

# SUPREME COURT COPY

IN THE SUPREME COURT OF THE STATE OF CALIFORNIA

In re RAYMOND C., a Person Coming Under the  
Juvenile Court Law.

THE PEOPLE OF THE STATE OF CALIFORNIA,

Plaintiff and Respondent,

v.

RAYMOND C.,

Defendant and Appellant.

SUPREME COURT  
FILED

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S149728

Fourth Appellate District, Division Three, No. G035822  
Orange County Superior Court No. G035822  
The Honorable Caryl A. Lee, Judge

## RESPONDENT'S BRIEF ON THE MERITS

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FOURTH APPELLATE DISTRICT, DIVISION THREE

**In re RAYMOND C., a Person Coming Under the  
Juvenile Court Law.**

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

Plaintiff and Respondent,

v.

**RAYMOND C.,**

Defendant and Appellant

S149728

**ISSUES PRESENTED**

On March 21, 2007, this Court granted review on the following issues: 1. “Whether it is an unreasonable seizure under the Fourth and Fourteenth Amendments to stop an automobile which does not affirmatively appear to be violating any traffic, licensing, or registration laws, solely for the purpose of checking to see if it[] might be in violation of registration laws.” 2. “Whether the lack of dealer advertising or a dealer logo in the rear license plate holder of a new car which does not yet have its license plates, in and of itself presents an unusual circumstance from which it is objectively reasonable to suspect that the vehicle is in violation of registration laws.”<sup>1/</sup>

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1. Appellant’s Opening Brief on the Merits is not in compliance with rule 8.520(b)(2), which mandates that a brief on the merits “must begin by quoting either: (A) Any order specifying the issues to be briefed; or if none, (B) The statement of the issues in the petition for review . . . .” This Court’s order granting review did not specify any issues to be briefed. The single issue appellant lists in his brief on the merits - “If police officer sees a motor vehicle lacks a rear or both license plates, may the officer make a traffic stop to



## **INTRODUCTION**

A Fullerton police officer observed a car driven by appellant that lacked a rear license plate. The officer followed the car and noticed that there was no type of automobile dealer designation or advertising in its place. The officer did not see any registration paper work in the rear window. The officer stopped the car. Upon being contacted by the officer, appellant told the officer that a temporary registration permit was affixed to the lower-right corner of the front windshield. As appellant spoke, the officer detected the odor of alcohol on appellant's breath. Appellant was subsequently arrested for driving under the influence of alcohol.

The Court of Appeal upheld the denial of appellant's motion to suppress evidence and held that the officer was justified in stopping appellant's car because it did not have a rear license plate and the officer did not see any temporary registration papers displayed on the car prior to the stop. This Court should hold that a vehicle stop is justified when a police officer observes a vehicle but does not see a rear license plate or apparently valid temporary registration papers.

## **STATEMENT OF THE CASE**

On January 27, 2005, the Orange County District Attorney filed an original juvenile wardship petition, pursuant to Welfare and Institutions Code section 602, alleging appellant drove a vehicle under the influence of alcohol (Veh. Code, § 23152, subd. (a); count 1), with a blood alcohol level of 0.08 percent or more (Veh. Code, § 23152, subd. (b); count 2). On May 24, 2005,

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determine if the vehicle has a temporary operating permit or if a displayed temporary permit is a valid one" - is not an issue raised in his petition for review or ordered by this Court.

the court heard and denied appellant's motion to suppress evidence on grounds he was illegally stopped and detained. (1 CT 13-26, 1 RT 33-36.) Thereafter, the court held a jurisdictional hearing and made a true finding as to both counts in the petition. Appellant then waived his rights and admitted the petition's allegations. (1 CT 42-45; 1 RT 33-36.) Appellant was declared a ward of the court and placed on formal probation with various terms and conditions. (1 CT 45-46; 1 RT 36-38.)

