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JULIE L. GARLAND  
Senior Assistant Attorney General  
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Deputy Attorney General  
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Deputy Attorney General  
State Bar No. 299690  
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P.O. Box 85266  
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Email: Christen.Somerville@doj.ca.gov  
*Attorneys for Plaintiff and Respondent*

SUPREME COURT  
**FILED**

JUL 14 2016

Frank A. McGuire Clerk

Deputy

**In the Supreme Court of the State of California**

**THE PEOPLE OF THE STATE OF  
CALIFORNIA,**

Plaintiff and Respondent.

v.

**GIOVANNI GONZALES,**

Defendant and Appellant.

Case No. S231171

Fourth Appellate  
District, Division  
One, Case No.  
D067554

Imperial County  
Superior Court Case  
No. JCF32479

**RESPONDENT'S MOTION TOR JUDICIAL NOTICE  
AND DECLARATION OF CHRISTEN SOMERVILLE  
IN SUPPORT THEREOF**

Respondent respectfully moves this court, pursuant to Evidence Code sections 452 and 459, and California Rules of Court, rule 8.252, to take judicial notice of the police report in this case.



The Imperial County District Attorney's Office provided respondent with a copy of the police report in this case; pages one through six of the report are appended to this motion. (Cal. Rules of Court, rule 8.252(a)(3); see also Declaration of Christen Somerville in Support of Motion for Judicial Notice.)

The police report is relevant to the appeal because appellant established the factual basis of his guilty plea by stipulating to the facts stated in the police report. (CT 16 [appellant agreeing that police report is factual basis for the plea]; see also *People v. Holmes* (2004) 32 Cal.4th 432, 440 [stipulating to a police report establishes the factual basis for a guilty plea]; Cal. Rules of Court, rule 8.252(a)(2)(A).) It does not appear that the police report was judicially noticed in the superior court. (Cal. Rules of Court, rule 8.252(a)(2)(B).) As appellant admitted the facts in the police report, the report contains facts and propositions that are not reasonably subject to dispute and are capable of immediate and accurate determination by resort to sources of reasonably indisputable accuracy. (Evid. Code, § 452, subd. (h); Cal. Rules of Court, rule 8.252(a)(2)(C).) Finally, the police report does not relate to proceedings occurring after the order or judgment that is the subject of this appeal. (Cal. Rules of Court, rule 8.252(a)(2)(D).)



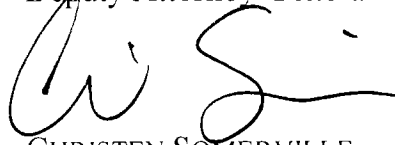
## CONCLUSION

For the reasons stated above, respondent respectfully requests that this court take judicial notice of the attached document.

Dated: July 13, 2016

Respectfully submitted,

KAMALA D. HARRIS  
Attorney General of California  
GERALD A. ENGLER  
Chief Assistant Attorney General  
JULIE L. GARLAND  
Senior Assistant Attorney General  
STEVE OETTING  
Deputy Solicitor General  
MICHAEL PULOS  
Deputy Attorney General

A handwritten signature in black ink, appearing to read 'CS', is written over the name Christen Somerville.

CHRISTEN SOMERVILLE  
Deputy Attorney General  
*Attorneys for Plaintiff and Respondent*

CS:dw  
SD2016700194  
71214015.doc



**DECLARATION OF CHRISTEN SOMERVILLE IN SUPPORT OF  
RESPONDENT'S MOTION FOR JUDICIAL NOTICE**

I, Christen Somerville, declare as follows:

1. I am a deputy attorney general for the State of California and the primary attorney responsible for the appeal in this case.
2. I am informed and believe that the document attached to respondent's motion for Judicial Notice was delivered to respondent by the Imperial County District Attorney's Office.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct. Executed this 13th day of July, 2016, at San Diego, California.

Dated: July 13, 2016

  
\_\_\_\_\_  
CHRISTEN SOMERVILLE  
DEPUTY ATTORNEY GENERAL





ATTACHMENT



IMPERIAL COUNTY  
DISTRICT ATTORNEY'S OFFICE  
Deborah D. Owen  
Assistant District Attorney



GILBERT G. OTERO  
DISTRICT ATTORNEY  
940 West Main Street, Suite 102  
El Centro, CA 92243  
Tel: (442) 265-1175  
Fax: (760) 352-4474

## Facsimile Transmittal

To: DAG Kristen Summerville

Fax: (619) 645-<sup>2044</sup>~~2403~~

From: Diego Lopez

Date: 5/9/2016

Re: Giovanni Gonzalez JCF32749

Reason CR#1312H-019

CC:

