repair issued by a local agency, or if the property owner has failed to carry a judgment into effect.”

The petition alleged the property has been in violation of the City Municipal Code and the California Building Code for three years and the property remained in virtually the exact same substandard and dangerous condition in which it was originally discovered. The petition was supported by several declarations including that of the City’s engineer, Matthew Sinacori, who stated, “[t]here is currently limited space for these utility companies to access existing utilities, let alone space for them to install future utilities. The South Coast Water District also owns a fire hydrant three feet from Mr. Finnegan’s Front Retaining Wall in the City’s right-of-way. Additionally, because Mr. Finnegan constructed his Wall so close to the curb, it would be impossible for a person to get out of the passenger side of a vehicle, including emergency vehicles, parked in front of Mr. Finnegan’s driveway. Lastly, if the City needs or desires to either expand Manzanita Drive or construct a sidewalk along Manzanita Drive in the future, the City will need access to its right-of-way in front of Mr. Finnegan’s Property.”

The City also submitted the declaration of geologist Brandon Boka who stated the rear retaining wall “supports a steeply ascending slope approximately 20-feet high” and is “located at the toe of a portion of the slope that visually exhibits topographic characteristics of past failure.” He also stated, “[a]ny potential slope failure could be significant and a danger to both the Property and the neighboring residential property located at the top of the slope.”

Finnegan filed a response to the petition and a motion to dismiss, which included his declaration stating, inter alia, “[t]here have not been any notices of any kind

delivered to me since January 2012.” Finnegan later filed an amended response to the petition.

## VII.

### THE TRIAL COURT GRANTS THE PETITION AND APPOINTS A RECEIVER; FINNEGAN APPEALS.

In December 2014, the trial court signed a modified order granting the petition, stating in part: “The Court, having jurisdiction over the subject matter and having considered the evidence and the Petition submitted, finds: [¶] 1. That all parties with a recorded interest in the Property were properly served with the Petition in this matter. [¶] 2. That the Property is substandard, and has been and is now maintained in a manner that violates various provisions of the California Building Code and the Dana Point Municipal Code (‘DPMC’). [¶] 3. That the violations are so extensive and of such a nature that the health and safety of its occupants, neighboring residents and the general public are substantially endangered. [¶] 4. That the City, as a local enforcement agency, properly issued multiple notices to repair and orders to abate to [Finnegan]. [¶] 5. That [Finnegan] has failed to comply with said notices and orders within a reasonable time after their issuance, despite having been afforded a reasonable opportunity to correct the conditions cited therein. [¶] 6. That [Finnegan] was afforded his procedural due process rights guaranteed by the California Constitution and the United State[s] Constitution. [¶] 7. That the substandard conditions will likely persist unless this Court appoints a receiver to take possession of the Property and to undertake responsibility for its rehabilitation. [¶] 8. That pursuant to Code of Civil Procedure section 564, Health and Safety Code section 17980.7(c), and by virtue of the inherent power of equity courts, this court has the authority to appoint a receiver to take possession and order the rehabilitation of the Property. [¶] 9. That Code of Civil Procedure section 568 and Health and Safety Code section 17980.7(c)(4)(H) empower the appointed receiver generally to do such acts

respecting the Property as this court may authorize. [¶] 10. That Mark Adams, the nominee of the City, has demonstrated his capacity and expertise to develop and supervise a viable financial and construction plan for the rehabilitation of the Property. [¶] **NOW, THEREFORE, IT IS HEREBY ORDERED:** That Mark Adams (hereinafter referred to as the ‘Receiver’) is appointed as receiver of the Property, with full powers granted receivers under Code of Civil Procedure section 568 and Health and Safety Code section 17980.7(c), subject to this Order and further orders of the Court. The Receiver shall immediately, and before performing any duties: (1) execute and file a receiver’s oath; and (2) file the bond required by Code of Civil Procedure section 567(b) in the amount of \$10,000.00.”

The court’s order set forth the receiver’s compensation, powers, and duties, and further ordered that Finnegan, inter alia, relinquish possession of the property to the receiver.

Finnegan filed a notice of appeal from the “Order for Receiver Code of Civil Procedure 564 and Health & Safety Code Section 17980.7.”<sup>3</sup>

#### REQUEST FOR JUDICIAL NOTICE

The City filed a request that we take judicial notice of two court documents from the civil rights violation case that Finnegan filed in March 2015 against, inter alia, the trial judge in the instant case, in the United States District Court (case No. SACV 15-0420-DSF (RNB)). Finnegan has not opposed the City’s request. The

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<sup>3</sup> Code of Civil Procedure section 904.1, subdivision (a)(7) provides that an appeal may be taken from “an order appointing a receiver.” At oral argument, Finnegan argued that the City filed its respondent’s brief too late. The City, however, filed a motion seeking relief from default, which this court granted.

