FILED WITH PERMISSION

IN THE SUPREME COURT OF THE STATE OF CALIFORNIA

SUPREME COURT
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Deputy

IN THE MATTER OF C.H.) Minor and Appellant)	No. S237762
PEOPLE OF THE STATE CALIFORNIA,) Plaintiff and Respondent)	(Court of Appeal Case No. A146120; Contra Costa County Superior Court No. J11-00679)
v.	
C.H.) Defendant and Appellant)	

APPELLANT'S OPENING BRIEF ON THE MERITS

After Decision by the Court of Appeal First Appellate District, Division Three
Filed August 30, 2016

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By Appointment of the Court

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IN THE MATTER OF	)	No. S237762
C.H.	)	
	)	
Minor and Appellant	)	
	)	
PEOPLE OF THE STATE	)	
CALIFORNIA,	)	(Court of Appeal
	)	Case No. A146120;
Plaintiff and Respondent	)	Contra Costa County
	)	Superior Court
	)	No. J11-00679)
v.	)	
C.H.	)	
Defendant and Appellant	)	
	)	

APPELLANT'S OPENING BRIEF ON THE MERITS

QUESTIONS PRESENTED FOR REVIEW

This case presents the following questions for review:

1. Did the juvenile court err by refusing to order the expungement of appellant's DNA record after his qualifying felony conviction was redesignated a misdemeanor under Proposition 47 (Penal Code, sec. 1170.18)?[1]

2. Does the retention of appellant's DNA sample violate equal protection because a person who committed the same offense after

[1]. All further references are to the Penal Code unless otherwise indicated.

Proposition 47 was enacted would be under no obligation to provide a DNA sample?

STATEMENT OF THE CASE

On April 19, 2011, Appellant C.H., was charged in an Original Juvenile Wardship Petition, pursuant to Welfare and Institutions Code section 602, with a second degree robbery (sec. 211/212.5, subd. (c)) and an assault by force likely to produce great bodily injury (sec. 245, subd. (a)). (CT 1-3.) On July 15, 2011, appellant admitted committing an amended count three, felony grand theft. (Sec. 487, subd. (c).) (CT 22.)

The disposition hearing took place on August 19, 2011 when appellant was 16 years old. (CT 25-27.) Wardship was declared with no termination date. (CT 25.) A $500.00 restitution fine was imposed. (CT 26.) Pursuant to section 296.1 appellant was required to submit his DNA to the state, based on his adjudicated felony offense. (CT 26.)

On June 5, 2015 appellant filed a petition for modification based on the voter initiative Proposition 47, codified as section 1170.18. The petition sought designation of appellant's felony theft offense (sec. 487, subd. (c)) to a misdemeanor petty theft because the loss amounted to less than $950.00. (Sec. 490.2) (CT 100-101.) Appellant requested recalculation of his confinement time to six months, reduction of his fine to an amount in accordance with the misdemeanor offense, and expungement of his DNA –

removal of his DNA offender profile from the state database and destruction of his DNA sample. (CT 100-101.)

The juvenile court granted appellant's petition in all respects except the DNA expungement request. Appellant's offense was redesignated to a misdemeanor petty theft (sec. 490.2), his fine reduced to $50.00 and his maximum time recalculated to six months. (CT 104; RT pp. 2-4.)

As relevant to the court's denial of DNA expungement, the parties stipulated that the briefing, argument and the court's decision from the Santino-B-W matter, J13-01068, heard by the court on June 4, 2015, would be incorporated into the decision in appellant's case.[2] (CT 105, RT 4.) The court denied appellant's DNA request on the basis of the arguments and decision made in the Santino B-W. case. (RT 4; RT 6/4/2015 pp. 1-21 [hearing on petition in Santino-B-W matter, J13-01068].)

On August 14, 2015, appellant filed a motion for reconsideration of the court's denial of his DNA request based on the recent case, *Alejandro N. v. Superior Court (San Diego)* (2015) 238 Cal.App.4th 1209 (pet. rev. den. 10/14/2015) ["*Alejandro N.*"]. (CT 117-118.) *Alejandro N.* held that a juvenile's DNA should be expunged when his prior felony adjudication was designated a misdemeanor for all purposes pursuant to section 1170.18. The

[2] Appellant's request for judicial notice of the briefing in the Santino B-W case was granted. (*In re C.H.*, review granted Nov. 16, 2016, No. S237762 [previously published at 2 Cal.App.5th 1139] 1144, n. 3.)

parties again agreed to submit appellant's request on the pleadings and arguments presented in another juvenile case heard by the court, the Lamont P. case, J12-00947. (RT 8.)[3] On August 25, 2015, the court denied appellant's reconsideration request without prejudice. (CT 121; RT 8-9; RT 8/25/2015 pp. 1-11.)