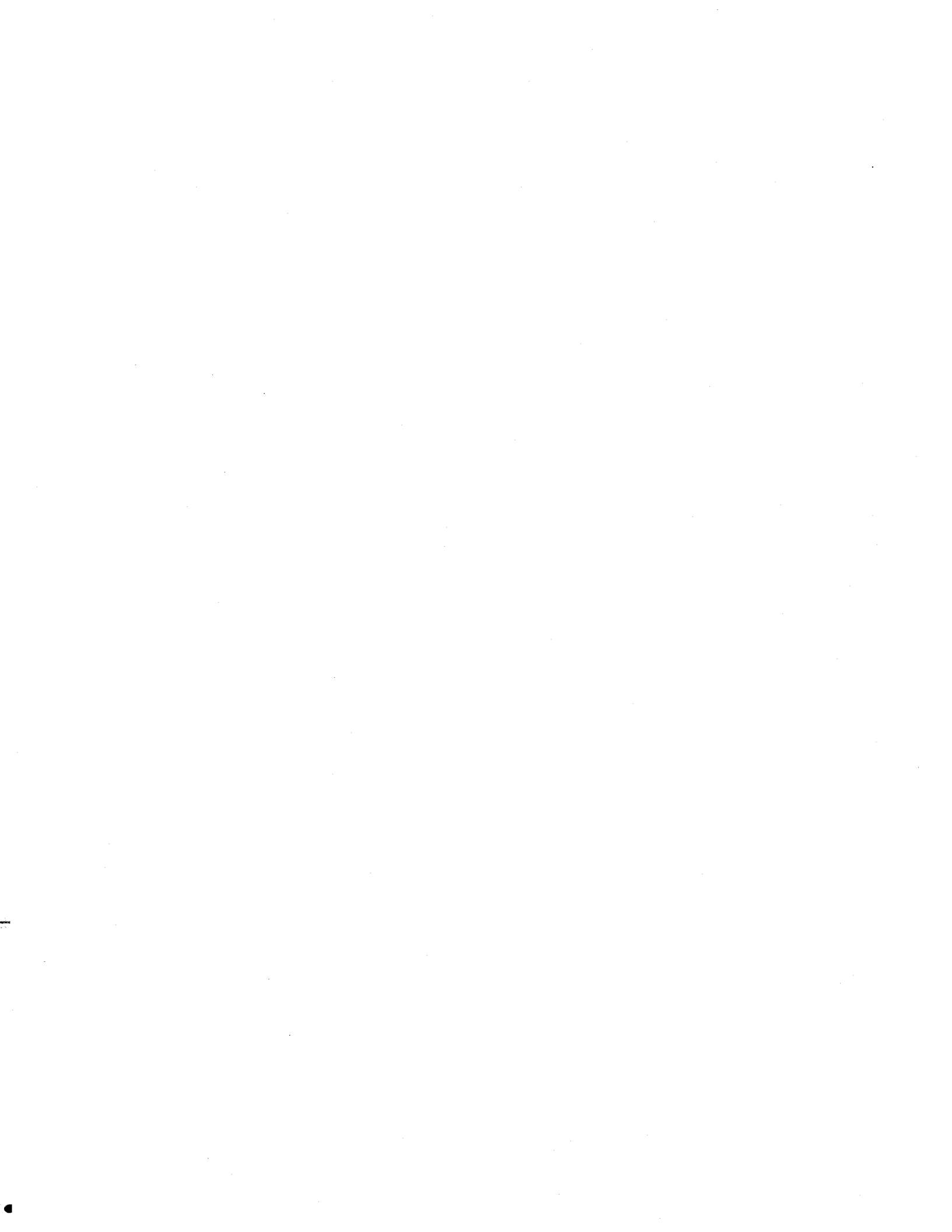
Urgent     For Review     Please Comment     Please Reply     Please Recycle

Good morning Mrs. Summerville,

I am faxing over CR#1312H-019 as you requested. Please feel free to contact me should you have any questions, comments, or concerns.

