

No. S282548

In the Supreme Court of the State of California

IN RE GREGORY WAYNE SUMMERS,
On Habeas Corpus.

INFORMAL RESPONSE TO PETITION FOR WRIT OF HABEAS CORPUS

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INTRODUCTION

In the instant petition, Gregory Wayne Summers alleges that he was denied his right to effective assistance of counsel. Specifically, Summers alleges that his trial counsel failed to adequately investigate and seek additional mental health testing regarding a viable insanity defense. Summers also claims that trial counsel's failure to investigate his mental health issues led to the presentation of a deficient sentencing motion to strike one of his "strike" convictions. Finally, Summers argues that trial counsel failed to understand the nature of an insanity plea and that the decision as to whether to pursue such a defense was for Summers to make. Summers asserts that he was prejudiced by all of these failings. The People submit that as explained in more detail below, Summers has not met his burden to establish ineffective assistance of counsel. Thus, the People respectfully request that the instant petition for writ of habeas corpus be denied and dismissed without the issuance of an order to show cause.

A. Background

The historical recitals in the Opinion from the Third District Court of Appeal on direct appeal follows:

A jury convicted defendant Gregory Summers of robbery, and the court found true allegations that he had two prior serious felonies and strikes. (Pen. Code, §§ 211, 667, subds. (a), (b)-(i), 1170.12.) The trial court sentenced him to prison for 10 years plus 25 years to life.

The victim, Belinda S., testified she took a friend to a medical office in downtown Sacramento for a counseling session. She waited upstairs, on a bench by

a bay window, by herself. A man walked up and asked her where the reception area was, and they spoke for a couple of minutes. She thought the man was "slow and retarded" based on his speech. The man thanked her and went downstairs. About 30 seconds later, he returned, "using profanity and said he had a gun, he was gonna kill me." He sounded deranged, speaking "in a low tone, angry [,] almost possessed." He walked up to her until his groin was in her face and he put his hand, covered in a white cloth, against her neck, "saying that that was the gun that he was going to kill me with and he was hitting me." She felt an object she took to be a weapon pressed against her. He smelled of alcohol. The man asked if she had money, and after she told him to take "whatever he wanted" he grabbed her bag, exhibit 12, and ran downstairs. She screamed and someone called 911. Her checkbook and about \$150 to \$200 were in her bag. The victim identified defendant in court, and had made a "very confident" field identification. She identified exhibit 20-A-1 as depicting a cap similar to the one the man wore, and exhibit 20-B-1 as a shirt similar to the one the man wore.

A marriage and family counselor testified that on August 14, 2007, he was counseling a patient at his office at 820 18th Street when he heard screaming. He opened the door and saw his patient's companion, distraught and screaming, and she said, "he took my purse" and "he just left." The counselor ran outside and found a cap in the alley, depicted in exhibit 20-A-1, which he turned over to the police.

A woman taking out some trash in the alley saw a man "curled up underneath the stairwell, and he was holding a purse." Exhibit 8 depicted the stairs. After she deposited her trash, the man had left, leaving a purse, exhibit 12, behind. She recognized exhibit 20-B-1 as the man's shirt.

Officer Larry Borja testified the victim was crying and shaking when he arrived. She told him the man took "about \$40," "some twenties and some ones."

Officer Jeffrey Babbage responded on horseback and detained defendant. Officer Jacob Casella found a cocaine pipe in defendant's pocket, and Officer Casella attended a field identification where the victim "positively" identified defendant. Exhibit 20-B-1 was the shirt defendant wore, and Exhibit 20-A-1 depicted a hat Officer Casella was given at the scene. California Highway Patrol Officer James Mann found the victim's purse under the stairwell depicted in exhibit 8. The purse had scissors and a white cloth that were not the victim's.

Doris M. testified that on July 17, 1999, she took her grandson to the IMAX theater in downtown Sacramento, and parked in a garage. When she got out of her car, a man grabbed her, and although she fought back, he took her purse. Later that day she identified the man. A peace officer testified the garage was at 13th and I Streets, and that Doris M. identified a man about a half-hour later. A fingerprint expert established that defendant was the man arrested for Doris M.'s robbery.