A timely notice of appeal was filed on August 27, 2015. (CT 129-130.) On August 30, 2016, the Court of Appeal filed its opinion in this case in which it affirmed the juvenile court's denial of appellant's request to expunge his DNA sample. (*In re C.H, supra,* 2 Cal.App.5th 1139.)

In *In re C.H.* the Court found that the redesignation of a felony offense as a misdemeanor pursuant to section 1170.18 did not support DNA expungement. The Court analogized to section 17, subdivision (b) which employs the identical language, "misdemeanor for all purposes", used in section 1170.18. (*In re C.H.*, *supra*, 2 Cal.App.5th at p. 1145.) The Court held it was presumptively obligated to construe the phrase "misdemeanor for all purposes" in section 1170.18 and section 17 to mean the same thing: that a redesignated offense should be treated as a misdemeanor for all purposes only after the time of redesignation. (*In re C.H.*, *supra*, 2 Cal.App.5th at pp. 1146-1147.) Therefore, an offender's obligation to

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[3] The reporter's transcript of the proceedings on the Motion to Reconsider in In re Lamont P., J12-00947, is found at RT 8/25/2015 pp. 1-11 [hearing on reconsideration request on DNA denial in Lamont P. case, J12-00947]. The pleadings in the Lamont P. case referred to by the juvenile court are found at CT 122-124.

provide DNA to the state at the time of a felony conviction or adjudication was not affected by redesignation under section 1170.18. (*Id.* at p. 1147.)

The Court harmonized section 1170.18 and sections 296 and 299 of the DNA Act by finding that Proposition 47's directive that a redesignated felony is "a misdemeanor for all purposes" did not compel "expungement of DNA originally obtained as a result of a qualifying conviction or plea." (*Id.* at pp. 1148-1149.) The Court reasoned that if the provisions of the two propositions could not be harmonized then the specific crime-solving and identification provisions of Proposition 69 controlled over Proposition 47's general mandate that a redesignated crime is a misdemeanor for all purposes. (Sec. 1170. 18, subd. (k).) (*Id.* at p. 1149.) The Court of Appeal found that its reconciliation of Propositions 69 and 47 "was faithful to the public policy and purposes expressed in and supporting both initiative measures. (*Id.* at p. 1149.)

The Court also held there was no equal protection violation stemming from the retention of appellant's DNA because there is a rational basis supporting the retention of DNA from offenders convicted of felonies before Proposition 47 whose crimes have been redesignated as misdemeanors. (*Id.* at pp. 1151-1152.)

Appellant petitioned this Court for review which was granted on November 16, 2016.

STATEMENT OF FACTS

On January 26, 2011, appellant and two friends went into the Kohl's Department Store in Brentwood, California. According to the loss prevention officer, Michael Pardini, two of the boys left Kohl's with merchandise without paying for it. C.H. selected a pair of $46.00 jeans, went into a dressing room, then left the store through a different exit wearing the jeans. (CT 31.) He was seen outside the store wearing the jeans before all three boys rode away on their bicycles. (CT 32, 34.)

C.H. was arrested a few weeks later. (CT 32.) He said that his sister worked at Kohl's and he planned to put a pair of jeans on hold at the register so his sister could buy the jeans with her employee discount. (CT 34.) While in the dressing room C.H. got a call from one of his friends saying a loss prevention officer had stopped him outside. C.H. panicked and accidentally left the store wearing the jeans. (CT 34.)

SUMMARY OF ARGUMENT

Proposition 47, The Safe Neighborhoods And Schools Act, was passed by California voters on November 4, 2014. Proposition 47 changed portions of the Penal Code to redesignate certain drug possession and theft-related offenses from felonies or wobblers to misdemeanors, unless the offenses were committed by certain ineligible offenders. (*People v. Rivera* (2015) 233 Cal.App.4th 1085, 1091.) Proposition 47 also created a procedure making those changes available to offenders who had previously

been convicted or adjudicated of redesignated offenses, including persons who were still serving felony sentences and those who had completed their sentences. These offenders could petition the trial court to have their crimes redesignated as misdemeanors. (Sec. 1170.18; *Alejandro N. v. Superior Court*, *supra*, 238 Cal.App.4th at p. 1222-1223.)