On appeal, appellant claimed that the court erroneously denied his motion to suppress on the grounds he had been unlawfully detained because the officer lacked reasonable suspicion to effectuate the stop. The Court of Appeal, Fourth Appellate District, Division Three, rejected appellant's claim and affirmed the adjudication. The appellate court held, "the absence of a rear [license] plate or, from the officer's vantage point, a temporary tag substituting for the plate, justified the stop." (Slip Opn. at 7.)

Appellant petitioned for review on the issues stated above. This Court granted review.

### **STATEMENT OF FACTS**

The facts are taken largely from the Court of Appeal opinion in this case. Around 1:00 a.m. on Sunday morning, October 24, 2004, Fullerton Police Officer Timothy Kandler observed a black Acura drive past his parked patrol car. Kandler noticed that the car did not have a rear license plate or any automobile dealer designation or advertising in its place. When Kandler pulled behind the car, he did not see any registration papers or Department of Motor Vehicle (DMV) paperwork displayed in the rear window of the car. From his vantage point behind the car, Kandler could not see any registration papers attached to the windshield. Kandler activated his lights and siren and pulled the car over for a "possible violation" of section 5200. (1 RT 13, 17, 20-21.)

Kandler approached the driver, appellant, and asked for his driver's license, registration, and proof of insurance. Appellant provided his license and advised Kandler that the temporary registration was attached to the front window of the car. At that point, Kandler detected the odor of alcohol on appellant's breath. After giving appellant several field sobriety tests, Kandler arrested appellant for driving under the influence of alcohol. (1 RT 21-22.)

Appellant's father testified that he purchased the new car on October 2, 2004. He removed the dealer's advertising plates but left undisturbed the temporary registration papers affixed to the lower right side of the windshield. The registration was in the same place on the windshield when the traffic stop was conducted. The car still looked new on October 24. He received the permanent license plates from the DMV in December 2004. (1 RT 3-4.)

## ARGUMENT

### I.

#### **THE COURT OF APPEAL PROPERLY UPHELD THE DENIAL OF APPELLANT'S MOTION TO SUPPRESS EVIDENCE BECAUSE THE OFFICER HAD REASONABLE CAUSE TO STOP APPELLANT'S VEHICLE**

Appellant contends that the Fourth Amendment prohibits investigative stops to determine if new vehicles might possibly be in violation of registration requirements. (Appellant's Opening Brief on Merits ("AOBM") 8-40.) Appellant argues that the traffic stop in this case was nothing more than a random registration spot check without the basis of articulable suspicion of a violation of the Vehicle Code.

To the contrary, this case does not involve a random check to verify a new car registration. At the time of the initial detention, the officer could not see any license plates on appellant's car or any temporary registration displayed in the rear window. Therefore, the officer was justified in stopping appellant's car based on a reasonable suspicion the vehicle was not in compliance with state law. The fact that appellant's car actually had temporary registration papers displayed on the lower right front windshield is of no consequence since they were not visible to the officer when he made the decision to initiate the traffic stop. Given the principle that an officer's decision to stop a vehicle does not turn on the availability of less intrusive investigatory techniques, the officer had a legitimate basis to stop appellant's car in order to investigate whether it was properly registered.

#### **A. Standard Of Review And Applicable Law**

This Court has firmly established, "In ruling on a motion to suppress, the trial court must find the historical facts, select the rule of law, and apply it

to the facts in order to determine whether the law as applied has been violated.” (*People v. Saunders* (2006) 38 Cal.4th 1129, 1133-1134; *People v. Brendlin* (2006) 38 Cal.4th 1107, 1113-1114.) As such, this Court reviews “the trial court’s resolution of the factual inquiry under the deferential substantial-evidence standard,” and “the ruling on whether the applicable law applies to the facts is a mixed question of law and fact that is subject to independent review.” (*Id.* at p. 1134.) Since the passage of Proposition 8 in 1982, any challenge to the admissibility of a search or seizure must be evaluated solely under the Fourth Amendment. (*In re Lance W.* (1985) 37 Cal.3d 873, 885-890; *California v. Greenwood* (1987) 486 U.S. 35, 38 [180 S.Ct. 1625, 100 L.Ed.2d 30].)

