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9 *Attorneys for Antolin Garcia-Torres*

10 IN THE SUPERIOR COURT OF THE STATE OF CALIFORNIA
11 IN AND FOR THE COUNTY OF SANTA CLARA

12	People of the State of California,	)	Case No.: 213515
13)	
14	Plaintiff,	)	Trial Motion #4
15)	
16	-vs.-	)	Motion to dismiss Safeway counts
17		)	for violation of due process (speedy
18	Antolin Garcia-Torres,	)	trial)
19)	
20		)	Date: October 3, 2016
21		)	Time: 9:00 am
22		)	Dept.: 40
23	Defendant.)	
24		)	<u>Evidentiary Hearing Requested</u>

25 Issue Presented

A defendant's due process rights are violated when the prejudice he suffers from pre-accusation delay outweighs the justification for the delay. The Safeway incidents occurred in 2009 yet Mr. Garcia-Torres wasn't charged until 2012. The prosecution possessed the evidence it needed in 2009 in the form of a fingerprint. The defense has lost both an exculpatory eyewitness (to death) and an exculpatory security video due to the delay. Does this prejudice outweighs the law enforcement negligence such that the Safeway counts must be dismissed?

FILED

SEP 30 2016

DAVID N. YAMASAKI
Chief Executive Officer/Clerk
Superior Court of CA County of Santa Clara
BY _____ DEPUTY

1 Points and Authorities

2 Statement of Facts

3 Mr. Garcia-Torres is charged with capital murder in relation to the March 2012
4 disappearance of Sierra LaMar. He is also charged in relation to three other incidents, what
5 will be called the Safeway incidents, which occurred in March 2009.

6 Lundy Incident

7 Morgan Hill Police Department officers were dispatched to the Safeway Store on
8 East Dunne Avenue on March 19, 2009 at 10:59 pm to respond to a report of a suspicious
9 circumstance. They checked the area around the store and then went to the victim's
10 residence to interview her.

11 Ms. Lundy explained that she had been shopping that night. She noticed an unknown
12 male standing to the west of her location in the parking lot as she left the store. He walked
13 toward her as she walked to her car. She quickly opened the driver's door, entered the car,
14 and locked the doors behind her. As she did this, she saw the male running towards her. He
15 reached her car and began trying to open the door. But she had already locked the doors so
16 he was unable to get in. He began to walk away as she started her car. She then drove away
17 and called the police from home.

18 Ms. Lundy described the person as a Hispanic male adult in his late twenties to early
19 thirties. He was 5'10" to 5'11", weighed about 200 pounds, and had dark hair and eyes. He
20 wore a black zip-up hooded sweatshirt and dark pants. His hood covered his head at the
21 time of the incident. She thought she could possibly identify the assailant if she saw him
22 again.

23 Years later, after Mr. Garcia-Torres was arrested in connection with Ms. LaMar's
24 disappearance, Ms. Lundy was shown a photo line-up that included Mr. Garcia-Torres's
25 photo and did not identify him as her attacker. She was subsequently called to testify before
a grand jury and, after being shown Mr. Garcia-Torres's photo, again did not identify him as
her attacker.

1 Walters Incident

2 Morgan Hill Police officers were dispatched to the Safeway Store on Tennant Station
3 Way on March 19, 2009 at 11:24 pm. They were responding to a report that a woman had
4 been shocked with a 'stun gun' device. Ms. Walters was interviewed and explained that, as
5 she left the store and approached her car, she noticed her dome light was on and the rear
6 driver's side door was ajar. She closed the door and got in the driver' seat. Within seconds,
7 an unknown person entered the car through the driver's side rear door and sat in the back
8 seat. He pulled her long hair and began punching her left cheek area with a closed fist. The
9 person also used a stun gun to shock her several times. She screamed as loud and she could
10 and the suspect exited the car and ran away.

