IN THE SUPREME COURT OF THE STATE OF CALIFORNIA

In re RAYMOND C., a person coming under the Juvenile Court law,	S149728
PEOPLE OF THE STATE OF CALIFORNIA, Plaintiff and Respondent, vs. RAYMOND C., a minor, Defendant, Appellant, and Petitioner.	

Fourth Appellate District No. G035822
Orange County Superior Court No. DL020274
The Hon. Caryl A. Lee, Judge

APPELLANT'S REPLY BRIEF ON THE MERITS

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By Appointment of the California Supreme Court
Under the Appellate Defenders, Inc.
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Plaintiff and Respondent,	)	
vs.	)	
RAYMOND C., a minor,	)	
Defendant, Appellant, and Petitioner.	)	

I

Introduction

Almost two million new cars are sold in California every year.[1] The new car dealer affixes the bottom portion of its paper "Report of Sale" form to a window, and the purchaser drives the car off the lot without license plates. The new car can then be legally driven with the "Report of Sale" form affixed to the window for up to six months pending issuance of plates by the DMV (Department of Motor Vehicles). Respondent asserts these new cars are subject to being stopped whenever a law enforcement officer

[1]Supporting statistics are set forth in appellant's motion for judicial notice.

observes the lack of a rear license plate and does not see the "Report of Sale" form on the rear window. This assertion flies in the face of a number of established legal principles and calls for this court to sanction random, speculative stops at the unfettered discretion of law enforcement, which are forbidden by the federal Constitution and a vast body of established case law.

If California law enforcement officers need to verify whether new cars without license plates are properly registered, the solution lies not with the dragnet approach asserted by the government, but instead with the California Legislature and regulatory agencies to amend the laws and regulations concerning the display of new car temporary registration.

II

A Police Officer is Presumed to Know the Law and Cannot Effect a Valid Traffic Stop for a Possible Registration Violation Where his Suspicion is Founded on an Erroneous Legal Basis

In the Opening Brief on the Merits, appellant argued a traffic stop predicated solely on the possibility that a car's registration may be invalid is constitutionally prohibited, even though the officer may be acting in complete good faith. (Appellant's Opening Brief on Merits ("AOBM"), p. 13, citing *Delaware v. Prouse* (1979) 440 U.S. 648, 662 [99 S.Ct. 1391, 59 L.Ed.2d 660]; *In re Tony C.* (1978) 21 Cal.3d 888, 898; see also, *Brendlin v.*

California (2007) 551 U.S. ___ [127 S.Ct. 2400, 2405, fn. 2, 168 L.Ed.2d 132] [state conceded that police officers who stopped a vehicle bearing a temporary operating permit, solely to verify that the permit matched the vehicle, lacked reasonable suspicion to justify the traffic stop].)

Respondent contends it was of "no consequence" that appellant was driving his new car in full compliance with the law. (Respondent's Answer Brief on the Merits ("RABOM"), p. 5.) Respondent further contends that because appellant's registration papers were not visible to the officer from his vantage point behind appellant's vehicle when he initiated the traffic stop, the stop was based on a reasonable "mistake of fact," rendering it lawful. (RABOM, p. 11.) Respondent is wrong on both counts. If a person is driving in full compliance with the law, then how can an officer *reasonably* expect more? No "mistake of fact" can be "reasonable" where the officer does not check the locations where a temporary new car permit can be posted in compliance with DMV regulations. Respondent's assertion of "reasonable mistake of fact" redefines the issue in an artificial manner – this stop was not based on a "mistake of fact" but on a failure to gather the necessary information.