The Fourth Amendment prohibits “unreasonable searches and seizures” by the Government, and its protections extend to brief investigatory stops of persons and vehicles that fall short of traditional arrest. (*United States v. Arvizu* (2002) 534 U.S. 266, 273-274 [122 S.Ct. 744, 151 L.Ed.2d 740].) However, circumstances short of probable cause to make an arrest may justify a police officer stopping and briefly detaining a person for questioning or other limited investigation. (*Terry v. Ohio* (1968) 392 U.S. 1, 27 & 30 [88 S.Ct. 1868, 20 L.Ed.2d 889].) Thus, a police officer whose observations lead him to reasonably suspect that a particular person has committed, is committing, or is about to commit a crime, may detain that person briefly in order to investigate the circumstances that provoked suspicion. (*Ibid.*, and see *United States v. Cortez* (1981) 449 U.S. 411, 417 [101 S.Ct. 690, 66 L.Ed.2d 621].) The likelihood of criminal activity need not rise to the level required for probable cause, and it falls considerably short of satisfying a preponderance of the evidence standard. (*United States v. Arvizu, supra*, 534 U.S. at p. 274.)

It is well established that “the Fourth Amendment requires some minimal level of objective justification for making a stop,” in which case, an

officer “must be able to articulate something more than an inchoate or unparticularized suspicion or ‘hunch.’” (*United States v. Sokolow* (1989) 490 U.S. 1, 7 [109 S.Ct. 1581, 104 L.Ed.2d 1].) To justify an investigative stop or detention, a police officer must have specific and articulable facts that cause him or her to entertain a reasonable objective suspicion that some activity relating to a crime has occurred or is about to occur and the person to be detained is involved in that activity. (*People v. Aldridge* (1984) 35 Cal.3d 473, 478.) The reasonable suspicion standard applies to vehicle stops. (*United States v. Sharpe* (1985) 470 U.S. 675, 682 [105 S.Ct. 1568, 84 L.Ed.2d 605]; *United States v. Lopez-Soto* (9th Cir. 2000) 205 F.3d 1101, 1104.) So long as an officer’s conduct was objectively reasonable under existing law, no Fourth Amendment violation will be found. (See *Arkansas v. Sullivan* (2001) 532 U.S. 769 [121 S.Ct. 1876, 149 L.Ed.2d 994]; *Whren v. United States* (1996) 517 U.S. 806 [116 S.Ct. 1769, 135 L.Ed.2d 89].)

An officer may stop a motorist if the stop is based on objectively reasonable suspicion that the driver has violated the Vehicle Code or some other law. (*Whren v. United States, supra*, 517 U.S. at p. 810.) Accordingly, an officer who has an articulable and reasonable suspicion that an automobile is not properly registered, may detain the driver to check the vehicle’s registration. (*Delaware v. Prouse* (1979) 440 U.S. 648, 663 [99 S.Ct. 1391, 59 L.Ed.2d 660]; see also *Pennsylvania v. Mimms* (1977) 434 U.S. 106, 109 [98 S.Ct. 330, 54 L.Ed.2d 331] [expired registration tags justified traffic stop].)

Vehicle Code section 5200 provides:

- (a) When two license plates are issued by the department for use upon a vehicle, they shall be attached to the vehicle for which they were issued, one in the front and the other in the rear. []
- (b) When only one license plate is issued for use upon a vehicle, it shall be attached to the rear thereof, unless the license plate is issued for use upon a truck tractor, in which case the license plate shall be displayed in accordance with Section 4850.5

In relation to car sales, Vehicle Code section 4456, subdivision (a)(1), states, “The dealer or lessor-retailer shall attach for display a copy of the report of sale on the vehicle before the vehicle is delivered.” That statute does not specifically provide where on the vehicle the report of sale must be attached. However, the Department of Motor Vehicle’s Handbook of Registration Procedures<sup>2/</sup> section 2.020 provides the following guidelines for the placement of a “Purchaser’s Temporary Identification Copy” of an “Application for Registration of New Vehicle (REG 397) Copies”:

For customer privacy, fold the purchaser’s copy so that only the preprinted number and vehicle descriptive information shows and *display it in the lower rear window*. If the information will be obscured, place it in the lower right corner of the windshield or on the lower right side of a side window.