Appellant C.H. took a pair of $46.00 jeans from a store without paying and now stands guilty of a misdemeanor petty theft, section 490.2, as a result of a successful petition filed pursuant to section 1170.18, added to the Penal Code by Proposition 47. The juvenile court redesignated his 2011 felony theft adjudication as a misdemeanor for all purposes, other than firearm restrictions. (Sec. 1170.18, subds. (f), (g), and (k).) Appellant also sought expungement of his DNA - destruction of the DNA sample he had provided at the time of his felony theft adjudication prior to redesignation and removal of his DNA offender profile from the database - because he no longer had a qualifying felony or misdemeanor offense. (Sec. 299.) The collection of DNA samples is authorized for felony convictions and adjudications, but not authorized based solely on the commission of a misdemeanor with the exception of sex and arson offenses. (Sec. 296; *Alejandro N. v. Superior Court*, *supra*, 238 Cal.App.4th at pp. 1226-1227.)

The juvenile court denied the expungement request, and the Court of Appeal affirmed the denial. (*In re C.H.*, *supra*, 2 Cal.App.5th at p. 1151.) The Court of Appeal found that the redesignation of a felony offense as a

misdemeanor pursuant to section 1170.18 did not allow DNA expungement. As noted previously, the Court analogized to section 17, subdivision (b) which employs the same language – "misdemeanor for all purposes" - as section 1170.18, subdivision (k). (*Id.* at p. 1145.) The Court found that a redesignated offense should be treated as a misdemeanor for all purposes only after the time of redesignation. (*Id.* at pp. 1146-1147.).

In *Alejandro N.* appellant challenged the denial of a request to expunge his DNA sample after successful redesignation as a misdemeanor "for all purposes" under section 1170.18. *Alejandro N.* held that section 1170.18 requires that once redesignated, the affected offense shall be treated exactly like any other misdemeanor offense. Accordingly, the Court in *Alejandro N.* held appellant was entitled to an order expunging his DNA.

Other published Court of Appeal decisions, including the present case, *In re C.H.*, have expressly disagreed with the reasoning of *Alejandro N.* The majority in *In re C.B.*, review granted Nov. 9, 2016, No. S237801 [previously published at 2 Cal.App.5th 1112][4], affirmed the juvenile court denial of the request to expunge C.B.'s DNA after a successful Proposition 47 redesignation, as did *In re J.C.* (2016) 246 Cal.App.4th 1462 (pet. rev. den. 8/10/2016). (*In re C.B.*, *supra*, 2 Cal.App.5th at p. 1128; *In re J.C.*,

[4] *In re C.B.* is on review in this Court. Cases pending on review may be cited for persuasive value. (Cal. Rules of Court, rule 8.115, subdivision (e).)

supra, 246 Cal.App.4th at p. 1483.) However, Justice Pollak dissented in *In re C.B.* and cited with approval *Alejandro N.'s* analysis in support of C.B.'s request to expunge his DNA sample.

Appellant contends that the Court of Appeal erred in affirming the denial of appellant's request to expunge his DNA sample. Proposition 47 states that redesignated offenses shall be treated as misdemeanors "for all purposes" except firearm restrictions. (Sec. 1170.18, subd. (k).) Appellant thus argues that the plain and unambiguous language of section 1170.18's provisions, particularly the "misdemeanor for all purposes" phrase in section 1170.18, subdivision (k), reveals the voters intended to remove all felony collateral consequences, except for restrictions on firearm possession, upon redesignation as a misdemeanor. DNA retention was similarly excluded. Appellant maintains that the "for all purposes" language in section 17 and section 1170.18 is not analogous because the purpose and effect of the two provisions are different. Further, appellant requests prospective expungement of his DNA, not retroactive relief as the Court of Appeal states.