An individual's operation of a new car in California in full compliance with California's new car registration laws is not a matter of "no

consequence" in determining whether a traffic stop is reasonable under the Fourth and Fourteenth Amendments to the United States Constitution. Individuals driving on California's streets and highways maintain a reasonable expectation of privacy, and the constitution imposes a standard of "reasonableness" upon the exercise of discretion by law enforcement. (*Delaware v. Prouse* (1979) 440 U.S. 648, 662 [99 S.Ct. 1391, 59 L.Ed.2d 660].) To justify a traffic stop, at its inception the detaining officer must have a *reasonable* "particularized and objective basis" for suspecting the individual stopped has violated the Vehicle Code or some other law. (*United States v. Cortez* (1981) 449 U.S. 411, 417-418 [101 S.Ct. 690, 66 L.Ed.2d 621].)

A police officer cannot meet this test when he does not apply governing registration regulations to his decision to detain for a registration violation. Under the constitutional standard of reasonableness, police officers are expected to know the law, particularly those laws which they are regularly called upon to enforce. (*People v. Teresinski* (1982) 30 Cal.3d 822, 832; *In re Joseph F.* (2000) 85 Cal.App.4th 975, 994.) Thus, the officer in this case is presumed to know that a new car can be legally operated without license plates so long as the temporary registration is affixed to either the lower rear window, the lower right corner of the windshield, or the lower

right corner of a side window. (Veh. Code, § 4456, subds. (a), (c); DMV Handbook of Registration Procedures ("Handbook"), §2.020.)

Under applicable regulations, the rear, front, and side windows are legal and thus *reasonable* locations for placement of temporary registration. Those reasonable locations must be eliminated before an officer can have a *reasonable* suspicion to stop a new car for a possible registration violation. (Veh. Code, § 4456, subds. (a)(1) and (c); Handbook, §2.020; *People v. Nabong* (2004) 115 Cal.App.4th Supp. 1, 3, and fn. 8.)

Respondent characterizes the stop, made without checking the legal and reasonable locations for a temporary permit, as an excusable "mistake of fact," relying on cases from other jurisdictions (RABOM, pp. 11-12) which, as shown below, are not persuasive. Governing California authority does not excuse such as "mistake," whether characterized as a mistake of *fact* or a mistake of *law*. (See, *People v. Glick* (1988) 203 Cal.App.3d 796 [the distinction between a reasonable mistake of fact (excusable under some authorities) and a mistake of law (not excusable) serves no useful purpose; characterizing the officer's conduct as one or the other begs the real question, which is the reasonableness of the officer's conduct under the circumstances.])

To accept respondent's argument would be to allow police officers

unfettered discretion to stop at will, any and all new cars which are in full compliance with registration requirements, and to excuse their lack of a reasonable, particularized, objective basis for the stop as a "mistake of fact." A well-established body of California law holds otherwise.

People v. Teresinski (1982) 30 Cal.3d 822, 831-832 held that a police officer's mistake in believing that defendant driver was violating a curfew ordinance was an *unreasonable mistake of law* which could not justify the defendant's detention. The curfew ordinance made it unlawful for minors to loiter, idle, wander, stroll, or play on public streets after 10 p.m. The officer saw defendant's car with three occupants driving through the city's business district at about 2 a.m. Because of windshield glare, he could not see defendant, but he thought both passengers were minors and suspected the driver was also. Although the car was proceeding at a lawful speed without any suspicious behavior, the officer pulled the car over for a curfew violation. (*Id.* at p. 827.) The high court stated the test to be applied to the detention:

> [T]o justify an investigative stop or detention the circumstances known or apparent to the officer must include specific and articulable facts causing him to suspect that (1) some activity relating to crime has taken place or is occurring or about to occur, and (2) the person he intends to stop or detain is involved in that activity. Not only must he subjectively entertain such a suspicion, *but it must be objectively reasonable for him to do so*: the facts must be such as would

> cause any reasonable police officer in a like position, drawing when appropriate on his training and experience [citation omitted], to suspect the same criminal activity and the same involvement by the person in question.

(*People v. Teresinski, supra,* 30 Cal.3d 822 at p. 829, emphasis added.)