In the middle of Doris M.'s testimony, the trial court instructed the jury that it could, but need not, use the evidence to show defendant's intent or plan in the current case, and in doing so the jury should consider the similarity or dissimilarity between the uncharged and charged incidents. The trial court reminded the jury of this limited use of the evidence at the end of the case.

Dr. Albert Globus testified defendant had a mental illness consisting of a memory defect that induced him to self-medicate with drugs and alcohol, leading to "a primary diagnosis of some type of psychosis aggravated by his drug use."

Defense counsel argued the evidence did not show defendant intended to take the purse “until after using the force or fear,” and thus was not guilty of robbery. Defendant may have hit the victim, but he did not demand money while doing so. Counsel argued, “here we just had an assault and battery go on. Maybe a threat to kill. I don’t know. But stuff that’s not charged.” Counsel argued the prior incident did not speak to defendant’s intent on this occasion, nor show a common plan.

(Pet.’s Exh. I, at pp. 127-130.)¹

As noted above, a jury convicted Summers following trial. Since his conviction, Summers has filed numerous pleadings in various courts both state and federal. The specifics of all of these numerous pleadings and the various rulings in response are spelled out in detail in the instant petition. (Petition for Writ of Habeas Corpus (“Petrn,”) at pp. 13-24.)

Summers filed the instant Petition for Writ of Habeas Corpus in this Court on November 1, 2023. The People submit this Informal Response in compliance with this Court’s Order of March 26, 2024.

B. State habeas corpus procedure

“The right to habeas corpus is guaranteed by the state Constitution and ‘may not be suspended unless required by public safety in cases of rebellion or invasion.’” (*In re Reno* (2012) 55 Cal.4th 428, 449; accord, Cal. Const., art. I, § 11.) “[H]abeas corpus is an extraordinary remedy, a safety valve for those

¹ The People refer to Summers’ exhibits by exhibit number and global (Bates) page numbers.

unlikely and rare instances in which the usual trial and appellate process proves inadequate to vindicate a defendant's right to a fair trial." (*Reno, supra*, at p. 485.)

"[T]he writ of habeas corpus permits a person deprived of his or her freedom, such as a prisoner, to bring before a court evidence from outside the trial or appellate record." (*Reno, supra*, 55 Cal.4th at p. 450.) If facts outside the appellate record show that a prisoner's custody is illegal, habeas corpus review allows him to plead and prove such facts. (*In re Harris* (1993) 5 Cal.4th 813, 825-826.) Because a petition for writ of habeas corpus is a collateral attack on a presumptively valid final judgment, a habeas petitioner "bears a heavy burden initially to *plead* sufficient grounds for relief, and then later to *prove* them." (*People v. Duvall* (1995) 9 Cal.4th 464, 474, original italics.) "For purposes of collateral attack, all presumptions favor the truth, accuracy, and fairness of the conviction and sentence; defendant thus must undertake the burden of overturning them." (*Ibid.*, quoting *People v. Gonzalez* (1990) 51 Cal.3d 1179, 1260.)

A California court receiving a state habeas petition initially "evaluates it by asking whether, assuming the petitioner's factual allegations are true, the petitioner would be entitled to relief. If no prima facie case for relief is stated, the court will summarily deny the petition." (*Duvall, supra*, 9 Cal.4th at pp. 474-475, internal citation omitted.) California courts, however, do not simply look at a petitioner's factual allegations in isolation to the exclusion of all other evidence. (See *Cullen v. Pinholster* (2011) 563 U.S. 170, 188, fn. 12 [in determining whether a prima facie