Thank you, *Diego Lopez*

Diego Lopez  
Legal Office Assistant II  
Imperial County District Attorney's Office  
940 West Main Street, Suite 102  
El Centro, CA 92243  
Phone (442) 265-1186  
Fax (760) 352-4474  
[diegolopez@co.imperial.ca.us](mailto:diegolopez@co.imperial.ca.us)



12/13/13  
11:32

Imperial County Sheriff's Office  
Incident Report

Page: 930  
1

Incident Number: 1312H-019  
Nature: Theft

Case Numbers:

Addr: 561 PALM AVE Area: HOLT Holtville-city limits(  
City: Holtville St: CA Zip: 92250 Contact:

Complainant: 47955 Alert Codes:

Lst: VALENCIA Fst: Josefina Mid: Garcia  
DOB: 03/15/40 SSN: 573-62-1408 Adr: 561 PALM AVENUE  
Rac: H Sx: F Tel: (760)356-2106 Cty: Holtville St: CA Zip: 92250

Reported: TGEN Theft, General  
Observed: BRGY Burglary  
Offense  
Codes: BRUE Burglary, Residence, Unlaw  
FRAU Fraud/Other  
AELD Abuse - Adult/Elder

Circumstances: LT02 Bank/Savings and Loan

Responding Officers: Frazier, David 615  
Rsprsbl Officer: Frazier, David Agency: HOLT  
Received By: Galvez, Ana Last RadLog: 15:14:29 12/03/13 CMPLT  
How Received: T Telephone Clearance: R Report taken (W)

When Reported: 14:01:10 12/03/13 Disposition: ACT Disp Date: 12/03/13

Occurrd between: 14:01:10 12/03/13 Judicial Sts:  
and: 14:01:10 12/03/13 Misc Entry:

Modus Operandi:  
Factor Description Method

INVOLVEMENTS:  
Date Description Relationship

DA



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11:32

Imperial County Sheriff's Office  
Incident Report

Page: 930  
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Narrative Section

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CR#: 1312H-019

Deputy: David Frazier #615  
Imperial County Sheriff's Office  
Holtville Substation

Crime Code: 459 P.C. (Burglary)  
475(a) P.C. (Forgery)  
368(d) P.C. (Elder Abuse)

Victim(s): Josefa VALENCIA  
561 Palm Avenue  
Holtville, CA. 92250  
760-356-2105  
DOB: 03-015-40

Suspect(s): Giovanni GONZALES  
730 Maple Avenue (Last Known Address)  
Holtville, CA. 92250  
CDL# E3664270  
DOB: 12-06-91  
SSN# 603-52-9080  
CII# A30841519  
FBI# 055225HD7

Witnesses: None

Evidence: 01. Copies of Checks Provided by Bank of America

Property: 01. \$250.00 in United States Currency  
02. One Checkbook Containing Checks Belonging to Josefa Valencia

Vehicles: None

Narrative:

On Tuesday, 12-03-13, at approximately 1401 hours, I, Deputy David Frazier, was on uniformed patrol in a marked Imperial County Sheriff's Office (ICSO) patrol vehicle in the contracted city of Holtville, CA. I responded to the ICSO Holtville Substation, located at 585 Fern Avenue, in reference to a theft call.

Upon arrival, I spoke to the reporting party, identified as Josefa VALENCIA. VALENCIA stated she wanted to report her checkbook missing, due to the fact that she could not locate her checkbook inside her residence. VALENCIA stated she checked her bank statements and discovered that two of her personal checks from Bank of America (BOA) had been cashed, both in the amount of \$125.00. VALENCIA stated that contacted BOA and they provided her with copies of the checks. VALENCIA stated that the checks were written to Giovanni GONZALES, which is VALENCIA'S grandson. VALENCIA stated that she did not make any checks to GONZALES.





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11:32

Imperial County Sheriff's Office  
Incident Report

930  
Page: 3

I asked VALENCIA if GONZALES was in her residence recently and she stated that GONZALES was in her residence approximately two days prior to reporting her checkbook missing. I asked VALENCIA if she wrote checks to GONZALES and she stated she did not. I asked VALENCIA if she gave authorization to GONZALES to write and use her personal checks and she said no. VALENCIA added that she suspects GONZALES of taking her checkbook because GONZALES has stolen items from her in the past.

It should be noted that VALENCIA is 73 years old and at the time of the report, she was accompanied by her daughter, due to VALENCIA having difficulty in mobility. I asked VALENCIA if she had a caretaker and she stated her daughter is the one who takes care of her. I asked VALENCIA if GONZALES would take care of her and she stated that GONZALES was not her caretaker.

I then asked VALENCIA if BOA provided her with any copies of the checks that were cashed and she said yes. VALENCIA handed me two copies of the checks, where check# 1294 and check# 1295. Both checks were made to GONZALES in the amount of \$125.00, however, the checks were signed with VALENCIA'S name. I asked VALENCIA if the signature on both checks was hers and she stated no. I asked VALENCIA if she desired prosecution against GONZALES and she stated yes.