Applying that standard to the facts of the case, the *Teresinski* court held the officer lacked any reasonable basis to suspect that defendant and his companions were violating the curfew ordinance, and that his mistake could not be construed as "reasonable." (*Id.* at pp. 830-832.) The ordinance was not an obscure or unfamiliar enactment, its plain language clearly did not prohibit the conduct at issue, and the officer had enforced it on numerous occasions. The court concluded that to hold the officer's mistake was "reasonable" so as to justify the detention "would provide a strong incentive to police officers to remain ignorant of the language of the laws that they enforce...." (*Id.* at p. 832.)

The same principle was followed by the California appellate court in *People v. White* (2003) 107 Cal.App.4th 636, on facts which are particularly apt. There, the officer mistakenly believed that having a single Arizona license plate affixed to the car violated the Vehicle Code. However, Vehicle Code section 5202 incorporates out-of-state requirements into California law, and Arizona law requires only one license plate for motor vehicles. Finding the officer made a mistake of law which vitiated the basis for the stop, the

court wrote: "Though we assume the officer acted in good faith, there is no good faith exception to the exclusionary rule for police who enforce a legal standard that does not exist. Creating a good faith exception here would run counter to the exclusionary rule's goal by removing an ***incentive for the police to know the law we entrust them to enforce.***" (*Id.* at p. 644, emphasis added.)

In *People v. Hernandez* (2003) 110 Cal.App.4th Supp. 1, a traffic stop of a car with neon purple lights around the front license plate frame was grounded on the officer's stated legal basis that all front lights are unlawful unless either white or yellow. That basis was simply erroneous and the appellate division held that in the absence of articulable facts that the neon light around defendant's front license plate frame was unlawful under the Vehicle Code, the detention could not be upheld. (*Id.* at p. 5.)

Decisions from the Ninth Circuit Court of Appeals, while not binding on this court, are instructive and persuasive. (*People v. Bradley* (1969) 1 Cal.3d 80, 86.) In *U.S. v. King* (9th Cir. 2001) 244 F.3d 736, 741-742, an officer's mistaken belief that driving with a disabled parking placard hanging from the rearview mirror violated the law could not form the basis for reasonable suspicion to initiate a traffic stop. In *U.S. v. Twilley* (9th Cir. 2000) 222 F.3d 1092, 1096, the stop of a vehicle displaying only one

Michigan license plate was based on the officer's mistake of law, and thus was not supported by reasonable suspicion and violated the Fourth Amendment. *U.S. v. Lopez-Soto* (9th Cir.2000) 205 F.3d 1101 is particularly on point. There, a police officer stopped a vehicle for a suspected registration violation. The car bore a Baja California, Mexico license plate. The officer believed that applicable law required the car to display a registration sticker such that it would be visible from the rear. When he did not see a sticker on the rear or side windows, he stopped the car *without checking the front window,* "to investigate whether it was in fact properly registered." (*Id.* at p. 1103.) The applicable Baja California code section in fact directed that the sticker be displayed on the windshield. (*Id.* at p. 1105.) The officer's *mistake of law* rendered the stop unjustified both legally and objectively.

The *Lopez-Soto* court made two important points. First, the defendant's car was in complete compliance with applicable law (as was appellant's car in the instant case). Second, because the officer did not check the windshield for the sticker, the information that he did gather – that there was no sticker on the rear or left windows – did not make it any less likely that Lopez-Soto was operating his car in conformity with the law. (*Id.* at p. 1106.) Here, quite similarly, Officer Kandler's decision to initiate a car stop,

made from his vantage point behind the car, did not render the stop either legally justified or objectively reasonable. Kandler's mere observation that there was no DMV paperwork on appellant's rear window did not make it any less likely that appellant was operating his car in conformity with the law. Just as in *Lopez-Soto, supra,* the traffic stop was based on a mistake of law, rendering it unjustified both legally and objectively.