case has been made by a state habeas petitioner, a California court “generally assumes the allegations in the petition to be true, but does not accept wholly conclusory allegations, *People v. Duvall*, [*supra*, at p. 474], and will also ‘review the record of the trial ... to assess the merits of the petitioner’s claims,’ [citation]”].) The purpose of an informal response is to assist the court in identifying petitions that should be summarily dismissed without the need for formal pleadings or an evidentiary hearing. (*People v. Romero* (1994) 8 Cal.4th 728, 737.) Accordingly, the informal response need not provide documentary evidence to controvert the factual allegations of the petition, and it may be limited to legal arguments related to flaws that appear on the face of the petition, including petitioner’s failure to state a factual basis for relief. (*Id.* at p. 742.) If a state habeas petition fails to satisfy the prima facie threshold, it will be denied summarily. (*Duvall, supra*, 9 Cal.4th at p. 475.) Alternatively, the court may issue an order to show cause to the warden, thereby indicating the court’s “preliminary assessment that the petitioner would be entitled to relief if his factual allegations are proved.” (*Ibid.*) It is only after a formal return has been ordered that the burden shifts to the responding party to allege “facts tending to establish the legality of the challenged detention.” (*Id.* at p. 476.)

“All courts in California have original habeas corpus jurisdiction.” (*Robinson v. Lewis* (2020) 9 Cal.5th 883, 895.) A habeas petitioner who is unsuccessful in the superior court may file a new original petition in the Court of Appeal. (*Id.* at pp. 895-896.) If relief is denied in the appellate court, the petitioner may

then file a new habeas petition in this Court. (*Id.* at p. 896.) A habeas petition filed in a higher court constitutes a new, original action, and does not involve direct review of any lower court rulings. (*Id.* at pp. 895-896.)

ARGUMENT

SUMMERS HAS NOT STATED A PRIMA FACIE CLAIM FOR RELIEF ON HIS INEFFECTIVE ASSISTANCE OF COUNSEL CLAIMS

In his petition, Summers primarily asserts that trial counsel was ineffective in not obtaining neuropsychological testing at the time of trial. According to Summers, as a result of this failure, Summers bypassed a viable plea of not guilty by reasons of insanity (NGI). (Memorandum of Points and Authorities (“Memo”) at pp. 9-14.) He also claims that this failure to obtain mental health testing resulted in the presentation of a deficient motion to strike his prior “strike.” (Memo at pp. 20-25.) Finally, in a related claim, Summers argues that counsel was ineffective in that he failed to understand that the choice about whether to present an insanity defense was for Summers and not counsel to make. (Memo at pp. 15-20.) Summers further contends that as a result of these errors he was prejudiced by the loss of a viable NGI plea and by the absence of additional mental health evidence to support his *Romero*² motion to strike his prior “strike” convictions. (Memo at pp. 11-14, 16-20, 29-30.) The People submit that the petition fails to state a prima facie case for relief.

² *People v. Superior Court (Romero)* (1996) 13 Cal.4th 497, 504.

A. Applicable law governing Summers' claims of ineffective assistance of counsel

To establish a violation of the constitutional right to effective assistance of counsel, a petitioner must show (1) his or her counsel's performance was deficient when measured against the standard of a reasonably competent attorney, and (2) counsel's performance was prejudicial in the sense that it "so undermined the proper functioning of the adversarial process that the trial cannot be relied on as having produced a just result." (*People v. Mayfield* (1997) 14 Cal.4th 668, 783-784; see also *Strickland v. Washington* (1984) 466 U.S. 668, 686-694.)

On habeas corpus, a petitioner has the initial burden to demonstrate by a preponderance of the evidence that counsel's performance was inadequate and fell below an objective standard of reasonableness. (*In re Thomas* (2006) 37 Cal.4th 1249, 1257.) In this context, courts may not second-guess counsel's tactical decisions and, instead, must indulge a strong presumption that counsel's conduct falls within the wide range of reasonable professional assistance. (*People v. Hinton* (2006) 37 Cal.4th 839, 876; *In re Alcox* (2006) 137 Cal.App.4th 657, 665; see also *Strickland, supra*, 466 U.S. at p. 689.)