(Veh. Code, § 4456, subd. (a)(1), italics added.)<sup>3/</sup>

Thus, cars in California should have two license plates. While new car owners are waiting for license plates to be issued, temporary identification papers should be displayed in the lower rear window. Although the regulations permit temporary identification papers to be displayed in other positions on the car, this only applies where the documents would otherwise be obstructed. Here, there is no evidence in the record that demonstrates there was any obstruction in the lower right rear window of appellant’s car.

If a car has properly displayed license plates or a temporary operating permit, a law enforcement officer will likely have little difficulty assessing whether that car is in compliance with registration laws simply by glancing at

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2. The Court of Appeal judicially noticed the handbook in its opinion. (See Slip Opn. at p. 4.)

3. Vehicle Code “[s]ection 1651 gives the director of the DMV the authority to ‘adopt and enforce rules and regulations as may be necessary to carry out the provisions of this code relating to the department.’” (*Addison v. Department of Motor Vehicles* (1997) 69 Cal.App.3d 486, 494.)

the car and observing such documents. However, when a police officer cannot see any license plates or temporary papers indicating the car is properly registered, the officer is justified to investigate further. If the officer is following the car, the safest and most practical approach would be to initiate a traffic stop and contact the car's driver for clarification. That is exactly what was done in the instant case.

**B. The Stop Was Justified Because The Officer Had Articulable Reasonable Suspicion To Believe The Vehicle Was Not In Compliance With The Registration Law Of The Vehicle Code**

Officer Kandler testified that he stopped appellant's car because he saw that the car lacked a rear license plate and he did not see any registration papers on the car. (1 RT 13, 17, 20-21.) Appellant maintains that he was unlawfully detained because he, in fact, had a temporary operating permit affixed to the car's front windshield (AOBM 36), ignoring the fact that Kandler was not aware of the existence of the permit until after he stopped appellant and appellant advised him of the permit and its location.

The juvenile court expressly agreed that appellant was driving with the correct paperwork, and noted that Kandler subsequently acknowledged the presence of the permit. However, because the "[permit] did not appear visible until [after Kandler] reached the point of being close enough to see it," it was objectively reasonable for Kandler to conduct a "very brief investigation" of whether a violation of Vehicle Code section 5200 had occurred. (1 RT 32-33.)

Appellant characterizes the officer's reasons for stopping the car as nothing more than a "speculative possibility" that a violation had occurred (see AOB 16), suggesting the officer stopped the car on a mere "hunch." Appellant's effort to restrict the requirements of "reasonable suspicion" in this case,



creates unnecessary difficulty in dealing with one of the relatively simple concepts embodied in the Fourth Amendment. In evaluating the validity of a stop such as this, [the Court] must consider ‘the totality of the circumstances - - the whole picture.’

(*United States v. Sokolow, supra*, 490 U.S. at pp. 7-8.)

The facts established that, at 1:00 a.m., appellant drove past Officer Kandler and the officer did not observe a rear license plate on the vehicle. Upon driving behind appellant’s vehicle, the officer did not see any registration papers anywhere on appellant’s car. From the officer’s vantage point, while it was presumably dark, he could not see the registration paper in the lower right-hand corner of the car’s windshield.