City's request for judicial notice is denied on the grounds that the documents are not relevant to the issues in this appeal.

## DISCUSSION

### I.

#### GENERAL LEGAL PRINCIPLES GOVERNING PETITIONS FOR THE APPOINTMENT OF A RECEIVER AND APPLICABLE STANDARD OF REVIEW.

The California Supreme Court has explained: “Sections 17980.6 and 17980.7 of the Health and Safety Code compose a statutory scheme providing certain remedies to address substandard residential housing that is unsafe to occupy. Pursuant to section 17980.6, an enforcement agency may issue a notice to an owner to repair or abate property conditions that violate state or local building standards and substantially endanger the health and safety of residents or the public. Section 17980.7 provides that, if the owner fails to comply with the notice despite having been afforded a reasonable opportunity to do so, the enforcement agency may seek judicial appointment of a receiver to assume control over the property and remediate the violations or take other appropriate action.” (*City of Santa Monica v. Gonzalez* (2008) 43 Cal.4th 905, 912, fn. omitted.)

The appointment of a receiver rests within the discretion of the trial court. (*Gold v. Gold* (2003) 114 Cal.App.4th 791, 807.) The court has broad discretion to determine the necessity for the appointment of a receiver. (*Id.* at p. 808.) “The order appointing a receiver will be reversed on appeal if there is a clear showing of an abuse of discretion. [Citations.]” (*Ibid.*)

### II.

#### THE TRIAL COURT DID NOT ERR BY GRANTING THE PETITION.

Finnegan argues the trial court erred by granting the petition because the petition was not supported by competent evidence.

Finnegan asserted in a declaration accompanying his original response to the petition that he never received any notices after January 2012. But he does not challenge the evidence presented by the City that it provided him multiple notices under Health and Safety Code section 17980.6<sup>4</sup> of the violations of, inter alia, the City Municipal Code. Those notices directed Finnegan to stop work and make corrections on the property. The City also provided evidence that Finnegan failed to comply with the terms of the notices provided under Health and Safety Code section 17980.6. The evidence showed that, after a reasonable time, the City then provided Finnegan notice of the hearing on its petition to seek an order appointing a receiver within the meaning of Health and Safety Code section 17980.7.<sup>5</sup>

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<sup>4</sup> Health and Safety Code section 17980.6 provides, in part: “If any building is maintained in a manner that violates any provisions of this part, the building standards published in the State Building Standards Code relating to the provisions of this part, any other rule or regulation adopted pursuant to the provisions of this part, or any provision in a local ordinance that is similar to a provision in this part, and the violations are so extensive and of such a nature that the health and safety of residents or the public is substantially endangered, the enforcement agency may issue an order or notice to repair or abate pursuant to this part.”

<sup>5</sup> “[Health and Safety Code s]ection 17980.7 picks up where section 17980.6 leaves off, providing in relevant part: ‘If the owner fails to comply within a reasonable time with the terms of the order or notice issued pursuant to Section 17980.6, the following provisions shall apply: [¶] . . . [¶] (c) The enforcement agency, tenant, or tenant association or organization may seek and the court may order, the appointment of a receiver for the substandard building pursuant to this subdivision. In its petition to the court, the enforcement agency, tenant, or tenant association or organization shall include proof that notice of the petition was served not less than three days prior to filing the petition . . . to all persons with a recorded interest in the real property upon which the substandard building exists. . . .’ (§ 17980.7[, subd.] (c).) In deciding whether to appoint a receiver, ‘the court shall consider whether the owner has been afforded a reasonable opportunity to correct the conditions cited in the notice of violation.’ (§ 17980.7, subd. (c)(1).)” (*City of Santa Monica v. Gonzalez, supra*, 43 Cal.4th at p. 920.) Finnegan does not argue that the notice requirements of Health and Safety Code section 17980.7 were not met.

Finnegan argues there was insufficient evidence that the alleged violations on the property substantially endangered the health and safety of the public. Sinarcori's declaration stated that Finnegan's front retaining wall was so close to the curb, it hindered access of utility companies and emergency vehicles to the area, as well as the use of the passenger side doors of cars parked on the street. Boka's declaration established that the rear retaining wall was built at the toe of a steeply ascending 20-foot-high slope that "visually exhibits topographic characteristics of past failure." Boka's declaration further stated, "[a]ny potential slope failure could be significant and a danger to both the Property and the neighboring residential property located at the top of the slope." The trial court did not err by concluding that evidence was sufficient to show the front and rear retaining walls substantially endangered the health and safety of the public.

### III.

SECTION 446 OF THE CODE OF CIVIL PROCEDURE PROVIDES  
THAT A PETITION SEEKING THE APPOINTMENT OF A RECEIVER  
NEED NOT BE VERIFIED.