Thus, a petitioner must show his or her counsel's actions "were not attributable to a tactical decision which a reasonably competent, experienced criminal defense attorney would make." (*People v. Williams* (1988) 44 Cal.3d 883, 936; see also *People v. Weaver* (2001) 26 Cal.4th 876, 925-926 ["Tactical errors are generally not deemed reversible, and counsel's decisionmaking must be evaluated in the context of the available facts"].) A

petitioner must affirmatively prove that there is a reasonable probability that, but for his trial counsel's unprofessional errors, the result of the proceeding would have been different. (*Thomas, supra*, 37 Cal.4th at p. 1265; *People v. Ledesma* (1987) 43 Cal.3d 171, 217-218.) This reasonable probability must be shown by a preponderance of evidence, i.e., evidence that has more convincing force and the greater probability of truth than that opposed to it. (*Ledesma, supra*, at p. 218; *People v. Superior Court (Bowman)* (1971) 18 Cal.App.3d 316, 319, fn. 4.) Where a petitioner has failed to show prejudice, this Court may reject the ineffective assistance of counsel claim without determining whether counsel's performance was deficient. (*Strickland, supra*, 466 U.S. at p. 697.)

In order to sustain a verdict of Not Guilty by Reason of Insanity it must be shown that the defendant, due to a mental disease or defect, was "incapable of knowing or understanding the nature and quality of his or her act or of distinguishing right from wrong at the time of the commission of the offense." (Pen. Code § 25, subd. (b); *People v. Lawley* (2002) 27 Cal.4th 102, 169-170; CALCRIM No. 3450.) The defendant bears the burden of proof of insanity by a preponderance of the evidence. (CALCRIM No. 3450; Pen. Code § 25, subd. (b).)

B. Summers has failed to make a prima facie showing of ineffectiveness of trial counsel

Summers claims that trial counsel's failure to seek further mental health testing prior to trial was both incompetent and prejudicial. (Memo at pp. 9-25.) He also asserts that trial counsel's failure to understand that it was for Summers to decide

whether to present an NGI defense was also incompetent and prejudicial. (Memo at pp. 15-20.) The People disagree.

1. Summers has failed to demonstrate that trial counsel's failure to conduct further mental health testing constituted deficient performance

Summers' primary claim is that trial counsel failed to follow up on a suggestion from the mental health expert that examined Summers prior to trial that further mental health testing was needed. (Memo at pp 9-14.) According to Summers, and as supported by Dr. Albert Globus' declaration, Dr. Globus examined Summers prior to trial and found that mental health issues were present and an NGI plea was viable, but that full neuropsychological testing was needed. (Pet.'s Exh. B.) Again, according to Summers, his appointed counsel failed to follow up on this suggestion and obtain further mental health testing. (Memo at pp. 9-14.) Summers claims counsel's error constituted deficient performance. (Memo at pp. 9-14.) The People disagree.

First, Summers fails to give sufficient weight to a competency report, prepared at Summers' defense counsel's request prior to trial, by an expert, Dr. Nakagawa, that reached a different conclusion about Summers' mental health issues. Dr. Nakagawa stated:

His (petitioner's) scores on the M-FAST clearly supported malingering. The TOMM is a test for those who claim they have some memory problems. Again, on this test, he was considered to have malingered. It appears that Mr. Summers is making a concerted effort to present in the worst possible light (i.e., malingering) to avoid taking responsibility for the criminal charges

pending against him and/or attempting to use his claims of having difficulties as a delaying tactic.

(Dr. Nakagawa report, Exhibits at pp. 362-363.)³

This report, undertaken less than 90 days after the commission of the crimes herein, was clearly detrimental to Summers' pursuit of a mental health defense, and was not supportive of Dr. Globus' view that Summers had significant mental health issues or that an NGI defense was viable. With this report and its suggestions of malingering by Summers in mind (see Dr. Nakagawa report, Exhibits at pp. 362-363) and keeping in my mind the standard required to prevail on an NGI plea, (see CACRIM No. 3450), trial counsel cannot be faulted for failing to conduct further testing regarding Summers' mental health issues.

