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(ENDORSED)
FILED
MAR 15 2016

DAVID H. YAMASAKI
Chief Executive Officer/Clerk
Superior Court of CA County of Santa Clara
BY: [Signature] DEPUTY

7
8 **IN THE SUPERIOR COURT OF THE STATE OF CALIFORNIA**
9 **IN AND FOR THE COUNTY OF SANTA CLARA**

10 THE PEOPLE OF THE STATE OF CALIFORNIA,
11 Plaintiff,

12 v.

13 ANTOLIN GARCIA-TORRES,
14 Defendant.

) **Case No.: 213515**
)
) **PEOPLE’S RESPONSE TO**
) **SUPPLEMENTAL BRIEFING ON**
) **THE DEFENSE MOTION**
) **TO COMPEL DISCOVERY**
) **OF DNA (CODIS) EVIDENCE AND**
) **PROPOSED PROTECTIVE ORDER**
)
) **Date: March 17, 2016**
) **Time: 1:30 p.m.**
) **Dept: 29**
)

15
16 **INTRODUCTION**

17 On March 8, 2016, the Court heard argument on the defendant’s Motion to Compel
18 Production of DNA (CODIS) evidence. The case was taken under submission and continued
19 until March 17, 2016, for decision.

20 On March 9, 2016, upon request by the defense, the Court permitted the defense to file a
21 five-page supplemental brief to their motion to compel on the proffered issue of equal protection.

22 On March 11, 2016, the defense filed a supplemental brief that fails to articulate an equal
23 protection analysis. Instead, defendant relies upon due process arguing that Penal Code section
24 299.5(k) creates a “non-reciprocal discovery scheme.” (Defendant’s Supplemental Brief, p. 4.)

1 Nonetheless, upon further review of the relevant facts and law, the People will provide,
2 subject to a protective order, the 11 match detail reports with the disposition “No Match”
3 returned upon a CODIS search of 169108-5ec. (See the attached proposed protective order.) Any
4 further forensic identification information will not be provided as this information is not in the
5 People’s actual or constructive possession.

6 However, should the defense be either asking for further forensic identification
7 information or objecting to a protective order governing the release of the non-matching detail
8 reports,¹ the People maintain our objection to the release of this information as previously argued
9 in the People’s Response to Motion Compel, filed on March 1, 2016, and as argued below.

10 LAW AND ARGUMENT

11 I.

12 **DEFENDANT FAILS TO MAKE A THRESHOLD SHOWING FOR A VIOLATION OF 13 EQUAL PROTECTION.**

14 Defendant fails to show a violation of equal protection. “Both the state and federal
15 Constitutions provide that no person shall be deprived of equal protection of the laws. (U.S.
16 Const., 14th Amend.; Cal. Const., art. I, § 7, subd. (a).)” (*People v. Valladares* (2009) 173
17 Cal.App.4th 1388, 1397-1398.)

18 The crux of the constitutional promise of equal protection is that persons similarly
19 situated shall be treated equally by the laws. [Citation.] However, neither clause
20 [of the United States or California Constitutions] prohibits legislative bodies from
21 making classifications; they simply require that laws or other governmental
22 regulations be justified by sufficient reasons. The necessary quantum of such
23 reasons varies, depending on the nature of the classification.

24 ¹ The defendant’s supplemental briefing filed on March 11, 2016, makes clear that he is only requesting, “the
25 anonymous partially matching profiles with a protective order...” (Supplemental Brief Defense Motion to Compel
26 Production of DNA (CODIS) Evidence, p. 3.)

1 **PROOF OF SERVICE**

2
3 STATE OF CALIFORNIA) People v. ANTOLIN GARCIA TORRES
4) ss.
5 COUNTY OF SANTA CLARA) Docket No. 213515

6 I am employed in the County of Santa Clara, State of California. I am over the age of eighteen years, and not a party to the above-entitled action. My business address is: Office of the District Attorney, 70 West Hedding Street, West Wing, San Jose, CA 95110

7 On March 15, 2016, I served the following documents upon the interested parties in this action by the method(s) indicated below:

8 **People's Response to Supplemental Briefing on the Defense Motion to Compel Discovery**
9 **of DNA (CODIS) Evidence and Proposed Protective Order**
10 **Protective Order Regarding Disclosure of DNA Profiles from combined DNA Index**
11 **System and/or State DNA Index System Dispositioned as a Non-Match**

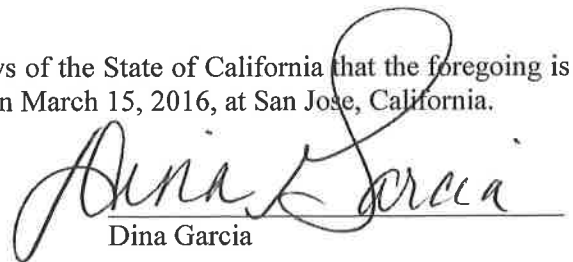
12 BY FACSIMILE TRANSMISSION: by faxing a true copy thereof to the recipient at the facsimile number indicated:

13
14 **Al Lopez**
15 **Alternate Defenders Office**
16 **701 Miller Street**
17 **San Jose, CA 95110**
18 **(408) 298-2516**

19 **Brian Matthews**
20 **Alternate Defenders Office**
21 **701 Miller Street**
22 **San Jose, CA 95110**
23 **(408) 298-2516**

24 BY COUNTY PONY MAIL: by placing a true copy thereof, enclosed in a sealed envelope, addressed as follows:

25 I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct and that this declaration was executed on March 15, 2016, at San Jose, California.

26 
Dina Garcia