Appellant also argues that Proposition 69's DNA provisions do not require retention of his DNA. In particular section 299, subdivisions (a) and (b), qualifies him for DNA expungement upon redesignation of his offense as a misdemeanor pursuant to section 1170.18. (See sec. 296.) Additionally, appellant agrees with the Court of Appeal that Propositions 47 and 69 can

be harmonized but not as the Court of Appeal suggests. Rather the two propositions can be harmonized by acknowledging the purpose and intent of the enactors of both provisions and adopting a plausible interpretation of section 1170.18, particularly subdivision (k), consistent with these principles. Appellant submits that the expungement of DNA for redesignated misdemeanants supports the public policy behind Proposition 47 and Proposition 69.

Although the Court of Appeal did not address this contention because of its interpretation of Propositions 47 and 69, appellant argues that the recent amendment to section 299, subdivision (f), Assembly Bill 1492 ["AB 1492"], unconstitutionally amends Proposition 47 and is inconsistent with the intent of the initiative. Finally, appellant argues that retention of appellant's DNA violates the equal protection clauses of the state and federal constitutions.

ARGUMENT

I. THE REDESIGNATION PROCEDURE UNDER PROPOSITION 47 RESULTS IN A MISDEMEANOR OFFENSE "FOR ALL PURPOSES" THAT DOES NOT QUALIFY AS AN OFFENSE PERMITTING DNA COLLECTION OR RETENTION.

A. Background And Standard Of Review.

1. Proposition 47/Section 1170.18.

Appellant's theft adjudication was properly designated as a misdemeanor petty theft for all purposes except for firearm restrictions pursuant to Proposition 47, codified in section 1170.18. Proposition 47 enacted the "Safe Neighborhoods and Schools Act" effective November 5, 2014. (Sec. 1170.18, subd. (a); *Alejandro N. v. Superior Court (San Diego), supra*, 238 Cal.App.4th at p. 1222.) The intent of the voters in passing Proposition 47 was to reclassify nonserious and nonviolent crimes as misdemeanors "for all purposes" except for firearm restrictions. (Sec. 1170.18, subd. (k).) The Act changed portions of the Penal Code and Health and Safety Code to reduce various drug possession and theft-related offenses, including petty thefts valued under $950.00, from felonies (or wobblers) to misdemeanors, unless the offenses were committed by certain ineligible offenders. The provisions of Proposition 47 apply to juvenile offenders. (*Alejandro N. v. Superior Court (San Diego), supra*, 238 Cal.App.4th at pp. 1217, 1222-1223.) Thus, any person who committed any

of these offenses after November 5, 2014 would be convicted of a misdemeanor.

Proposition 47 also added section 1170.18 to the Penal Code. Section 1170.18 allowed retroactive application of these changes to offenders who, prior to November 5, 2014, had been convicted or adjudicated of felony drug possession or theft offenses which were now redesignated as misdemeanors. Thus, qualifying offenders who incurred their felony convictions before November 5, 2014 were able to benefit from the Act's redesignation provisions. Subdivisions (a) and (b) of section 1170.18 provide for a resentencing procedure for persons currently serving a sentence for a felony conviction that would have been a misdemeanor under the Act. The court is required to resentence the petitioner unless he or she "would pose an unreasonable risk of danger to public safety." For someone like appellant, a person "who has completed his or her sentence for a conviction" of a felony, subdivisions (f), (g), and (h) of section 1170.18 provide that the person may petition the court to have the felony conviction designated as a misdemeanor. (Sec. 1170.18, subd. (f).) The statute provides that a felony conviction that is resentenced under section 1170.18, subdivision (b) or designated as a misdemeanor under section 1170.18, subdivision (g) "*shall be considered a misdemeanor for all purposes*, except that such resentencing shall not permit that person to own, possess, or have in his or her custody or control any firearm or prevent his

or her conviction" for firearm possession. (Sec. 1170.18, subd. (k), italics added). No other exceptions were listed, including retention of the offender's DNA.

2. The California DNA Act.

Because appellant has only a misdemeanor adjudication for petty theft he no longer has an offense qualifying him for inclusion of his DNA in the state database.

According to the California DNA Act, as amended by Proposition 69 in 2004, the state is authorized to collect DNA from 1) adults and juveniles convicted following trial or plea of any felony offense; 2) juveniles adjudicated under Welfare and Institutions Code section 602 for any felony offense; 3) adults or juveniles required to register as sex or arson offenders for a felony or misdemeanor offense. (Sec. 296, 296.1.)