Citing, *inter alia*, section 446 of the Code of Civil Procedure, Finnegan argues the petition was procedurally defective because it was unverified. That statute, however, expressly provides that when a city is the plaintiff, verification is not necessary. Section 446, subdivision (a) of the Code of Civil Procedure provides in relevant part: "When the state, any county thereof, city, school district, district, public agency, or public corporation, or an officer of the state, or of any county thereof, *city*, school district, district, public agency, or public corporation, in his or her official capacity is plaintiff, *the complaint need not be verified.*" (Italics added.) Here, the City filed the petition as plaintiff. Therefore, Finnegan's argument that the petition is fatally defective because is it unverified is without merit.

#### IV.

##### THE TRIAL COURT DID NOT VIOLATE FINNEGAN’S DUE PROCESS RIGHTS; FINNEGAN WAS NOT ENTITLED TO A TRIAL ON THE PETITION.

Finnegan argues the trial court violated his constitutional rights under the United States and California Constitutions by granting the petition without a trial. Finnegan, however, has failed to cite any legal authority showing that due process, or any other constitutional provision, requires that a city’s petition to appoint a receiver under Health and Safety Code section 17980.7 be resolved through trial.

“The opportunity to be heard is ‘a fundamental requirement of due process.’ [Citations.] However, there is no precise manner of hearing which must be afforded; rather the particular interests at issue must be considered in determining what kind of hearing is appropriate. A formal hearing, with full rights of confrontation and cross-examination is not necessarily required. [Citation.] What must be afforded is a “reasonable” opportunity to be heard. [Citations.]” (*Saleeby v. State Bar* (1985) 39 Cal.3d 547, 565-566.)

In *City of Santa Monica v. Gonzalez, supra*, 43 Cal.4th at page 928, the California Supreme Court concluded due process was afforded to a landowner who received notice of claimed violations, was given time to correct them, and received notice of the city’s petition to appoint a receiver. The Supreme Court held: “Based on this record, it is fair to conclude that the May 21, 2002 Notice put [the landowner] on ample notice of the claimed violations and that the City ultimately afforded [the landowner] more than an adequate and reasonable period of time to correct them. There also is no question that [the landowner] received timely notice of the City’s receivership petition and motion, and that he in fact exercised his right to be heard on the receivership matter. . . . In view of all the circumstances, we cannot say the trial court appointed the receiver

in derogation of [the landowner]'s due process rights or in violation of the due process principles articulated in *Jones[ v. Flowers (2006)] 547 U.S. 220.*" (*Ibid.*)

The Supreme Court further stated: "[The landowner], of course, had been on notice for years that his property was uninhabitable and in violation of building, fire, housing, plumbing, and electrical codes. His steadfast refusal to obey orders to correct these violations resulted in criminal convictions and contempt citations, and landed him in jail for a number of months. Indeed, at all relevant times beginning with the date the City personally served its May 21, 2002 Notice and Order to Comply, [the landowner] was on probation for the same code violations. After [the landowner] did not comply with the May 21, 2002 Notice, the City timely served him with its petition for appointment of a receiver and with notice and motion for appointment of a receiver to be heard on January 6, 2005. The motion papers served on [the landowner] on December 9, 2004, made clear that the City contemplated 'complete demolition of the structures' on the property in view of 'the extreme and chronic unsafe conditions,' with [the landowner] receiving the net proceeds available after demolition and sale. The trial court appointed a receiver on January 6, 2005, and thereafter the receiver provided [the landowner] timely notice of a hearing on his application for an order to contract for demolition of the property. Unlike the situation in *D & M Financial[ Corp. v. City of Long Beach (2006)] 136 Cal.App.4th 165*, no violation of due process appears in this case because [the landowner] was provided 'with notice, with the opportunity to be heard, and with the opportunity to correct or repair the defect before demolition.'" (*City of Santa Monica v. Gonzalez, supra*, 43 Cal.4th at p. 929.)

Here, Finnegan was provided multiple notices of violations of the City Municipal Code, regarding the front and rear retaining walls. He was further provided notice of the citation issued by the City and of an administrative hearing on the citation. After Finnegan failed to appear at the administrative hearing, he was provided notice that

the citation was upheld. Finnegan was also found guilty of six misdemeanors in the criminal action, based on the same issues.

In the instant action, Finnegan was also served with the petition to which he filed a response and amended response, opposing the appointment of a receiver for the property. Finnegan appeared at the hearing on the petition and argued before the court issued its final ruling. Because Finnegan was provided notice, the opportunity to be heard, and the opportunity to correct or repair the front and rear retaining walls, his due process rights were not violated. Finnegan does not identify any evidence or argument that he was precluded from presenting to the trial court. We find no error.