Under the totality of these circumstances, it was reasonable for the officer to stop appellant’s car to investigate *the apparent* Vehicle Code violation. (*United States v. Sokolow, supra*, 490 U.S. at pp. 7-8; see also *Whren v. U.S., supra*, 517 U.S. at p. 810 [“[a]s a general matter, the decision to stop an automobile is reasonable where the police have probable cause to believe that a traffic violation has occurred”].) In *United States v. Edgerton* (10<sup>th</sup> Cir. 2006) 438 F.3d 1043, the court stated,

Certainly a vehicle’s apparent failure to display some sort of visible license plate/registration tag, temporary or permanent, gives rise to a reasonable suspicion that its driver might be violating ‘any one of the multitude of applicable traffic and equipment regulations of the jurisdiction.’

(*Id.* at p. 1408; citations omitted.)

It must be pointed out that this is not a case in which the officer conducted a traffic stop for the sole purpose of verifying whether a displayed temporary permit, tag, or temporary license plate was in fact valid. Therefore, appellant’s reliance on cases such as *People v. Nabong* (2004) 115 Cal.App.4th Supp. 1 and *State v. Childs* (1993) 242 Neb. 426 [495 N.W.2d 475], and other cases from New Mexico, Georgia, and Wisconsin is unavailing. (See AOBM

24-30.) Those cases are factually distinguishable from this case because they involve circumstances not present here i.e., a vehicle was stopped solely to verify validity of temporary tags; or an officer failed to give specific facts giving rise to reasonable suspicion.

Equally unavailing is appellant's reliance on *People v. Franklin* (1968) 261 Cal.App.2d 703. (See AOBM 18-20.) In *Franklin*, the court found the detention invalid on the ground that, based upon a strict reading of Vehicle Code section 2805, the officer was not properly authorized to stop the car in that he was not a California Highway Patrol officer. (*Id.* at p. 707.) Here, Officer Kandler's law enforcement status is not at issue, nor did he stop the car to determine the validity of an otherwise apparently valid registration. At most, Officer Kandler's belief there was not a validly-displayed registration was a mistake of fact, which was reasonable under the circumstances.

The case of *State v. Lloyd* (Iowa 2005) 701 N.W.2d 678, is illustrative. In *Lloyd*, the court held that an officer's mistake of fact justified a traffic stop. The facts demonstrated that the officer stopped a vehicle after he observed the car did not have any permanent license plates, a fact conceded by the defendant. However, uncontroverted testimony established that a valid temporary plate was affixed to the car's rear window. The prosecution argued that the officer merely missed the plate when he stopped the car. (*Id.* at p. 679.) The court found that the officer's mistake was reasonable in light of the circumstances that it was dark at the time of the stop, i.e., 2:20 a.m., and thus concluded that the decision to stop the car was justified and reasonable and did not violate the Fourth Amendment. (*Id.* at p. 681-681.)

Similarly, in *United States v. Jenkins* (10<sup>th</sup> Cir. 2006) 452 F.3d 207, the initial stop of a vehicle based upon the officer's observation that the car had no front license plate and his belief that it lacked a rear license plate was upheld, even though after the stop the officer noticed a temporary plate on the

rear of the vehicle. (*United States v. Jenkins, supra*, 452 F.3d at p. 212; see also *United States v. Ledesma* (10<sup>th</sup> Cir. 2006) 447 F.3d 1307, 1312 [defendant conceded validity of stop where the officer stopped his vehicle because he did not see any license plate or temporary registration in the rear of the vehicle, “an apparent violation of Kansas law”]; also cf., *Travis v. Arkansas* (1998) 331 Ark. 7, 10-11 [959 S.W.2d 32] [“all that is required is that the officer had probable cause to believe that a traffic violation had occurred. Whether the defendant is actually guilty of the traffic violation is for a jury or a court to decide, and not an officer on the scene.”].)

The above cited cases, as well as the instant case, exemplify the principle recently recognized by this Court: the possibility of an innocent explanation for missing license plates and/or registration permits or tags “does not preclude an officer from effecting a stop to investigate the ambiguity.” (*People v. Saunders, supra*, 38 Cal.4th at pp. 1136-1137; see *Illinois v. Wardlow* (2000) 528 U.S. 119, 125-126, [120 S.Ct. 673, 145 L.Ed.2d 570]; accord. *People v. Leyba* (1981) 29 Cal.3d 591, 599.)