Further and apart from Dr. Nakagawa's report, counsel's decision not to conduct further mental health testing was also informed by the actual facts of this case. Here the facts involved the robbery of a vulnerable victim committed by a person who had a prior history of the same type of offense. This did not appear to be someone who failed to understand the consequences of his acts or who was unable to distinguish right from wrong. (See *Lawley, supra*, 27 Cal.4th at 169-170.) On the contrary, it appeared to be someone who wanted money, presumably to feed his drug habit, and he carefully planned out a way to obtain this

³ Dr. Nakagawa's report is attached as an exhibit to Summers Informal Reply in C084340 which informal reply is designated in the instant petition as Exhibit Z.

money. Summers located a vulnerable victim, used force to take her purse, fled the scene of the crime, and then dumped the purse after removing the cash it contained. (Pet.'s Exh. I at pp. 128-129.) This seems to be goal directed behavior not the work of a deranged person. (See *People v. Henning* (2009) 178 Cal.App.4th 388, 401 [circumstances of crime and flight indicate defendant appreciated the wrongfulness of his acts].)

Additionally, this was not the first strong-armed robbery charge that Summers had faced. He had previously been convicted of a similar type of offense also involving a vulnerable victim. (Pet.'s Exh. I at p. 129.)

Thus, given the contradictory reports regarding the extent of Summers' mental health issues, the facts of the current offense, and Summers' criminal history, it cannot be said that no reasonably competent attorney would have forgone further mental health testing of Summers. Summers has not established that counsel's failure to seek further mental health testing constituted deficient performance.

2. Summers has failed to demonstrate prejudice from counsel's failure to obtain further mental health testing

Summers also asserts that he was prejudiced by counsel's failure to seek further mental health testing. He claims this failing prejudiced him in two ways. First, Summers asserts that as a result of counsel's failure to seek further mental health testing, he was unable to present what would have been a viable NGI defense. (Memo at pp. 9-14.) Second, Summers argues that counsel's failure to seek further mental health testing resulted in

the presentation of a deficient *Romero* motion. (Memo at pp. 20-25.) In support of these prejudice arguments, Summers relies primarily upon a 2014 neuropsychological work up of Summers done by Dr. Natasha Khazanov. (Pet.'s Exh. C.) Although this testing was conducted some seven years after the crime herein was committed, nonetheless Dr. Khazanov concluded that Summers had long standing mental health issues that existed at the time of the offense. (Pet.'s Exh. C at pp. 41-44.) She further concludes that these issues may have supported an NGI plea and would have supported Summers' *Romero* motion. (*Ibid.*) Summers claims that these findings establish he was prejudiced by trial counsel's failings. (Memo at pp. 9-14., 20-25.) Again, the People disagree.

- a. Summers has not shown that there is a reasonable probability that further mental health testing would have resulted in a successful NGI plea

First, as to the failure to pursue an NGI plea, Summers has not established that, but for counsel's decision to forgo mental health testing, he would have prevailed on an NGI plea. Even Dr. Khazanov's report does not provide much support for an NGI plea. In her report she opines that Summers suffers from mental illness that existed at the time of the offense and trial (Pet.'s Exh. C at pp. 41-42) but her testing was done some seven years after the offense (Pet.'s Exh. C at p. 17) and thus it is doubtful that her opinions would be persuasive to a jury given the length of time between the crime and Dr. Khazanov's evaluation. (See *People v. Ary* (2004) 118 Cal.App.4th 1016, 1028 [emphasizing in a related

area the difficulty of a retrospective view of a defendant's competency].)

Moreover, Dr. Khazanov's report is also not definitive about the viability of an NGI plea as it states, ". . . I cannot rule out the possibility that if he was tested by a qualified neuropsychologist such assessment would have established that at the time of the offense his capacity to appreciate the criminality of his conduct or to conform his conduct to the requirement of law was impaired as a result of mental defect..." (Pet.'s Exh. C. at p. 41.)

Significantly, Dr. Khazanov does not point to facts that would establish that Summers' ability to appreciate the wrongfulness of his conduct or conform his conduct to the requirements of the law was impaired at the time of the crime. Rather, Dr. Khazanov's opinion merely speculates that testing by another doctor may have led to an opinion that supported an insanity defense.

In contrast to Dr. Khazanov's speculative suggestion that an expert may have found evidence to support an NGI plea, there were significant facts which would have been presented at trial which would have made it unlikely that Summers could persuade a trier of fact that he satisfied the elements of an NGI plea.