11 The officers also interviewed a witness named Arnold Ting. Mr. Ting told them that
12 he had been sitting in his car eating a sandwich when he noticed Ms. Walter walking toward
13 her car. Seconds later he saw a male walk up to the driver's side and casually enter through
14 the rear door. He was thirty feet away and he heard a woman screaming from inside the car.
15 He positioned his car towards the scene and turned on his head lights and believed he
16 startled the suspect because he ran away. He said the suspect was in his twenties, was a white
17 male adult who stood about 5'10," and that he wore a dark hat or hood with a dark top and
18 dark pants.

19 Officer Caballero searched Ms. Walters's vehicle and found a black stun gun. He also
20 reviewed surveillance footage from the store. The video showed a silver 2 door convertible
21 parked in the lot. It showed Ms. Walters arrive at 11:19 and exit the store at 11:23. At 11:22 a
22 subject positioned himself near the suspect car. Once the subject approaches Ms. Walters's
23 car, the suspect vehicle flees and the subject is later seen running away.

24 Morgan Hill Police Officer Dudley later retrieved the stun gun from the department's
25 evidence officer. Officer Dudley has experience investigating crime scenes and in obtaining
latent prints from evidence items. He broke down the stun gun into its component parts and
processed each with cyanoacrylate ester fumes (super glue). Using this process, he was able
to develop some visible prints on the battery and stun gun body. He took pictures,

1 downloaded them to a CD, and delivered the CD to Rich Reneau in the Latent Print Bureau
2 of the Sheriff's Office. Mr. Reneau later informed him that the Automated Fingerprint
3 Identification System (AFIS) could not work with the photos because there weren't enough
4 identification points. Mr. Reneau said that a manual comparison could be done if they had a
5 suspect and he recommended sending the items to the County Crime Lab for additional
6 processing to see if it could develop more detailed images.

7 Years later, Ms. Walters was shown a photo line-up that included Mr. Garcia-Torres.
8 She did not identify him as her attacker. She also testified before the grand jury and did not
9 identify him as her attacker.

10 Hernandez Incident

11 Morgan Hill Police officers were called out to the Safeway on East Dunne on March
12 26, 2009 at 8:32 pm to a report of a woman being attacked. Ms. Hernandez told them that
13 she had gone to the Safeway Store by herself. She parked her car, turned it off, and reached
14 over to take a pocket knife from her glove box. She had heard about the prior assaults and
15 was frightened. As she sat up, she heard the rear driver's side door open and heard the door
16 shut. She turned to see who it was and an unknown male grabbed her right hand and forced
17 open the blade of the knife with his thumb. He pulled her hand, the one with the knife, to
18 her neck just below her right ear. She started screaming and told the attacker that she was
19 pregnant. He stopped hitting her and loosened his grip on her hand. He then let go of her
20 and exited the car, closing the door behind him. She told the police that the attacker was
21 either Hispanic or a light skinned African American male, about 5'10", and weighed 200
22 pounds. He wore a black hooded sweatshirt, dark sweat pants, and black shoes. He wore a
23 plain gold ring on his right middle finger and possibly had some type of tattoo on his right
24 forearm. She was unable to see his face. Officer Espejo later reviewed the surveillance video
25 from the Safeway for the time period 7:45 pm to 9:00 pm and he did not see Mr. Garcia-
Torres.

1 Investigation of Safeway Incidents following Sierra LaMar disappearance

2 The investigation into the Safeway events stalled after the Hernandez incident. It was
3 restarted after Ms. LaMar was reported missing on March 16, 2012. The stun gun battery
4 was sent to the lab on or about May 16, 2012 and was analyzed by criminalist Vincent
5 Deitchman. He used a fluorescent dye procedure in an attempt to obtain more detail from
6 the prints. He was successful and sent photos to Tim Fayle, a latent print examiner. Mr.
7 Fayle went to the Santa Clara County Jail after Mr. Garcia-Torres was arrested and took a
8 complete set of fingerprints. He manually compared Mr. Garcia-Torres's prints to the print
9 recovered from the battery and declared a match.