In *People v. Glick, supra,* 203 Cal.App.3d 796, an officer on patrol at 11 p.m. stopped defendant because his New Jersey license plates displayed no current registration tags. Unknown to the officer, New Jersey (unlike California) does not require renewal tags to be placed on the license plate. Rather, New Jersey issues a reinspection sticker which is displayed in the lower left-hand corner of the windshield. The officer did not know about that provision of New Jersey law and did not look for that sticker. After rejecting the distinction between a "mistake of fact" and a "mistake of law" and deciding the case based on the reasonableness of the officer's conduct under the circumstances (*id.* at p. 801-802), the California appellate court held that because a proportionately few persons from New Jersey regularly visit this state by vehicle, the New Jersey Vehicle Code was not something the California police officer could reasonably be expected to know or could have an opportunity to routinely enforce. (*Id.* at p. 803.) The court was quick to

point out, however, that a different result would be required if the vehicle was from a contiguous state. For example, a California Highway patrolman stationed in Tahoe could reasonably be expected to have a general understanding of Nevada's vehicle registration laws. (*Id.* at pp. 803-804.)

The considerations in this case are far different from those in *Glick, supra.* California police officers must know the California laws they are called upon to enforce. It is not objectively reasonable for a California police officer not to know the requirements for temporary registration of new cars in California, or to stop a car for a possible violation of those requirements without first checking all legal, and thus reasonable, locations for placement of the car's temporary registration. "Otherwise, every motorist on the road who has attempted to comply with the Vehicle Code regarding registration matters would be subject to stop without more." (*People v. Nabong, supra,* 115 Cal.App.4th Supp. 1, 4-5.)

It is true, as Respondent asserts, there is a factual distinction between this case and *Nabong, supra,* and *State v. Childs* (1993) 242 Neb. 426 [495 N.W.2d 475]. (RABOM 10-11) In those cases, the officers conducted a traffic stop solely to verify whether a displayed permit was valid, while here, the officer testified he did not see appellant's temporary registration sticker. The distinction is one without a difference, because the issue is

reasonableness, and here, the officer enforcing California laws reasonably should have known where to look for temporary new car registration and reasonably should have seen it in plain sight. It was unreasonable to stop appellant's car without looking for the object of a search in the areas where that object was likely to be.

The cases from foreign jurisdictions cited by respondent (RABOM, pp. 10-11) are not persuasive when applied to traffic stops of new cars in California.

In *United States v. Jenkins* (2nd Cir. 2006) 452 F.3d 207 (RABOM 11-12), officers driving in the Bronx at 11:30 p.m. stopped an SUV which lacked a front license plate, possibly had illegally tinted windows, and possibly lacked a rear license plate. In fact, the vehicle had a temporary Delaware rear license plate, Delaware required only the rear plate, and the dealer had issued only the temporary rear plate. (*Id.* at p. 209.)

In *United States v. Ledesma* (10th Cir. 2006) 447 F.3d 1307 (RABOM 12), a Kansas trooper stopped a van bearing a Michigan temporary permit. The Tenth Circuit held the detention was not unreasonable because Kansas "state troopers cannot be expected to possess encyclopedic knowledge of the traffic regulations of other states" and because under Kansas law, the "display of an illegible or obscured vehicle tag" constituted a violation of

Kansas registration requirements even if the vehicle was duly licensed in another state. (*Id.* at p. 1313.)

Similarly, in *Travis v. Arkansas* (1998) 331 Ark. 7 [959 S.W.2d 32] (RABOM 12), an Arkansas deputy, mistaken about Texas registration requirements, stopped a Texas truck which did not display registration stickers on the license plate. The Arkansas Supreme Court determined the deputy's mistake of law was reasonable, citing the California appellate court's decision in *People v. Glick, supra,* for the proposition that: "An officer cannot reasonably be expected to know the different vehicle registration laws of all the sister states." (959 S.W.2d at pp. 34-35.)