Pursuant to section 299, a person who "had no past or present offense or pending charge which qualifies that person for inclusion in the DNA databank" can apply for expungement. Expungement includes destroying the DNA sample and removing the searchable database profile from the databank. (sec. 299, subd. (a).)[5]

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[5] The state has produced no evidence indicating that appellant has any subsequent juvenile adjudications or adult convictions for felonies or sex and arson misdemeanors, or any adult felony arrests, which would authorize the state to collect his DNA.

When appellant's offense was designated as a misdemeanor, the juvenile court was required to order appellant's DNA sample expunged. It was error for the Court of Appeal to affirm the juvenile court's order denying expungement.

3. Conflicting Decisions From the Court of Appeal.

The state appellate courts have disagreed on whether expungement of DNA is required for a juvenile offender whose offense has been designated as a misdemeanor pursuant to section 1170.18. The focus of that disagreement has been on the meaning of the provision in section 1170.18, subdivision (k), that an offense redesignated as a misdemeanor should be treated as "a misdemeanor for all purposes" except firearm restrictions.

The first case to rule on this issue was *Alejandro N.* In *Alejandro N.* appellant challenged the denial of a request to expunge his DNA sample after successful redesignation under section 1170.18. Pursuant to section 1170.18, subdivision (k), Alejandro's redesignated offense was deemed a misdemeanor "for all purposes" except for firearms restrictions. *Alejandro N.* held that section 1170.18 requires that once redesignated, the affected offense shall be treated exactly like any other misdemeanor offense and thus Alejandro was entitled to an order expunging his DNA. The Court found that because only the firearm restriction was included as an exception to the misdemeanor redesignation in section 1170.18, "the enactors effectively directed the courts not to carve out other exceptions to the

misdemeanor treatment of the redesignated offense absent some reasoned statutory or constitutional basis for doing so." (*Alejandro N. v. Superior Court (San Diego), supra*, 238 Cal.App.4th at pp. 1227, 1230.)

Subsequently, two other appellate cases, in addition to *In re C.H.*, disagreed with the reasoning and holding of *Alejandro N.* and affirmed trial court rulings denying juvenile offenders' requests to expunge their DNA after their former felony adjudications were properly redesignated as misdemeanors pursuant Proposition 47. (*In re J.C., supra*, 246 Cal.App.4th 1462; *In re C.B., supra*, 2 Cal.App.5th 1112.) In *In re C.B.* Justice Pollak dissented and relied on the analysis in *Alejandro N.* in support of the juvenile offenders request to expunge his DNA.[6]

In *In re C.H.* the Court of Appeal found that the redesignation of a felony offense as a misdemeanor pursuant to section 1170.18 did not allow DNA expungement. The Court analogized to section 17, subdivision (b) which employs similar language to Proposition 47. (*In re C.H., supra*, 2 Cal.App.5th at p. 1145.) The Court held the phrase "a misdemeanor for all purposes" has a "well-defined meaning," citing the identical language used in section 17, subdivision (b). (*Ibid.*; sec. 17, subd. (b) (3).) The Court construed the phrase "misdemeanor for all purposes" under Proposition 47

[6] *In re C.B.* was decided by the First District, Division Three, the same court that decided *In re C.H.*

to mean the same as it does under section 17 -"namely, that a felony offense redesignated as a misdemeanor under Proposition 47 retains its character as a felony prior to its redesignation, and is treated as a misdemeanor only after the time of redesignation." (*Id.* at p. 1147.) Accordingly, the Court found an offender's obligation to provide DNA to the state at the time of a felony conviction or adjudication is not affected by redesignation under Proposition 47. (*Id.* at p. 1147.)[7]

4. Principles of Statutory Construction and Standard of Review.

The question whether appellant's DNA should be expunged because his theft adjudication has been designated as a misdemeanor involves interpreting the statutory language stating that his offense is "a misdemeanor for all purposes" except for firearm restrictions.

The principles of statutory construction are well settled. The reviewing court looks first to the words of the statute recognizing that "they generally provide the most reliable indicator of legislative intent." (*People v. Gardeley* (1996) 14 Cal.4th 605, 621, disapproved on another ground in *People v. Sanchez* (2016) 63 Cal.4th 665, 686, n. 13.) When the language of a statute is "clear and unambiguous and thus not reasonably susceptible of

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[7] The Court's interpretation of "misdemeanor for all purposes" as well as the other findings of the Court will be more fully addressed in argument sections II and IV.

more than one meaning, . . . there is no need for construction, and courts should not indulge in it." (*Ibid.*)

If the language is ambiguous it is necessary to ascertain the intent of those who enacted the provision and interpret the statute to achieve that purpose. (*People v. Superior Court* (*Pearson*) (2010) 48 Cal.4th 564, 571.) Where there are two reasonable interpretations of the statute, the Court is obligated to follow the "rule of lenity" which gives "the defendant the benefit of every reasonable doubt on questions of interpretation". (*In re M.M.* (2012) 54 Cal.4th 530, 545.)