9 Other Important Incidents

10 Mr. Garcia-Torres was arrested for vandalism and resisting arrest in Gilroy. He
11 served ten days in the jail. Fingerprints were taken at that time.

12 Mr. Garcia-Torres was also booked on May 29, 2009 for a violation of Penal Code
13 section 148. Fingerprints were taken then as well.

14 Furthermore, Arnold Ting, the eyewitness to the Walters incident who told police the
15 assailant was a white male, died on April 24, 2010.

15 Argument

16 **I. The unjustified delay between the dates of the Safeway incidents and the date**
17 **Mr. Garcia-Torres was charged caused prejudice and violated Mr. Garcia-**
18 **Torres's right to due process**

19 A delay in prosecution may require that the relevant charges be dismissed. Delays
20 occurring between the time of the incident and the time a person is arrested or charged,
21 whichever comes first, are tested by due process rules rather than the traditional speedy trial
22 rules. (*People v. Cowan* (2010) 50 Cal.4th 401, 430; U.S. Const., 5th & 14th Amends.; Cal. Const.
23 art. I, § 7.) The test under the California Constitution requires the Court to weigh the actual
24 prejudice suffered by the defendant against any justification for the delay. (*Jones v. Superior*
25 *Court* (1970) 3 Cal.3d 734, 741 fn. 1) It does not matter under state law whether the delay
was intentional or due to negligence. (*Id.*) The federal test is less clear and there are some
cases that require deliberate delay to trigger due process protections. (*See People v. Catlin*

1 (2001) 26 Cal.4th 81, 107.) The defense brings this motion under both the state and federal
2 rights to due process.

3 The defense bears the burden of showing that it has suffered actual prejudice due to
4 the delay. (*People v. Lowe* (2007) 40 Cal.4th 937, 942.) Once actual prejudice is shown, the
5 burden shifts to the prosecution to justify the delay. (*Id.*) If justification is presented, the
6 Court must determine if it outweighs the prejudice suffered by the defendant. If it does not,
7 the case—or here, the particular counts—must be dismissed. (*People v. Nelson* (2008) 43
8 Cal.4th 1242, 1251.)

8 **A. The defense has suffered prejudice due to the delay**

9 A defendant claiming a speedy trial (or due process) violation “must show that the
10 delay has impaired his ability to defend against the charged crime because, for instance, a
11 witness has become unavailable, evidence has disappeared, or the memory of a potential
12 witness has faded.” (*People v. Lowe* (2007) 40 Cal.4th 937, 946.)¹

13 The inability to locate, interview, and call witnesses has been held to be sufficient
14 prejudice to trigger the requirement that the prosecution justify the delay. (*Garcia v. Superior*
15 *Court* (1984) 163 Cal.App.3d 148.) Indeed, both the United States Supreme Court and the
16 California Supreme Court have said that the death of a material witness during the period of
17 delay is prejudice. (*Barker v. Wingo* (1972) 407 U.S. 514, 532 (*prejudice obvious when witnesses die or*
18 *disappear during period of delay*); *People v. Archerd* (1970) 3 Cal.3d 615, 640 (*abrogated on other*
19 *grounds in People v. Nelson* (2008) 43 Cal.4th 1242.) For example, the defendant in *Garcia* was
20 charged with possessing heroin. She submitted a declaration stating that four witnesses were
21 present when the police entered her house, searched her person, and found no drugs. Three
22 of the witnesses submitted declarations saying they were present but that they had no
23 memory of the search because of the delay. The fourth witness could not be located. The

24 ¹ *Lowe* involved the state speedy trial right because the delay occurred after the defendant had
25 been charged. The test under the state’s speedy trial protections is the same as under its due
process protections. (*Scherling v. Superior Court* (1978) 22 Cal.3d 493.)