Appellant theorizes that were this Court to reject his position, it would legalize an alleged “fishing expedition” (AOBM 37), because the officer here “failed to confirm any suspicion of illegality by the minimal step of looking at [his] front windshield.” (AOBM 31.) On the contrary, to accept appellant’s position would circumvent well-established authority that the Fourth Amendment does not require an officer to use the least intrusive means to effectuate a search or seizure if the officer’s conduct is otherwise reasonable.

As stated by the United States Supreme Court,

A creative judge engaged in *post hoc* evaluation of police conduct can almost always imagine some alternative means by which the objectives of the police might have been accomplished. But “the [f]act that the protection of the public might, in the abstract, have been accomplished by ‘less intrusive’ means does not, itself, render the search unreasonable.”

(*United States v. Sharpe*, *supra*, 470 U.S. at pp. 686-687, quoting *Cady v. Dombrowski* (1973) 413 U.S. 433, 447 [93 S.Ct. 2523, 37 L.Ed.2d 706]; see also *Veronia School Dist. 47J v. Acton* (1995) 515 U.S. 646, 663 [115 S.Ct. 2386, 132 L.Ed.2d 564] [“We have repeatedly refused to declare that only the ‘least intrusive’ search practicable can be reasonable under the Fourth Amendment”]; *United States v. Sokolow*, *supra*, 490 U.S. at p. 11 [“The reasonableness of the officer’s decision to stop a suspect does not turn on the availability of less intrusive investigatory techniques”].)

Here, the officer had no ready means, short of an investigative traffic stop, to verify whether appellant’s vehicle had a valid operating permit. Any other rule “would unduly hamper the police’s ability to make swift, on-the-spot decisions . . . and would require courts to “indulge in ‘unrealistic second-guessing.’” (*United States v. Sokolow*, *supra*, 490 U.S. at p. 11, citations omitted.) Indeed, depending upon the actual road conditions at the time of the officer’s observations, other imaginable options would likely have been impractical if not physically impossible. For example, passing a vehicle on the right may have been physically impossible due to the presence of obstacles such as roadside shoulders, or sidewalks, etc. (See Veh. Code, § 21754, permissible conditions for passing on right.) Nor would driving on the left side of a vehicle necessarily be a viable option because from that vantage the officer would not be in any better position, and perhaps would be in even a worse position, to see whether temporary registration papers are displayed in the lower right side of a car’s windshield.

Appellant concedes that “the government has a legitimate interest in regulating the registration and operation of motor vehicle traffic.” (See AOBM 38, citing *Delaware v. Prouse*, *supra*, 440 U.S. at p. 658.) However, this was not a case of “random registration spots checks” (see AOBM 30), based on improper “speculative” assumptions. (See AOBM 38.)

Appellant gives far too much weight to the circumstance that his car was new, especially when the record does not establish that the officer was in fact aware of such circumstance prior to conducting the stop, and argues that cases such as this one will lead to operators of new vehicles who have not yet received their license plates surrendering their constitutional protections under the Fourth Amendment. (AOBM 39.) To the contrary, a new car driver could easily avoid potential problems by ensuring that the temporary permit is placed on the lower right rear window.

Here, the facts and circumstances within the officer's knowledge, i.e., the vehicle's lack of a rear license plate and his inability to see an operating permit from his view anywhere on the vehicle prior to conducting the stop, were sufficient to cause the officer to have a reasonable suspicion that a Vehicle Code violation had occurred and justified the traffic stop.