First, as discussed above, the evidence in this case strongly suggested that this was a drug abuser stealing money from a vulnerable victim, as he had done in the past, to feed his habit. There was absolutely nothing in the facts of the case to suggest that Summers was so mentally ill at the time of the crime that he simply did not appreciate the wrongfulness of his conduct or that he was unable to conform his conduct to the law due to his

mental illness. (See Pen. Code § 25, subd. (b); *Lawley, supra*, 27 Cal.4th at pp. 169-170.) Summers located a vulnerable victim, made sure she was alone and isolated, approached her violently and with force, and took off after he robbed her of her purse. He then disposed of her purse, but kept the cash that it contained. (Pet.'s Exh. I at pp. 128-129.)

Second, at trial evidence was introduced of a similar event where Summers robbed a grandmother who was exiting her car in a parking garage. Once again, this was a vulnerable victim, a grandmother with her grandson, in an isolated area, a parking garage, and Summers used force to take her purse and run away. (Pet.'s Exh. I at p. 129.) These incidents suggest rational calculated behavior, and not the actions of someone who was unaware of the actions they were taking and their consequences. (See *Henning, supra*, 178 Cal.App.4th at p. 401 [circumstances of crime and flight indicate defendant appreciated the wrongfulness of his acts].) Thus, there was no reasonable probability of a successful NGI plea even if further testing had been done to explore Summers' alleged mental illness.

- b. Summers has not shown that there is a reasonable probability that further mental health testing would have resulted in a successful *Romero* motion

Summers also claims that further mental health testing would have armed him with more evidence to succeed on his *Romero* motion (see Memo at pp. 20-25). However, this claim also fails for lack of prejudice. Once again, Dr. Khazanov's report is simply too equivocal to help Summers meet his burden. On this issue, Dr. Khazanov concluded that her mental health report

would have provided evidence to show the trial court that Summers' mental illness impaired his ability to control his impulses and that this would be relevant to the court's decision on Summers' *Romero* motion. (Pet.'s Exh. C. at p. 42.) She further concludes that based upon her testing, Summers would be a good candidate for rehabilitation. (Pet's Exh C. at pp. 41-42.)

But these conclusions by Dr. Khazanov do not show that the trial court probably would have granted the *Romero* motion if it had the benefit of Dr. Khazanov's report. In fact, the trial court was well aware that Summers had mental health issues. Defense counsel's *Romero* motion was based in large part on his claim of mental health issues and drug abuse. (See Pet.'s Exh. E. at pp. 62-67.) In its decision to deny the *Romero* motion, the trial court acknowledged Summers had drug abuse and mental health issues, but found that in spite of those issues Summers' conduct and criminality did not warrant striking any of his prior strikes. In its ruling, the trial court stated,

There's sort of an interplay between mental health issues and drug use. The drug use, sometimes it's hard to figure out which is causing which. In many cases, and it would appear to be the case in this defendant's life, that the drug use may have a great deal to do with the mental issues that he has. But he still seems to be able to commit crimes and lots of them. And he's able to at least think in a logical fashion and plan—and he knows how to get money in order to support his drug habits. And he doesn't generally accost large burly men. He—he has a pattern—since 1982 he has a pattern of going after fairly vulnerable people when he commits his crimes.

(Pet.'s Exh. D. at pp. 57-59.)

In light of the above comments by the trial court and in the absence of any compelling new evidence in Dr. Khazanov' report, Summers has not shown that it is reasonably probable that further mental health evidence regarding Summers' alleged mental illness would have led to a different outcome of his *Romero* motion.

3. Summers cannot demonstrate prejudice as a result of any misunderstanding by trial counsel about whose choice it was to present an NGI defense

As for Summers' related claim that counsel misunderstood that the decision about whether to pursue an NGI plea was one for Summers himself to make (see Memo at pp.15-20), the People concede that counsel appears to have misunderstood this matter. As Summers correctly notes (*ibid.*), the decision about whether to pursue an NGI plea was, under long-standing California law for him and not for counsel to make. (*People v. Medina* (1990) 51 Cal.3d 870, 899-900.) Counsel does not appear to have fully understood this. (See Pet.'s Exh A at pp. 7-8.) However, regardless of whose choice it was, any misunderstanding by counsel leading to a decision to forgo such a plea would only be prejudicial if there was a reasonable probability of a successful NGI plea. For the reasons explained above such was not the case here.