1 trial court denied the motion without requiring the prosecution to justify the delay. The
2 Court of Appeal found that this was improper. It recognized that the defendant had the
3 “initial burden of showing some prejudice before the prosecution is required to offer any
4 reason for the delay.” (*Id.*) But then it observed that the defense had shown “some
5 prejudice” and the trial court had to ask for a justification in order to weigh one against the
6 other. It needed to conduct a full hearing. (*Id.*)

7 A similar showing of prejudice was made in *Ibarra v. Municipal Court* (1984) 162
8 Cal.App.3d 853. The defendant in that case presented his own declaration as proof of
9 prejudice. He claimed that, because of the delay, he could no longer recall the details of the
10 conversation that had led to his arrest for misdemeanor lewd conduct (Pen. Code § 647,
11 subd. (a)). The trial court refused to require a showing of justification and instead found the
12 declaration insufficient. The Court of Appeal reversed and held that the trial court erred in
13 not conducting a full hearing on the motion to dismiss.

14 We find the allegation of memory impairment sufficient in this case to
15 shift the burden of going forward with evidence so the trial court can
16 balance that prejudice against any claimed justification for the delay. Even
17 a minimal showing of prejudice may require dismissal if the proffered
18 justification for delay be unsubstantial. By the same token, the more
19 reasonable the delay, the more prejudice the defense would have to
20 show to require dismissal. Therein lies the delicate task of *balancing*
21 competing interests.

22 *Ibarra v. Municipal Court, supra*, 162 Cal.App.3d at p. 858 (emphasis in original)

23 **1. Death of eyewitness Arnold Ting**

24 The defense has been prejudiced in this case by the loss of eyewitness Arnold Ting.
25 Unfortunately, he died on April 24, 2010. The evidence connecting Mr. Garcia-Torres to all
three incidents hinges on one fingerprint on a battery and the prosecution cannot prove
when it was placed there. Indeed, none of the victims identify him as the assailant. And no
witness places him in the parking lots at the time of the crimes.

As the only eyewitness to the incident (other than the victim) where the stun gun was
used, Mr. Ting would have presented important testimony. Indeed, he told the responding

1 police officer that the attacker was a white male. Mr. Garcia-Torres is not a white male. His
2 testimony would have contradict the testimony of the victim and would raise a reasonable
3 doubt about the identity of the attacker.

4 The delay in prosecution from the dates of incident in March 2009 to the time when
5 Mr. Garcia-Torres was charged in 2012 caused the defense to lose an important, exculpatory,
6 witness. This alone is sufficient prejudice to require the prosecution to justify the delay.

7 **2. Lost physical evidence**

8 Prejudice may be found when the defense is unable to access or use physical evidence
9 due to the delay. (*People v. Hartman* (1985) 170 Cal.App.3d 572.) In *Hartman*, the coroner's
10 office lost the homicide victim's brain after the initial autopsy. Thus, the coroner who
11 performed the second examination of the body was unable to examine the brain. The victim
12 had suffered a head injury and it was important to analyze the brain to determine if the
13 victim died because of a beating. The coroner's office also lost the victim's heart. Several
14 experts testified that coronary fibrillation caused the victim's death and one doctor stated the
15 death was from coronary occlusion. Because the heart was unavailable at the time of trial, it
16 was impossible to resolve the conflict. Finally, photos taken during the second autopsy were
17 also lost. The Court had no problem finding prejudice from the delay and the prosecution
18 was required to justify it. (*Id.*)

19 During the initial investigation into the Lundy incident, the Morgan Hill Police
20 Department collected a CD that purported to include security video from the East Dunne
21 Safeway Store. But when they reopened the investigation, they discovered that the CD was
22 blank. Recent defense investigation has disclosed that Safeway keeps the security footage for
23 four to six weeks and that by the time Mr. Garcia-Torres was charged with the Lundy
24 incident the video had been destroyed. Had he been charged earlier, the defense would have
25 been able to access it. The video would have documented the incident and would have
26 captured the image of the attacker. The defense would have used this video to demonstrate
27 that Mr. Garcia-Torres did not commit the crime.