#### V.

#### THE TRIAL COURT HAD JURISDICTION TO RULE ON THE PETITION.

Finnegan argues the trial court's grant of the petition was in error because the court lacked personal jurisdiction and subject matter jurisdiction.

Our record shows Finnegan is a resident of Orange County, California, and he is the owner of the property which is located in Orange County, California. (*Watts v. Crawford* (1995) 10 Cal.4th 743, 755-756 [personal jurisdiction properly exercised over the defendant domiciled in the state at the time the cause of action arose].) Finnegan also filed a response and an amended response to the petition. The Orange County Superior Court therefore had personal jurisdiction over him. (Code Civ. Proc., § 1014; *Air Machine Com SRL v. Superior Court* (2010) 186 Cal.App.4th 414, 419-420.)

Finnegan's subject matter jurisdiction argument appears to be based on his understanding that his pending appeals in the criminal action automatically stay the instant action. Finnegan's argument is without merit.

Penal Code section 1467 provides: "An appeal from a judgment of conviction does not stay the execution of the judgment in any case unless the trial or a reviewing court shall so order. The granting or refusal of such an order shall rest in the

discretion of the court, except that a court shall not stay any duty to register as a sex offender pursuant to Section 290.” Therefore, neither of the pending appeals in the criminal action stays execution of the judgment in the instant action, absent an order stating otherwise.

Finnegan also cites section 916 of the Code of Civil Procedure in support of his subject matter jurisdiction argument. That statute provides in relevant part: “[T]he perfecting of an appeal stays proceedings in the trial court upon the judgment or order appealed from or upon the matters embraced therein or affected thereby, including enforcement of the judgment or order, but the trial court may proceed upon any other matter embraced in the action and not affected by the judgment or order.” (Code Civ. Proc., § 916, subd. (a).) Even assuming the applicability of section 916 to a pending criminal appeal so as to impose an automatic stay on a related civil action, Finnegan fails to show the petition constitutes a “matter embraced” in the criminal action. A petition seeking the appointment of a receiver is an entirely separate matter from a criminal misdemeanor complaint or a criminal probation violation order. The trial court had jurisdiction to rule on the petition.<sup>6</sup>

## VI.

### THE RECORD DOES NOT SUPPORT FINNEGAN’S CONTENTION THE TRIAL COURT WAS BIASED AGAINST HIM.

Finnegan argues the trial court engaged in judicial misconduct, stating, “the lower court proceeding was so tainted by judicial bias or unfairness that Finnegan could

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<sup>6</sup> Finnegan also argues in his opening brief that “[c]ommon sense mandates that the Appellate Division should first be allowed to determine the outcome of the stated causes.” He further argues: “The Orange County Superior Court Appellate Division has current jurisdiction over the parties and the subject matter, the first court to assume jurisdiction has exclusive and continuing jurisdiction until all related matters have been resolved. The second action must be abated.” Finnegan does not provide any relevant legal authority or analysis to support that argument.

not have received a fair hearing.” Finnegan does not provide any citations to the record or provide any examples of conduct, which, he contends, constitute judicial misconduct other than to assert the petition should not have been granted. Our review of the record does not show the trial judge engaged in any judicial misconduct.

## VII.

### FINNEGAN’S UNSUPPORTED ARGUMENTS ARE FORFEITED.

In his opening brief, Finnegan claims the order appointing a receiver violated a variety of constitutional and statutory rights, including the right to equal protection, the right to be free from “[i]nvidious [d]iscrimination,” rights under the Fourth Amendment to the United States Constitution, and civil rights under title 42 United States Code section 1983. Finnegan does not provide relevant citations to any legal authority or provide analysis showing how those various rights are implicated in the context of an order appointing a receiver under Health and Safety Code section 17980.7. As discussed *ante*, the notice and opportunity to be heard were afforded Finnegan and the trial court did not abuse its discretion by granting the petition as it was supported by substantial evidence.

The failure to cite authority or develop an argument with reference to any specific alleged deficiencies in the record constitutes a forfeiture of the issue on appeal. (*Magic Kitchen LLC v. Good Things Internat., Ltd.* (2007) 153 Cal.App.4th 1144, 1161-1162; *Moulton Niguel Water Dist. v. Colombo* (2003) 111 Cal.App.4th 1210, 1215 [“Contentions are waived when a party fails to support them with reasoned argument and citations to authority.”].) To the extent Finnegan intended to assert additional arguments in his opening brief other than those addressed in this opinion, they are forfeited because they are unsupported by relevant legal citations or analysis.

DISPOSITION

The judgment is affirmed. Respondent shall recover costs on appeal.

FYBEL, J.

WE CONCUR:

ARONSON, ACTING P. J.

THOMPSON, J.