Thus, the "mistakes" examined by the Arkansas Superior Court in *Travis, supra,* the Tenth Circuit in *Ledesma, supra,* and the Second Circuit in *Jenkins, supra,* are all akin to the mistake excused in *People v. Glick, supra,* where the California appellate court held it reasonable for a California law enforcement officer to be unfamiliar with New Jersey registration laws.

In *State v. Lloyd* (Iowa 2005) 701 N.W.2d 678 (RABOM 11), an Iowa deputy saw that Lloyd's car had no license plate on the rear bumper, and stopped the car for this clear violation of Iowa law. The Iowa Supreme considered Lloyd's uncontroverted testimony that a valid temporary plate was taped to his car's rear window and the State's argument in response that

the deputy simply missed seeing the temporary plate (*id.* at p. 679), but the opinion sheds no light on why the vehicle had a temporary plate or what evidence (if any) supported the State's argument. The Iowa court concluded that because it was dark at the time of the stop (2:20 a.m.), it was "understandable how the deputy could have missed the temporary plate," rendering the car stop justified, reasonable, and constitutional. (*Id.* at p. 682.)

If decisions such as *Lloyd, Jenkins, Travis* and *Ledesma* were applied to registration traffic stops of new cars in California, the state could simply take the position in every case that the detaining officer "missed" the temporary registration, whether taped to the rear, front, or side window as legally allowed. Considering the small size of California's "Reg 739" form, which is the temporary registration affixed to the window by the dealer,[2] the state would have an excuse to stop virtually every new car driver in California, at the standardless and unfettered discretion of law enforcement, in violation of the constitution. (*Delaware v. Prouse, supra,* 440 U.S. at p. 661.)

Allowing such stops based on an officer's "mistake of fact" – i.e., failure to confirm whether a new car without license plates has the required "Reg 397" form affixed to a window – excuses law enforcement first, from

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[2]A sample of the DMV "Reg 397" form is attached to appellant's motion for judicial notice.

knowing the laws and regulations they are entrusted to enforce, and second, from performing a reasonably careful investigation prior to making a traffic stop based solely on a suspicion of registration violation. (See, *People v. White, supra,* 107 Cal.App.4th at p. 644.)

Cases from the Fifth Circuit Court of Appeal are in agreement with California law which requires that California law enforcement officers know the laws they are sworn to enforce. In *United States v. Lopez-Valdez* (5th Cir. 1999) 178 F.3d 282, the court held that where officers make traffic stops based on a mistake of law, the Fourth Amendment demands suppression of resulting evidence. In that case, a Texas Department of Public Safety Trooper pulled over a car because it had a broken taillight. The trooper believed that driving with a broken taillight violated state law, but in fact it did not. (*Id.* at pp. 285, 288). The circuit court found the stop unconstitutional because, even though it may have been made in good faith, it was not objectively reasonable. (*Id.* at p. 289, fn. 6.)

Similarly, in *United States v. Miller* (5th Cir. 1998) 146 F.3d 274 (5th Cir.1998), the court found a traffic stop unreasonable because the alleged infraction, having a turn signal on without turning, was not a violation of Texas law. (*Id.* at p. 279.) The Fifth Circuit explained that while an officer's subjective intent is not determinative of the constitutional reasonableness of

a traffic stop (citing *United States v. Whren* (1996) 517 U.S. 806 [116 S.Ct. 1769, 135 L.Ed.2d 89]), nevertheless, the officer's *legal justification* must be objectively grounded. (146 F.3d 274 at p. 279.)

Here, the officer's legal justification for stopping appellant's car was not objectively grounded, because California regulations allow the dealer to affix the temporary new car tag to either the rear, side, or front window of the new vehicle. Thus, this is not a case where there was an "apparent failure to display some sort of visible license plate/registration tag, temporary or permanent" (RABOM 10, citing *United States v. Edgerton* (10th Cir. 2006) 438 F.3d 1043, 1048). Rather, the failure was that of the law enforcement officer to look where the temporary tag is legally authorized to be, before effecting the traffic stop solely for a *possible* registration violation.