The interpretation of a voter initiative is no different. Initiatives are interpreted just like statutes. (*People v. Rico* (2000) 22 Cal.4th 681, 685.) The Court's "primary purpose is to ascertain and effectuate the intent of the voters who passed the initiative measure. (*People v. Briceno* (2004) 34 Cal.4th 451, 459.)" (*T.W. v. Superior Court* (2015) 236 Cal.App.4th 646, 651-652.)

Further, if a statute states one exception, it precludes other exceptions not expressed. (*Gikas v. Zolin* (1993) 6 Cal.4th 841, 852 ["*Expressio unius est exclusio alterius.* The expression of some things in a statute necessarily means the exclusion of other things not expressed."]; *In re James H.* (2007) 154 Cal.App.4th 1078, 1084.)

It is assumed that the Legislature or voters know of existing laws when it enacts a law. It has long been settled that "the enacting body is

deemed to be aware of existing laws and judicial constructions in effect at the time legislation is enacted and to have enacted or amended a statute in light thereof." (*People v. Superior Court* (*Cervantes*) (2014) 225 Cal.App.4th 1007, 1015.)

In interpreting a statute significance should be given to every word and surplusage should be avoided. Courts are reluctant to interpret a provision of a statute or initiative in a way that renders another word or phrase unnecessary or nugatory. (*In re Anthony C.* (2006) 138 Cal.Ap.4th 1493, 1510; *People v. Leiva* (2013) 56 Cal.4th 498, 506; *People v. Woodhead* (1987) 43 Cal.3d 1002, 1010.)

This is a question of statutory interpretation and so this Court reviews the decision of the juvenile court de novo. (*Imperial Merchant Services, Inc. v. Hunt* (2009) 47 Cal.4th 381, 387.)

B. The Plain Language of Section 1170.18, Subdivision (k) Stating That Offenses Redesignated As Misdemeanors Should be Treated as Misdemeanors "For All Purposes" Except Firearm Restrictions Precludes DNA Retention.

The intent of the voters in passing Proposition 47 was to designate selected nonserious and nonviolent drug possession crimes and certain theft offenses as misdemeanors "for all purposes" except for firearm restrictions. (Sec. 1170.18, subd. (k).) The intent was expressed in clear and unambiguous language. Section 1170.18, subdivision (k) states that:

> [a]ny felony conviction that is . . . designated as a misdemeanor under subdivision (g) shall be considered a misdemeanor for all purposes, except [for firearm restrictions].

The Court in *Alejandro N.* noted that the unambiguous language of section 1170.18 reflects the enactor's intent:

> The plain language of section 1170.18, subdivision (k) reflects the voters intended the redesignated misdemeanor offense should be treated exactly like any other misdemeanor offense, except for firearm restrictions.

(*Alejandro N. v. Superior Court (San Diego), supra*, 238 Cal.App.4th at p. 1227.)

Because firearm restrictions are the only stated exception any other exceptions which are not expressed, including DNA retention, are precluded. (*Gikas v. Zolin, supra*, 6 Cal.4th at p. 852.) As stated in *Alejandro N.*:

> Because the statute explicitly addresses what, if any, exceptions should be afforded to the otherwise all-encompassing misdemeanor treatment of the offense, and because only the firearm restriction was included as an exception, the enactors effectively directed the courts not to carve out other exceptions to the misdemeanor treatment of the redesignated offense absent some reasoned statutory or constitutional basis for doing so. (Footnote omitted.)

(*Alejandro N. v. Superior Court (San Diego), supra*, 238 Cal.App.4th at p. 1227.)

The drafters of Proposition 47 and the voters who enacted the initiative are assumed to have known of laws existing in 2014, including the provisions of the California DNA Act governing the collection, retention and expungement of DNA. (*People v. Superior Court (Cervantes), supra,* 225 Cal.App.4th at p. 1015.)