1 Cumulative impact of prejudice

2 The defense suffered prejudice in defending against both the Walters and Lundy
3 allegations. But the prejudice also impacts his ability to defend against the Hernandez
4 allegation as well. This is because the prosecution theory is that the same perpetrator
5 committed all three incidents. Indeed, the only direct evidence of Mr. Garcia-Torres's
6 involvement—evidence that doesn't rely on other incidents for its value—is the fingerprint
7 from the Walters incident. If the defense shows that Mr. Garcia-Torres didn't commit the
8 Walters crime or the Lundy crime, it follows that he didn't commit the Hernandez crime
9 either. Thus, the prejudice that has been identified impacts all of the Safeway related counts.

10 By identifying both a lost exculpatory witness and lost physical evidence, the defense
11 has presented sufficient prejudice to require the prosecution to demonstrate a legitimate
12 justification for the delay.

13 **B. The prosecution cannot establish sufficient justification for the delay**

14 When evaluating the justification for delay, “the particular circumstances surrounding
15 the decision not to prosecute, the length of the delay, and the reasons for the subsequent re-
16 evaluation and prosecution must all be considered.” (*Penney v. Superior Court* (1972) 28
17 Cal.App.3d 941, 954.) A delay may be justified by the need to conduct an investigation so
18 long as the delay is reasonable and advances a valid police purpose. (*People v. Hartman, supra*,
19 170 Cal.App.3d at p. 581 [citations omitted].) However, “negligence on the part of police
20 officers in gathering evidence or in putting the case together for presentation to the district
21 attorney, or incompetency on the part of the district attorney in evaluating a case for
22 possible prosecution can hardly be considered a valid police purpose justifying a lengthy
23 delay which results in the deprivation of a right to a fair trial.” (*Penney v. Superior Court, supra*,
24 28 Cal.App.3d at p. 953.) Thus, a legitimate reason for the delay requires something more
25 than “showing an absence of deliberate, purposeful or oppressive police conduct.” (*Ibid.*)

 The defense can only guess what justification the prosecution will offer to excuse the
delay. Law enforcement was in possession of the evidence needed to prosecute long before
they decided to pursue charges against Mr. Garcia-Torres. The prosecution may suggest that

1 they only had the fingerprint match after the crime lab conducted the fluorescent dye testing
2 following Ms. LaMar's disappearance. But they had the capability to do that testing at the
3 time of the initial investigation, when they recovered the stun gun. And they could have
4 identified Mr. Garcia-Torres through an AFIS search since his prints were in AFIS from
5 2009. The delay is therefore not justified by a legitimate investigatory reason related to the
6 one item of evidence connecting Mr. Garcia-Torres to the incidents, the fingerprint.

7 **C. The prejudice outweighs the justification and the Safeway counts should
8 be dismissed**


9 "Even a minimal showing of prejudice may require dismissal if the proffered
10 justification for delay be unsubstantial." (*Ibarra v. Municipal Court, supra*, 162 Cal.App.3d 853,
11 858.) The defense has made more than the minimal showing that was made in *Ibarra*. Mr.
12 Garcia-Torres has lost an exculpatory eyewitness and an exculpatory security video due to
13 the delay. While the defense waits in anticipation of a prosecutorial justification, the only
14 justification it can predict fails because it was the result of negligence and not a legitimate
15 investigative need. Thus, the prejudice outweighs the justification and the Safeway counts
16 should be dismissed.

17 Conclusion

18 A pre-accusation delay violates due process when the justification for the delay does
19 not outweigh the prejudice suffered. The defense does not have to show purposeful delay
20 under the California Constitution and it is unsettled whether the federal constitution requires
21 purposeful delay. Mr. Garcia-Torres experienced significant trial prejudice through the loss
22 of a witness and evidence and, pending a prosecutorial showing, the defense sees no
23 legitimate justification for the delay. Therefore, under both the state and federal due process
24 rights, this Court should dismiss the Safeway counts in the indictment.