Respondent's claim that the presumption of darkness renders the stop reasonable (RABOM 10) is equally unavailing. In *United States v. Edgerton, supra,* the Tenth Circuit decided a traffic stop of a Colorado vehicle in Kansas was unconstitutional where the Kansas officer could not read the vehicle's temporary registration tag *solely because "it was dark out."* (483 F.3d at p. 1045.) After stopping the vehicle and approaching on foot, the Kansas trooper had no difficulty reading the tag and noted that it appeared valid. Nevertheless, Trooper Dean inspected the undercarriage of the vehicle,

issued a warning for a violation of the Kansas statute which required registration tags to be legible, questioned the driver, and eventually requested and received consent to search the trunk. (*Id.* at pp. 1045-1046.) The Tenth Circuit held that these actions exceeded the permissible scope of the detention in light of its underlying justification, because the Kansas registration laws did not criminalize a "wholly unremarkable" temporary registration simply because a vehicle is traveling at night. (*Id.* at p. 1051.)

Here, likewise, where a wholly unremarkable new car permit was affixed to appellant's vehicle in full compliance with DMV regulations, the fact the car was traveling at night in an area where it *may* have been dark (the prosecution presented no evidence to support its present assertion of darkness) did not provide justification for the traffic stop. Here, there was no ambiguity; there was merely Officer Kandler's failure to look at the locations on the car which DMV regulations authorize for placement of a temporary new car permit.

Nor does *People v. Saunders* (2006) 38 Cal.4th 1129 support this stop on grounds it was to investigate an "ambiguity" (RABOM 12, citing *Saunders,* 38 Cal.4th at pp. 1136-1137). In deciding *Saunders,* this court specifically did not decide "whether an officer may stop a vehicle that has an expired registration tab but also displays a temporary operating permit."

(*People v. Saunders, supra,* 38 Cal.4th at p. 1135.) The court did not have to decide that issue because the officer also noted the vehicle (a truck acquired at a wrecking yard) did not have a front license plate. (*Id.* at pp. 1132, 1136.) In *Saunders,* the temporary operating permit explained the expired registration tab but not the missing front license plate, so the officer was justified in pulling the car over to investigate the missing plate. (*Id.* at p. 1137.) A missing plate on a vehicle acquired from a wrecking yard is an entirely separate issue from missing plates on a new car. Therefore, the *Saunders* decision is of little assistance here because in *Saunders*, the officer pulled the driver over after noting a specific Vehicle Code violation. Here, Officer Kandler pulled appellant over on a *hunch* of a *possible* registration violation.

III

Concerns that Law Enforcement Officers Have no Ready Means to Verify a New Vehicle's Compliance with the Law Should be Addressed at the Legislative and Administrative Level Rather than by Random Stops of New Cars Properly Displaying Temporary Tags

Respondent asserts appellant's permit was not properly placed on his car because there was no evidence it would have been obscured in the back window (RABOM 8), and that it was appellant's duty to "avoid potential problems by ensuring that the temporary permit is placed on the lower right rear window." (RABOM 14) Had appellant done so, respondent argues, "a

law enforcement officer will likely have little difficulty assessing whether that car is in compliance with registration laws simply by glancing at the car and observing such documents." (RABOM 8-9)

This argument ignores reality.