In this case, "[t]he question for [this Court] is not whether [appellant's] car was in fact in full compliance with the law at the time of the stop, but whether Officer [Kandler] had 'articulable suspicion' it was not." (*People v. Saunders, supra*, 38 Cal.4th at p. 1136, citing *People v. Celis* (2004) 33 Cal.4th 667, 674; see generally *Illinois v. Rodriguez* (1990) 497 U.S. 177, 184 [110 S.Ct. 2793, 111 L.Ed.2d 148] ['reasonableness with respect to this necessary element does not demand that the government be factually correct in its assessment']).) The answer must be yes. Pursuant to well-established Fourth Amendment jurisprudence, the facts and circumstances within the officer's knowledge, e.g., the vehicle's lack of a rear license plate and his inability to see an operating permit from his view anywhere on the vehicle, prior to conducting the stop, were a sufficient basis for the officer to have a reasonable suspicion that a Vehicle Code violation had occurred and justified the stop.

When a law enforcement officer observes a motor vehicle but is unable to see any license plates or any temporary registration papers displayed

on the vehicle, the officer has reasonable suspicion to believe that the vehicle may be in violation of the registration requirements of the Vehicle Code. Based on this reasonable suspicion, the officer is justified to investigate. The officer may initiate a traffic stop to contact the driver and inquire about the vehicle's registration status. The fact that the vehicle may actually have temporary registration papers does not take away from the officer's reasonable suspicion that the vehicle is out of compliance if the officer does not see those papers before initiating the stop and contacting the vehicle's driver. The constitutionality of the vehicle stop should be judged on the officer's objective perception and articulable suspicion rather than the true registration status of the vehicle.

## CONCLUSION

Accordingly, for the reasons stated above, respondent respectfully requests that the judgment be affirmed.

Dated: August 15, 2007

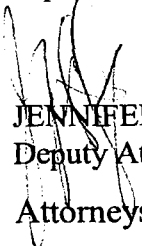
Respectfully submitted,

EDMUND G. BROWN JR.  
Attorney General of the State of California

DANE R. GILLETTE  
Chief Assistant Attorney General

GARY W. SCHONS  
Senior Assistant Attorney General

STEVEN T. OETTING  
Supervising Deputy Attorney General



JENNIFER A. JADOVITZ  
Deputy Attorney General  
Attorneys for Respondent

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**CERTIFICATE OF COMPLIANCE**

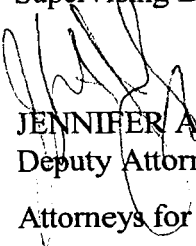
I certify that the attached **RESPONDENT'S BRIEF ON THE MERITS** uses a 13 point Times New Roman font and contains **4382** words.

Dated: August 15, 2007

Respectfully submitted,

EDMUND G. BROWN JR.  
Attorney General of the State of California

STEVEN T. OETTING  
Supervising Deputy Attorney General



JENNIFER A. JADOVITZ  
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Attorneys for Respondent



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

Case Name: **People v. Raymond C.**

No.: **S149728**

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 August 16, 2007, I served the attached **RESPONDENT'S BRIEF ON THE MERITS** 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 110 West A Street, Suite 1100, P.O. Box 85266, San Diego, CA 92186-5266, addressed as follows:

Jean Ballantine (2 copies)  
Attorney at Law  
12228 Venice Blvd., Suite 152  
Los Angeles, CA 90066  
Attorney for Minor Appellant C., Raymond

The Honorable Tony Rackauckas  
District Attorney  
Orange County District Attorney's Office  
401 Civic Center Drive West  
Santa Ana, CA 92701

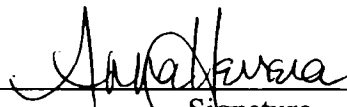
Appellate Defenders, Inc.  
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San Diego, CA 92101

Clerk of the Court  
Orange County Superior Court  
700 Civic Center Drive West  
Santa Ana, CA 92701

California Court of Appeal  
Fourth Appellate District, Division Three  
925 N. Spurgeon Street  
Santa Ana, CA 92701-3724

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 August 16, 2007, at San Diego, California.

\_\_\_\_\_  
Anna Herrera  
Declarant

\_\_\_\_\_  
  
Signature