

dated 4-8-17

Court of Appeal Case No. B120734 (Appellate Div. Case No. BR048012) (Trial Court Case No. BI 20734) (Citation No. BI20734)

# IN THE COURT OF APPEAL OF CALIFORNIA

## SECOND APPELLATE DISTRICT

### DIVISION SEVEN

People of the State of California

Plaintiff and Respondent,

٧.

Annette B

Defendant and Appellant.

Appeal from the Appellate Division of the Superior Court for Los Angeles County, Justices Wasserman, Dymant and Kumar

APPELLANT'S MOTION TO DENY THE CONTINUANCE REQUESTED BY THE CITY OF BEVERLY HILLS TO FILE "RESPONDENT'S BRIEF" AND THE REMOVAL OF THE CITY OF BEVERLY HILLS AS A PARTY TO THIS CRIMINAL APPEAL

Annette B

Attorney for Appellant

Caroline Castillo, Esq. (236987) 11500 W. Olympic Blvd. Suite 550 Los Angeles, California 90064

### **Table of Contents**

ARGUMENT	2
CONCLUSION	5
Table of Authorities Cases	
Dix v. Superior Court (1991) 53 Cal.3d 442	3
In re Marriage Cases (2008) 43 Cal4th757	1
People v. Punzalan (2003) 112 Cal.App.4th 1307	3
Statutes	
Government Code §100	2
Penal Code § 684	2

#### **ARGUMENT**

I.

# THE CITY OF BEVERLY HILLS IS NOT A PARTY TO THE ACTION AND THEREFORE LACKS STANDING TO FILE RESPONDENT'S BRIEF

On April 7, 2011, the City of Beverly Hills, through their attorney, the private law firm of Dapeer, Rosenblit & Litvak, LLP served an Application for Extension of Time to file Respondent's Brief.

The City of Beverly Hills is not the Respondent in this action. The Respondent here is the People of the State of California.

Appellant is therefore, respectfully requesting that the Court deny the request for a continuance submitted by the City of Beverly Hills and remove them as a party in this criminal matter.

Penal Code is § 684, provides: "A criminal action is prosecuted in the name of the people of the State of California, as a party, against the person charged with the offense." (See also Government Code § 100.) By law, the People are thus the real party in interest in every criminal prosecution. "In criminal matters, the parties are the defendant and the People of California. The arresting law enforcement agency is not a party." (*People v. Punzalan* (2003) 112 Cal.App.4th 1307, 1310.) The adverse party in these criminal proceedings is the People of the State of California, not a third party. Not even a victim of crime has standing to

1

challenge judicial determinations made with regard to a criminal defendant. (Dix v. Superior Court (1991) 53 Cal.3d 442, 454.) Specifically in Dix, the Court stated "[W]e conclude at the outset that petitioner, who is not a party to Bradley's criminal case, has no standing to challenge the application of section 1170(d) to Bradley's sentencing. This extraordinary writ proceeding falls within the general rule that neither a crime victim nor any other citizen has a legally enforceable interest, public or private, in the commencement, conduct, or outcome of criminal proceedings against another." (id at p. 450)

There is simply no theory of standing, under which the City could possibly be deemed the Respondent. Otherwise, the possibility of serious traffic collisions resulting from violation of various Vehicle Code provisions would seemingly suffice to confer standing upon numerous governmental and nongovernmental entities to appear routinely as the Respondent or real party in interest in traffic infraction cases involving a variety of offenses in addition to § 21453. Neither the Legislature nor the Judicial Council has authorized such third party participation, and there is no compelling reason for this court to do so.

On March 2, 2011, the Superior Court of California for the County of Los Angeles struck the brief filed by Dapeer, Rosenblit & Litvak firm, filed on behalf of the City of Beverly Hills in another similar case People v. McGinnis, BR048471, finding that "[T]here is no real party in interest in a criminal appeal.

\*

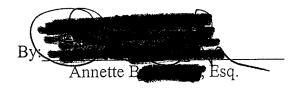
(Cal. Rules of Court, rules 8.804(12) & (13), 8.882(a).)" A true and correct copy of this Order in case no BR048471 is attached hereto as Exhibit "1."

#### CONCLUSION

Appellant respectfully requests that based on the foregoing, the City of Beverly Hills should be removed as a party to this criminal appeal and their request for extension to file "Respondent's Brief" be denied.

Respectfully submitted,

Dated: April 8, 2011



MAR 02 2011 John A. Clarke, Executive Officer/Clerk 7 APPELLATE DIVISION OF THE SUPERIOR COURT 8 STATE OF CALIFORNIA, COUNTY OF LOS ANGELES 10 PEOPLE OF THE STATE OF CALIFORNIA. ) No. BR 048471 11 Beyerly Hills Trial Court Plaintiff and Respondent, 12 No. BI23663 13 RYAN McGINNIS 14 Defendant and Appellant. ORDER 15 16 Appellant's motion to strike the brief filed by Dapeer, Rosenblit & Litvak, LLP, 17 on behalf of the City of Beverly Hills as the "Real Party in Interest," is granted. There is 18 no real party in interest in a criminal appeal. (Cal. Rules of Court, rules 8.804(12) & 19 (13), 8.882(a).) 20 21 22 23 24 25 26 27 28

md

K .