

SUPREME COURT
FILED

JUN 26 2014

Frank A. McGuire Clerk

Deputy

IN THE SUPREME COURT OF THE STATE OF CALIFORNIA

PEOPLE OF THE STATE OF CALIFORNIA, No. S 212940

Plaintiff and Respondent,

Court of Appeal Case No.
A135733

v.

Sonoma County
Superior Court

WILLIAM J. FORD,

Case No. SCR-530837

Defendant and Appellant.

Appeal from the First District Court of Appeal
Division Three

REQUEST FOR JUDICIAL NOTICE

Jane Gaskell, CSB #271387
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Attorneys for Defendant/Appellant
WILLIAM J. FORD

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Attorneys for Defendant/Appellant
WILLIAM J. FORD

INTRODUCTION

During the earlier proceedings in the First District Court of Appeal, Mr. Ford filed a motion to augment the record in this case. In its denial of the request, the Court indicated it would consider the motion a request for judicial notice. This matter was not finalized during the appellate proceedings. Mr. Ford therefore renews his request that this Court now take judicial notice of the attached Stipulation (Exhibit A) for the reasons outlined below.

ARGUMENT

Pursuant to Evidence Code section 452¹, the Court may take judicial notice of the records of any court of this state. (§452 (d).) On November 15, 2012, a Stipulation Concerning The Continuation Of The Restitution Hearing Set March 27, 2012 was filed in Sonoma County Superior Court and made a part of the record of the trial court proceedings in SCR-530837, *People v. William J. Ford*.

The purpose of the stipulation was to confirm the March 27, 2102 continuance in the Ford case was a result of the prosecutor's unavailability to proceed that afternoon. This is directly relevant to the instant case. The Respondent mistakenly asserts in its Answer Brief on The Merits that Mr. Ford "delayed the proceedings until his probation expired". This is simply not so. The continuance was solely a result of the Deputy District Attorney's obligations to another proceeding.

The stipulation was presented to, and signed by, the trial court. Section 453 mandates judicial notice shall be taken of any matter specified within section 452 if a party requests it and:

¹ All further references are to the Evidence Code unless expressly stated otherwise.

(a) Gives each adverse party sufficient notice of the request, through the pleadings or otherwise, to enable such adverse party to prepare to meet the request; and

(b) Furnishes the court with sufficient information to enable it to take judicial notice of the matter.

The State Attorney General's Office has had sufficient notice regarding this request, which was originally made when the Opening Brief was filed in the Court of Appeal. While the stipulation did occur after the order that is the subject of this appeal, it is directly relevant to the matter at hand. The attached Exhibit A, in conjunction with this motion, provides the Court with sufficient information to enable it to take judicial notice of the stipulation.

Rule 8.252(a) requires that a motion for Judicial Notice state:

- (A) Why the matter to be noticed is relevant to the appeal;
- (B) Whether the matter to be noticed was presented to the trial court and, if so, whether judicial notice was taken by that court;
- (C) If judicial notice of the matter was not taken by the trial court, why the matter is subject to judicial notice under Evidence Code section 451, 452, or 453; and
- (D) Whether the matter to be noticed relates to proceedings occurring after the order or judgment that is the subject of the appeal.

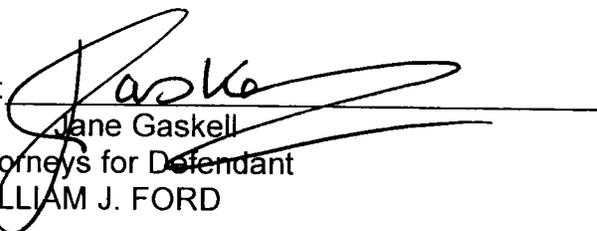
Taking each in turn, first, the matter is relevant to the appeal as it directly refutes a key factual issue, namely, whether Mr. Ford was responsible for the changed date of the restitution hearing that was re-set to occur after his probation terminated. Second, there were no ongoing proceedings in the trial court at the time the Stipulation was made. However, the trial court did read and sign the Stipulation, making it part of the record in the case. The third requirement of explaining why the matter is subject to judicial notice under the aforementioned Evidence Code sections is discussed above. Finally, the matter noticed does not relate to the proceedings that occurred after the Order which is the subject of this appeal, was issued.

CONCLUSION

Mr. Ford respectfully requests that the Court take judicial notice of the aforementioned Stipulation under Evidence Code section 452.