25 Dated:

Respectfully submitted,



Brian Matthews
Deputy Alternate Defender

EXHIBIT A

EXHIBIT A

STATE OF CALIFORNIA
CERTIFICATION OF VITAL RECORD

COUNTY of SANTA CLARA
SAN JOSE, CALIFORNIA

CERTIFICATE OF DEATH

3201043003346

1. NAME OF DECEASED - FIRST (Given)		2. MIDDLE		3. LAST (Family)	
ARNOLD		QUON		TING	
4. DATE OF BIRTH month/day/year					
5. AGE Yrs. M. SEX					
6. BIRTH INFORMATION COUNTRY					
7. SOCIAL SECURITY NUMBER					
8. EDUCATION - Highest Level Reached					
9. OCCUPATION - Type of work for most of time. DO NOT USE RETIRED					
10. DECEASED'S RACE - Up to 3 races may be listed (see instructions on back)					
11. USUAL OCCUPATION					
12. DECEASED'S BUSINESS OR INDUSTRY (e.g., grocery store, hotel construction, employment agency, etc.)					
13. YEARS IN OCCUPATION					
14. CITY					
15. COUNTY (PROVINCE)					
16. ZIP CODE					
17. YEARS IN COUNTY					
18. GENE/FOREIGN ORIGIN					
19. DECEASED'S NAME & RELATIONSHIP					
20. DECEASED'S MARITAL STATUS (Check one)					
21. NAME OF SURVIVOR OF DECEASED - FIRST					
22. MIDDLE					
23. LAST (GIVEN NAME)					
24. NAME OF FATHER-IN-LAW - FIRST					
25. MIDDLE					
26. LAST					
27. NAME OF MOTHER-IN-LAW - FIRST					
28. MIDDLE					
29. LAST (GIVEN NAME)					
30. PLACE OF DEATH					
31. CITY					
32. COUNTY (PROVINCE)					
33. ZIP CODE					
34. YEARS IN COUNTY					
35. GENE/FOREIGN ORIGIN					
36. DECEASED'S RELATIONSHIP TO SURVIVOR					
37. SURVIVOR'S MARITAL STATUS (Check one)					
38. SURVIVOR'S NAME & RELATIONSHIP					
39. SURVIVOR'S MIDDLE					
40. SURVIVOR'S LAST (GIVEN NAME)					
41. SURVIVOR'S CITY					
42. SURVIVOR'S COUNTY (PROVINCE)					
43. SURVIVOR'S ZIP CODE					
44. SURVIVOR'S YEARS IN COUNTY					
45. SURVIVOR'S GENE/FOREIGN ORIGIN					
46. PLACE OF FINAL DISPOSITION					
47. NAME OF BURIAL ESTABLISHMENT					
48. ADDRESS OF BURIAL ESTABLISHMENT					
49. CITY					
50. STATE					
51. ZIP CODE					
52. DATE OF DEATH					
53. TIME OF DEATH					
54. CAUSE OF DEATH					
55. MANNER OF DEATH					
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CERTIFIED COPY OF VITAL RECORDS
STATE OF CALIFORNIA, COUNTY OF SANTA CLARA
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officially registered and placed on file in the Office of the
Santa Clara County Clerk-Recorder.



DATE ISSUED SEP 22 2016

Regina Alcomendras
REGINA ALCOMENDRAS
COUNTY CLERK-RECORDER



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ANY ALTERATION OF FRASURE VOIDS THIS CERTIFICATE

STATE OF CALIFORNIA
 CERTIFICATION OF VITAL RECORD

COUNTY of SANTA CLARA
 SAN JOSE, CALIFORNIA

3052010093165

STATE FILE NUMBER

PHYSICIAN/CORONER'S AMENDMENT

NO ERASURES, WHITEDOUTS, PHOTOCOPIES,
 OR ALTERATIONS

3201043003346

LOCAL REGISTRATION NUMBER

1.1

BIRTH DEATH FETAL DEATH

TYPE OR PRINT CLEARLY IN BLACK INK ONLY - THIS AMENDMENT BECOMES AN ACTUAL PART OF THE OFFICIAL RECORD

PART I INFORMATION TO LOCATE RECORD

INFORMATION AS IT APPEARS ON ORIGINAL RECORD	1A. NAME--FIRST ARNOLD	1B. MIDDLE QUON	1C. LAST TING	2. SEX M
	3. DATE OF EVENT--MM/DD/CCYY 04/24/2010	4. CITY OF EVENT MORGAN HILL	5. COUNTY OF EVENT SANTA CLARA	

