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**FILED**  
OCT 6 2016

DAVID H. YAMASAKI  
Chief Executive Officer/Clerk  
Superior Court of CA County of Santa Clara  
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**IN THE SUPERIOR COURT OF THE STATE OF CALIFORNIA**  
**IN AND FOR THE COUNTY OF SANTA CLARA**

PEOPLE OF THE STATE OF CALIFORNIA,	NO. 213515
	Trial Motion No.8
Plaintiff,	OPPOSITION TO GOVERNMENT
vs.	MOVE TO EXCLUDE NOTEBOOK
ANTOLIN GARCIA-TORRES,	EVIDENCE
Defendant.	

TO THE CLERK OF THE ABOVE-ENTITLED COURT AND THE DISTRICT ATTORNEY  
OF SANTA CLARA COUNTY:

The government is seeking to exclude evidence of a note in Ms. LaMar's Spanish notebook expressing her state of mind to run away on the date she went missing and another note in a shared notebook expressing a desire to run away from home. The government is asking this Court to take the role of the jury and make a finding that the evidence is not genuine and inadmissible under EC352.

The government offers no expert testimony in the form of handwriting expert opinion but instead offers to call Ms. LaMar's sister to testify that the writing is not that of the Spanish

1 notebook's owner. The government ignores the fact that it is a reasonable inference that Ms.  
2 Lamar wrote the note in her very own notebook. Moreover, that she did in fact run away from  
3 home as the note expressed when she went missing. The government also ignores that an  
4 individual's handwriting changes from time to time depending on the conditions of the writing  
5 in question. Jotting a note, scribbling a sentence, or doodling may present different forms of  
6 writing as well. Whether the writing is that of Ms. Lamar or a prank as the government alleges  
7 is for the jury to decide. In other words, the government's contention that Ms. Lamar did not  
8 write the note in her own Spanish notebook goes to the weight of the evidence not to its  
9 admissibility. Whether the jury believes Ms. LaMar's sister is a fact for the jury to decide not  
10 the government.  
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13         The writing in the shared notebook presents a similar issue but also the mere fact that a  
14 discussion about running away was raised among Ms. LaMar's social group is relevant to a  
15 consideration about running away. Who actually wrote the note in the shared notebook is not  
16 controlling as is the topic itself. The note, coupled with a statement made by Ashley Gardiner to  
17 detectives that Ms. Lamar confided in her that Ms. Lamar was planning to run away from home  
18 circumstantially proves she ran away. Ashley Gardiner lived with Ms. Lamar at the Morgan  
19 Hill house and became close friends with Ms. Lamar. Ms. Lamar told her about her plan to run  
20 away from home and even showed her a suitcase that contained her clothes in preparation to run  
21 away. The government claims that Ms. Lamar had no plans to run away from home yet the  
22 notebook and suitcase contradict such a claim. The facts demonstrate that Ms. Lamar was  
23 having difficulty in school and was dealing with a broken home.  
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27         Ms. Lamar had many friends in Fremont and would visit regularly but could not stay  
28 with her father Steve LaMar. Her father was on probation for molesting three of Sierra LaMar

1 friends when they would spend the night. He would molest the girls at night while they were  
2 asleep. Moreover, Steve LaMar would also give Sierra LaMar nighttime massages as she fell  
3 asleep. There was no way the Alameda Probation Department would allow Sierra LaMar to live  
4 with her father given his propensity to molest young girls. Sierra LaMar's mother divorced  
5 Steve LaMar and moved to Morgan Hill. Despite the horrible acts Steve Lamar committed on  
6 the young girls, Marlene Lamar sought that he be allowed to have unsupervised visits with  
7 Sierra Lamar and that she be allowed to live with him from time to time. Further complicating  
8 the broken home issues, Marlene LaMar was having domestic issues with her new live-in  
9 boyfriend Rick Gardiner as a result of Sierra LaMar's behavior and conduct.  
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12 The evidence will demonstrate that as a result of Steve LaMar's child molestation  
13 convictions Sierra Lamar could not live with him in Fremont, and that Ms. Lamar was having  
14 problems living with her mother in Morgan Hill as a result of the failing relationship between  
15 her mother and Mr. Gardner. Moreover, Ms. Lamar was not doing well in school and running  
16 away from her problems was a way out of her current situation as one of the notes suggest.  
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18 The circumstantial evidence that Ms. Lamar ran away from home, given her broken  
19 home issues, problems at school, discussion with her friends about running away, all suggest a  
20 reasonable inference that she ran away from home. The government is asking this Court to deny  
21 Mr. Garcia-Torres the opportunity to present a defense by circumstantially proving that Sierra  
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1 Lamar ran away from home to avoid her problems. Mr. Garcia-Torres has a right to due  
2 process, including presenting such a defense, under the federal constitution and state  
3 constitution.

4 Dated: October 6, 2016.

Respectfully submitted,

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7 Alfonso O. Lopez  
8 Deputy Alternate Defender  
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