Dated: June 19, 2014

LAW OFFICES OF ANDRIAN & GALLENSON

By: 
Jane Gaskell
Attorneys for Defendant
WILLIAM J. FORD

CERTIFICATE OF SERVICE

The undersigned hereby certifies that she is an employee of the Law Offices of Andrian & Gallenson, attorneys for Defendant and Appellant William J. Ford, and is a person of such age and discretion to be competent to serve papers. The undersigned certifies that she caused copies of Appellant's **REQUEST FOR JUDICIAL NOTICE** and **PROPOSED ORDER** in the case entitled People v. Ford, Supreme Court No. S212940, to be served on the parties in this action, addressed as follows:

Office of The Attorney General
455 Golden Gate, Suite 11000
San Francisco, California 94102-7004

Clerk of The Court
Supreme Court of California
350 McAllister Street
San Francisco, CA 94102

Clerk of The Court
First District Court of Appeals
Division 3
350 McAllister Street
San Francisco, CA 94102



(By First Class Mail) by placing a true copy thereof, enclosed in a sealed envelope with postage thereon fully prepaid, in the United States mail at Santa Rosa, California, addressed to the person or offices of each addressee above.

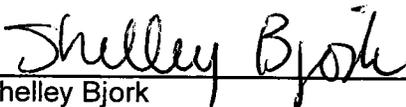
Honorable Bradford Demeo
Sonoma County Superior Court
600 Administration Drive
Santa Rosa, California 95403

Sonoma County District Attorney
Attention: Robin Hammond
Hall of Justice, Room 212-J
600 Administration Drive
Santa Rosa, California 95403



(By Personal Service/Messenger), I caused such envelope to be delivered by hand to the person or offices of each addressee above.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct and that this declaration was executed on **June 25, 2014** at Santa Rosa, California.



Shelley Bjork



1 Chris P. Andrian, CSB #53073
2 Jane Gaskell, CSB #271387
3 ANDRIAN & GALLENSON
4 1100 Mendocino Avenue
5 Santa Rosa, California 95401
6 (707) 527-9381

7 Attorneys for Defendant
8 WILLIAM J. FORD

**ENDORSED
FILED**

NOV 15 2012

**SUPERIOR COURT OF CALIFORNIA
COUNTY OF SONOMA**

11 SUPERIOR COURT OF CALIFORNIA, COUNTY OF SONOMA

12
13 PEOPLE OF THE STATE OF
14 CALIFORNIA,

15 Respondent,

16 vs.

17 WILLIAM J. FORD,

18 Appellant.

COURT OF APPEAL NO. A-135733
SUPERIOR COURT CASE NO. SCR-530837

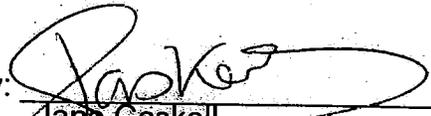
**STIPULATION CONCERNING THE
CONTINUATION OF THE RESTITUTION
HEARING SET MARCH 27, 2012**

19 _____ /
20 IT IS HEREBY stipulated by and between Appellant William J. Ford,
21 through his attorney, Jane Gaskell, and Respondent, The People of the State of
22 California through their attorney, Robin Hammond, as follows:

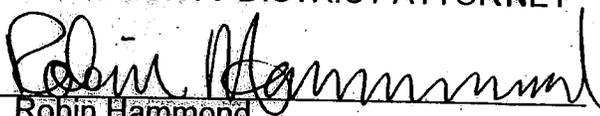
23 That on March 27, 2012, prior to appearing in front of Judge Bradford
24 DeMeo at 1:30 p.m., Deputy District Attorney Hammond informed Mr. Ford's
25 Attorney, Chris P. Andrian, that she was unavailable to proceed with the scheduled
26 restitution hearing that afternoon because of a scheduling conflict. Ms. Hammond,
27 on behalf of the People, was required to finish a Preliminary Hearing, which had
28

1 started that morning and was not yet complete. She did not anticipate being
2 available for the remainder of the day.

3
4 DATE: November 9, 2012 LAW OFFICE OF ANDRIAN & GALLENSON

5
6 By: 
7 Jana Gaskell
8 Attorneys for Defendant
9 WILLIAM J. FORD

10
11 DATE: November 8, 2012 SONOMA COUNTY DISTRICT ATTORNEY

12
13 By: 
14 Robin Hammond
15 Deputy District Attorney

16 ORDER

17 THE PARTIES HAVING STIPULATED, IT IS SO ORDERED, that the Record
18 of Proceedings in SCR-530837 be modified to clarify the reason for the continuance
19 of proceedings on March 27, 2012.

20
21 DATED: NOV 14 2012

22 Bradford J. DeMeo
23 The Honorable Bradford DeMeo
24 JUDGE OF THE SUPERIOR COURT