PART II STATEMENT OF CORRECTIONS

6. CERTIFICATE ITEM NUMBER	7. INFORMATION AS IT APPEARS ON ORIGINAL RECORD	8. INFORMATION AS IT SHOULD APPEAR
107A	PENDING	PROBABLE INTRA-PARENCHYMAL (RIGHT BASAL GANGLIA) BRAIN HEMORRHAGE
107AT	-	MINS
107B	-	SYSTEMIC HYPERTENSION
107BT	-	YEARS
112	-	NONE
113	-	NO
119	PENDING INVESTIGATION	NATURAL

LIST ONE
ITEM PER
LINE

2 of 2

I HEREBY DECLARE UNDER PENALTY OF PERJURY THAT THE ABOVE INFORMATION IS TRUE AND CORRECT TO THE BEST OF MY KNOWLEDGE.

DECLARATION OF CERTIFYING PHYSICIAN OR CORONER	9. SIGNATURE OF CERTIFYING PHYSICIAN OR CORONER JOSEPH PATRICK O'HARA	10. DATE ISSUED--MM/DD/CCYY 10/08/2010	11. TYPED OR PRINTED NAME AND TITLE/DEGREE OF CERTIFIER MD	
	12. ADDRESS--STREET and NUMBER 850 THORNTON WAY	13. CITY SAN JOSE	14. STATE CA	15. ZIP CODE 95128
STATE/LOCAL REGISTRAR USE ONLY	16. OFFICE OF VITAL RECORDS OR LOCAL REGISTRAR STATE REGISTRAR - OFFICE OF VITAL RECORDS		17. DATE ACCEPTED FOR REGISTRATION--MM/DD/CCYY 10/14/2010	

FOR GOVERNMENT
USE ONLY



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DATE ISSUED SEP 22 2016

Regina Alcomendras
 REGINA ALCOMENDRAS,
 COUNTY CLERK-RECORDER

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ANY ALTERATION OR ERASURE VOIDS THIS CERTIFICATE



1 LAW OFFICES OF THE ALTERNATE DEFENDER
2 DAVID EPPS, # 160173
3 ALFONSO LOPEZ, # 203564
4 BRIAN MATTHEWS, # 191508
5 701 Miller Street, First Floor
6 San Jose, CA 95110
7 Telephone: (408) 299-7234
8 brian.matthews@ado.sccgov.org

9 *Attorneys for Antolin Garcia-Torres*

10 IN THE SUPERIOR COURT OF THE STATE OF CALIFORNIA
11 IN AND FOR THE COUNTY OF SANTA CLARA

12 People of the State of California,	) Case No.: 213515
)
13 Plaintiff,	) Trial Motion #4
)
14 -vs.-	) Motion to dismiss Safeway counts
	) for violation of due process (speedy
15 Antolin Garcia-Torres,	) trial)
)
	) <u>Proof of Service</u>
16 Defendant.)
	/

17 I am a citizen of the United States and employed in Santa Clara County. I am over
18 the age of eighteen years and not a party to this action. My business address is 701 Miller
19 Street, San Jose, CA 95110.

20 On September 30, 2016 I served the attached Motion to dismiss Safeway counts for
21 violation of due process (speedy trial) on the plaintiff, through Dep. District Attorney David
22 Boyd, by hand in court.

23 I declare under penalty of perjury that the foregoing is true and correct. Executed on
24 this 30th day of September 2016 at San Jose, California.

25 