After speaking with VALENCIA, I gave her my business card with my name and report number and advised her to contact the ICSO if she had any further information regarding incident.

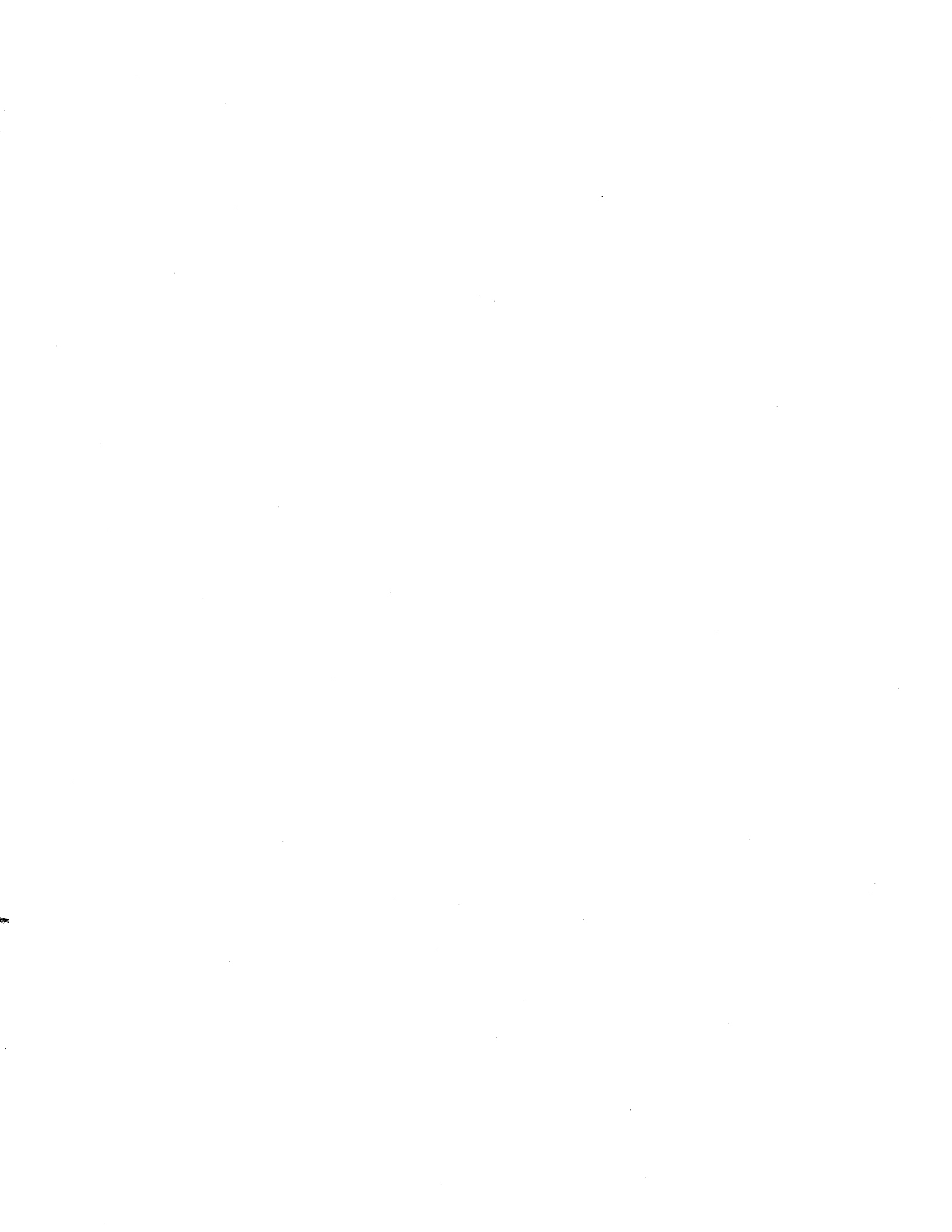
After speaking with VALENCIA, I then contacted the BOA El Centro, CA, branch and spoke with the Assistant Manager, identified as Rosalina GARCIA. GARCIA stated that both checks were cashed at the BOA El Centro Branch. Check# 1294 was cashed on 12-02-13 at 0909 hours and Check# 1295 was cashed on 12-02-13 at 1228 hours. GARCIA advised me to contact BOA'S Fraud Department in order to obtain video surveillance footage. As of 12-07-13, I have not received feedback from the BOA Fraud Department.