CONCLUSION

Summers has failed to make a prima facie showing as required for relief on the basis of his claims of ineffective assistance of trial counsel. Therefore, the People respectfully request that his petition for writ of habeas corpus be denied and dismissed without the issuance of an order to show cause.

Respectfully submitted,

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CERTIFICATE OF COMPLIANCE

I certify that the attached INFORMAL RESPONSE TO PETITION FOR WRIT OF HABEAS CORPUS uses a 13 point Century Schoolbook font and contains 4,677 words.

ROB BONTA
Attorney General of California

/s/ CLIFFORD E. ZALL
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May 1, 2024

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DECLARATION OF ELECTRONIC SERVICE AND SERVICE BY U.S.
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Case Name: *In re Summers on Habeas Corpus*
No.: S282548

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 collecting and processing electronic and physical correspondence. 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 with postage thereon fully prepaid that same day in the ordinary course of business. Correspondence that is submitted electronically is transmitted using the TrueFiling electronic filing system. Participants who are registered with TrueFiling will be served electronically. Participants in this case who are not registered with TrueFiling will receive hard copies of said correspondence through the mail via the United States Postal Service or a commercial carrier.

On May 1, 2024, I electronically served the attached Informal Response to Petition for Writ of Habeas Corpus by transmitting a true copy via this Court's TrueFiling system.

I declare under penalty of perjury under the laws of the State of California and the United States of America the foregoing is true and correct and that this declaration was executed on May 1, 2024, at Sacramento, California.

R. DeMello
Declarant for eFiling

/s/ R. DeMello
Signature

Because one or more of the participants in this case have not registered with the Court's TrueFiling system or are unable to receive electronic correspondence, on May 1, 2024, a true copy thereof enclosed in a sealed envelope has been placed in the internal mail collection system at the Office of the Attorney General at 1300 I Street, Suite 125, P.O. Box 944255, Sacramento, CA 94244-2550, addressed as follows:

Ann C. McClintock
Assistant Federal Defender
Federal Public Defender's Office
801 I Street, 3rd Floor
Sacramento, CA 95814

I declare under penalty of perjury under the laws of the State of California and the United States of America the foregoing is true and correct and that this declaration was executed on May 1, 2024, at Sacramento, California.

P. Robles
Declarant for U.S. Mail

/s/ P. Robles
Signature

STATE OF CALIFORNIA
Supreme Court of California

PROOF OF SERVICE

STATE OF CALIFORNIA
Supreme Court of California

Case Name: **SUMMERS (GREGORY WAYNE) ON H.C.**

Case Number: **S282548**

Lower Court Case Number:

1. At the time of service I was at least 18 years of age and not a party to this legal action.

2. My email address used to e-serve: **cliff.zall@doj.ca.gov**

3. I served by email a copy of the following document(s) indicated below:

Title(s) of papers e-served:

Filing Type	Document Title
INFORMAL RESPONSE	Informal Response to Petition for Writ of Habeas Corpus.PDF

Service Recipients:

Person Served	Email Address	Type	Date / Time
Ann Mcclintock Office of the Federal Public Defender 141313	ann_mcclintock@fd.org	e-Serve	5/1/2024 12:08:04 PM
Clifford Zall Office of the Attorney General 148141	cliff.zall@doj.ca.gov	e-Serve	5/1/2024 12:08:04 PM
Central Central California Appellate Program Court Added CCAP-0001	eservice@capcentral.org	e-Serve	5/1/2024 12:08:04 PM
Office Office Of The State Attorney General Court Added	sacawtruefiling@doj.ca.gov	e-Serve	5/1/2024 12:08:04 PM

This proof of service was automatically created, submitted and signed on my behalf through my agreements with TrueFiling and its contents are true to the best of my information, knowledge, and belief.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

5/1/2024

Date

/s/Robin DeMello

Signature

Zall, Clifford (148141)

Last Name, First Name (PNum)

DOJ Sacramento/Fresno AWT Crim

Law Firm