

SUPREME COURT  
**FILED**

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IN THE SUPREME COURT OF THE STATE OF CALIFORNIA ~~FORNIA~~ Deputy

In re Christopher Lee White,  
  
Petitioner,  
  
On Habeas Corpus.

Case No. S248125

Fourth District Court of Appeal, Division One, Case No. D073054  
San Diego County Superior Court Case No. SCN376029

**PETITIONER'S SUPPLEMENTAL BRIEF**

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LAURA SCHAEFER  
State Bar No. 138801  
BOYCE & SCHAEFER  
934 23rd Street  
San Diego, CA 92102-1914  
(619) 232-3320  
Email: ls@boyce-schaefer.com

Attorney for petitioner  
CHRISTOPHER LEE WHITE

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(619) 232-3320  
Email: [ls@boyce-schaefer.com](mailto:ls@boyce-schaefer.com)

Attorney for petitioner  
CHRISTOPHER LEE WHITE

**Table of contents**

**Page**

Table of authorities ..... 3

Argument ..... 4

    I.    Senate Bill No. 10 has no effect on the resolution of the  
          issues in this case ..... 4

    II.   Conclusion ..... 6

Certificate of Word Count

Proof of Service

**Table of authorities**

| <b>Cases</b>  | <b>Page</b> |
|---|-------------|
| <i>Daily Journal Corp. v. Superior Court</i> (1999) 20 Cal.4th 1117 .....                         | 5           |
| <i>Professional Engineers in California Government v. Kempton</i><br>(2007) 40 Cal.4th 1016 ..... | 4, 5        |

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**Petitioner's Supplemental Brief**

Petitioner Christopher White respectfully submits this Supplemental Brief.

**Argument**

**I. Senate Bill No. 10 has no effect on the resolution of the issues in this case.**

This Court has requested supplemental briefing addressing the following question: What effect, if any, does Senate Bill No. 10 (2017-2018 Reg. Sess.) have on the resolution of the issues presented by this case? Senate Bill No. 10 has no effect on the issues presented in this case.

The question of whether section 12 or section 28 governs the denial of bail in noncapital cases requires interpretation of the amendments to section 28 enacted by the electorate in 2008. The court's paramount duty in interpreting initiatives is to ascertain voter intent. (*Professional Engineers in California Government v. Kempton* (2007) 40 Cal.4th 1016, 1037.) Thus, the issue for this Court to resolve is the voters' intent in enacting the amendments to section 28 in 2008. By declaring crime victims' enumerated rights, did the 2008 electorate also intend to divest from California citizens the fundamental right of pretrial liberty?

The electorate's intent in 2008 cannot be ascertained from legislation

enacted ten years later. The electorate is only presumed to be aware of *existing* laws in enacting initiatives (*Professional Engineers in California Government v. Kempton, supra*, 40 Cal.4th at p. 1048); laws enacted years later do not aid the court in this determination. Thus, the voters' intent in enacting the amendments to section 28 in 2008 cannot be determined from this legislation enacted a decade later.

The voters did not expressly or implicitly intend to repeal section 12. Nothing in the text of section 28 supports an intent to strip the people of this sacred liberty right. Neither the amendments to the invalid provision of the Constitution nor the ballot materials support an intent to divest the people of this right. (Voter Information Guide, Gen Elec. (Nov. 4, 2008).) Thus, there is no need to resort to this or other legislation to determine whether the voters intended to repeal section 12 by enacting the amendments to section 28.

The new legislation also has no effect on the legality of the trial court's pretrial detention order. Senate Bill No. 10 does not take effect until 2019, and has no bearing on the trial court's 2017 ruling. Additionally, section 12 of the California Constitution does not permit the denial of bail in noncapital cases except in specified circumstances that do not apply to Mr. White. The legislation cannot deprive Mr. White of his constitutionally protected right. (*Daily Journal Corp. v. Superior Court* (1999) 20 Cal.4th 1117, 1122, 1125 [The Legislature's plenary power is exercised subject to the express provisions of the California Constitution.])

**II. Conclusion**

For centuries, our Constitution has protected the right of pretrial liberty. The California Constitution prohibits the Legislature and the courts from infringing on this right in favor of current policy preferences.

Respectfully submitted,

Dated: October 9, 2018



LAURA SCHAEFER


Attorney for petitioner

CHRISTOPHER LEE WHITE

### Certificate of Word Count

I, Laura Schaefer, counsel for appellant certify pursuant to the California Rules of Court, rule 8.504(d)(1) that this brief contains 575 words as calculated by the Word Perfect software in which it was created.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct. Executed on October 9, 2018, at San Diego, California.

  
LAURA SCHAEFER  
Attorney for petitioner  
CHRISTOPHER LEE WHITE



*People v. White*  
*Case No. S248125*

**Proof of service**

I, the undersigned declare that: I am over the age of 18 years and not a party to the case; I am a resident of the County of San Diego, State of California, where the mailing occurs; and my business address is 934 23rd Street, San Diego, California 92102.

I further declare that I am readily familiar with the business practice for collection and processing of correspondence for mailing with the United States Postal Service; and that the correspondence shall be deposited with the United States Postal Service this same day in the ordinary course of business.

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Christopher Lee White  
c/o 934 23rd Street  
San Diego, CA 92102

I then sealed each envelope and, with postage thereon fully prepaid, I placed each for deposit in the United States Postal Service, this same day, at my business address shown above, following ordinary business practices.

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Dan Owens  
Deputy District Attorney  
[Dan.Owens@sdcca.org](mailto:Dan.Owens@sdcca.org)


Peter Quon, Jr.  
Deputy District Attorney  
[Peter.Quon@sdcca.org](mailto:Peter.Quon@sdcca.org)

Hon. Robert J. Kearny  
San Diego County Superior Court  
[Appeals.Central@SDCourt.ca.gov](mailto:Appeals.Central@SDCourt.ca.gov)

Appellate Defenders, Inc.  
[Eservice-court@adi-sandiego.com](mailto:Eservice-court@adi-sandiego.com)

Office of the Attorney General  
[Sdag.docketing@doj.ca.gov](mailto:Sdag.docketing@doj.ca.gov)

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct. Executed on October 9, 2018, at San Diego, California.

  
\_\_\_\_\_  
Mary Elena Joslyn