END OF REPORT/////

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Responsible LEO:

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Approved by:

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Date



12/13/13  
11:34

Imperial County Sheriff's Office  
Deputy Supplemental Report

930  
Page: 1

Incident Number: 1312H-019

Nature: Theft

Incident Date: 12/12/13

Name: Frazier, David

Date: 13:54:57 12/12/13

930  
1  
12/13

930  
1  
12/13

930  
1  
12/13



12/13/13  
11:34

Imperial County Sheriff's Office  
Deputy Supplemental Report

Page: 930  
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CR#: 1312H-019

Deputy: David Frazier #615  
Imperial County Sheriff's Office  
Holtville Substation

Crime: 459 P.C. (Burglary)  
475(a) P.C. (Forgery)  
368(d) P.C. (Elder Abuse)

Victim(s): Josefa VALENCIA  
561 Palm Avenue  
Holtville, CA. 92250  
760-356-2105  
DOB: 03-15-40

Suspect(s): Giovanni GONZALES  
730 Maple Avenue (Last Known Address)  
Holtville, CA. 92250  
CDL# E3664270  
DOB: 12-06-91  
SSN# 603-52-9080  
CII# A30841519  
FBI# 055225HD7

Witnesses: None

Evidence: 01. One Disc Containing Photographs of GONZALES

Property: 01. \$250.00 in United States Currency  
02. One Checkbook Containing Checks Belonging to Josefa Valencia

Vehicles: None

Narrative:

On Thursday, 12-12-13, I, Deputy David Frazier, received photographs from Catherine WOODSELL, a Global Financial Crimes Compliance Analyst with Bank of America, depicting an Hispanic male adult conducting a transaction at the Bank of America El Centro, CA. branch on 12-02-13. One set of photographs depict the male subject conducting a transaction at 0908 hours, and another set of photographs depicting the male subject conducting a transaction at 1227 hours. These photographs were obtained by submitting information to Bank of America which was provided by the victim, identified Josefa VALENCIA. Check numbers 1294 and 1295 were provided to Bank of America and the photographs were of the transactions when those checks were cashed.

As I reviewed the photographs, I immediately recognized the male subject conducting the transactions as Giovanni GONZALES from prior law enforcement contacts. Some of the photos reveal that GONZALES has tattoo on his right forearm. I then conducted a booking photo inquiry on GONZALES from the Imperial County Sheriff's Office Spillman Database and observed the same tattoo on GONZALES' right forearm in the booking photo, as it was the same on the



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11:34

Imperial County Sheriff's Office  
Deputy Supplemental Report

930  
Page: 3

surveillance video.

END OF REPORT/////

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Responsible LEO:

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Approved by:

-----  
Date





**DECLARATION OF SERVICE BY U.S. MAIL & ELECTRONIC SERVICE**

Case Name: **People v. Gonzales**

No.: **S231171**

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 collection and processing of correspondence for mailing with the United States Postal Service. 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 that same day in the ordinary course of business.

On July 13, 2016, I served the attached **RESPONDENT'S MOTION FOR JUDICIAL NOTICE AND DECLARATION OF CHRISTEN SOMERVILLE IN SUPPORT THEREOF** by placing a true copy thereof enclosed in a sealed envelope with postage thereon fully prepaid, in the internal mail collection system at the Office of the Attorney General at 600 West Broadway, Suite 1800, P.O. Box 85266, San Diego, CA 92186-5266, addressed as follows:

Clerk of the Court  
California Court of Appeal  
Fourth Appellate District, Division One  
750 B Street, Suite 300  
San Diego, CA 92101

Gilbert G. Otero  
District Attorney – Imperial County  
940 West Main Street, Ste. 102  
El Centro, CA 92243-2843

The Honorable L. Brooks Anderholt  
Imperial County Superior Court  
939 West Main Street  
El Centro, CA 92243-2843

and, furthermore I declare, in compliance with California Rules of Court, rules 2.251(i)(1)(A)-(D) and 8.71 (f)(1)(A)-(D), I electronically served a copy of the above document on **July 13, 2016** to Appellate Defenders, Inc.'s electronic service address [eservice-criminal@adi-sandiego.com](mailto:eservice-criminal@adi-sandiego.com) and to Richard P. Levy, Appellant's attorney's electronic service address by 5:00 p.m. on the close of business day at [rlevy@richardalevy.com](mailto:rlevy@richardalevy.com).

I declare under penalty of perjury under the laws of the State of California the foregoing is true and correct and that this declaration was executed on July 13, 2016, at San Diego, California.

\_\_\_\_\_  
D. Wallace  
Declarant

\_\_\_\_\_  
  
Signature