New car dealers in California are required to affix the "Reg 397" temporary new car permit in the back window, or if it will be obscured in that location, "in the lower right corner of the windshield or on the lower right side of a side window." (Veh. Code, §4456, subds. (a)(1) and (c); Handbook, §2.020.) The dealership presumably surveys the car and then affixes the form, which is commonly observed in the lower right front windshield area, no doubt due to knowledge of their product's angle of reflection, window tinting, placement of windshield wipers, and the like. Vehicle Code section 4456 requires only that the dealer "attach for display a copy of the report of sale on the vehicle before the vehicle is delivered to the purchaser." The DMV Handbook is simply an informational set of instructions on how this may be done. Moreover, any violation of Vehicle Code section 4456 is that of the dealer, and it is an administrative violation requiring payment of a $5 fee by the dealer to the DMV, not a crime committed by the driver. (See, Veh. Code, §4456.1, subdivision (a).)

The "Reg 397" temporary permit measures 8 ½ inches wide by 2 ½

inches high. (See, appellant's motion for judicial notice.) The date of sale is typed onto this small form, which is then folded over "for customer privacy" so that only the preprinted number and vehicle descriptive information show. (Veh. Code, §4456, subds. (a)(1) and (c); Handbook, §2.020.) A law enforcement officer cannot realistically be expected to be able to assess registration compliance by a "mere glance" at a car bearing the "Reg 397" new car permit, no matter what window it is affixed to.

Thus, if a new car can be stopped merely because law enforcement cannot assess the validity of the "Reg 397" form affixed to the window from the vantage point of a patrol car, then virtually any and all new cars on the roadway are subject to stop at the complete and unfettered discretion of law enforcement. A rule of law allowing such stops does not pass constitutional muster. It creates a presumption that every new car driver in California is a lawbreaker, contrary to the presumption of innocence which is a basic component of the right to due process and a fair trial under the Fourteenth Amendment to the United States Constitution. (See, *State v. Childs* (1993) 242 Neb. 426 [495 N.W.2d 475, 481, citing *Estelle v. Williams* (1976) 425 U.S. 501, 503 [96 S.Ct. 1691, 48 L.Ed.2d 126].)

The Fourth Amendment mandates that citizens remain free from unlawful searches and seizures by law enforcement officers. Although the

Fourth Amendment does not treat a motorist's car as his castle (*Illinois v. Lidster* (2004) 540 U.S. 419, 424 [124 S.Ct. 885, 157 L.Ed.2d 843]), nevertheless the Fourth Amendment requires more than a hunch based on possibilities, and traffic stops cannot be made merely to find out if a motorist's properly displayed temporary new car permit might possibly be invalid. The solution lies not with random stops of selected vehicles from the thousands of new cars operating under temporary new car permits, but with the legislative and administrative process to create new car permits, and requirements for their placement, so that law enforcement can readily determine whether a vehicle is in violation of registration laws.

IV

Conclusion

For the reasons stated in Appellant's Opening Brief on the Merits and herein, the judgment of the Court of Appeal should be reversed.

DATED: September 5, 2007 Respectfully submitted,

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Raymond C., a minor
By appointment of the California Supreme Court
Under the Appellate Defenders, Inc.
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Word Count Certificate

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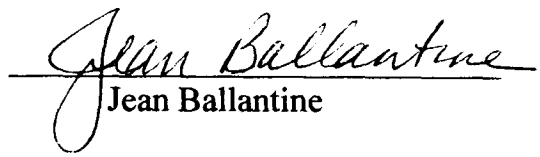

Jean Ballantine

PROOF OF SERVICE

I, Jean Ballantine, declare and say that:

I am employed in the County of Los Angeles, State of California. I am over the age of 18 and not a party to the within action; my business address is 12228 Venice Boulevard, PMB 152, Los Angeles, CA 90066-3814.

On September 6, 2007 I served the foregoing document described as APPELLANT'S REPLY BRIEF ON THE MERITS on the interested parties in this action by placing a true copy thereof enclosed in a sealed envelope, postage prepaid, first class mail, with the U.S. Postal Service, addressed as follows:

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I declare, under penalty of perjury, that the foregoing is true and correct. Executed September 6, 2007 at Los Angeles, California.

Jean Ballantine

Jean Ballantine