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**SUPERIOR COURT OF THE STATE OF CALIFORNIA
FOR THE COUNTY OF FRESNO**

THE PEOPLE OF THE STATE OF CALIFORNIA,

Plaintiff,

v.

DOUGLAS R. STANKEWITZ,

Defendant.

Fresno Superior Court No. CF78227015

**PEOPLE’S OPPOSITION TO
DEFENDANT’S AMENDED MOTION
FOR RELEVANT DATA UNDER THE
RACIAL JUSTICE ACT (Pen. Code, §
745(a)(1) & 745 (a)(2))**

Date: August 20, 2025
Time: 9:00 a.m.
Dept: 62

INTRODUCTION

On September 30, 2020, Governor Gavin Newsom signed Assembly Bill No. 2542 (AB 2542) into law, also known as the California Racial Justice Act (hereafter “the Act”). The Act prohibits the state from seeking or obtaining a criminal conviction or from imposing a sentence based upon race, ethnicity, or national origin. (Pen. Code, § 745(a).)

To succeed on his Section 745 motion, Defendant must establish by a preponderance of the evidence that “[t]he judge, an attorney in the case, a law enforcement officer involved in the case, an expert witness, or juror exhibited bias or animus towards the defendant because of the defendant’s race, ethnicity, or national origin.” (Pen. Code § 745(a)(1).)

Under Pen. Code, § 745(b)(1), A defendant may file a motion pursuant to this section, or a petition for a writ of Habeas corpus, or a motion under Section 1473.7, in a court of competent jurisdiction, alleging a violation of subdivision (a). For claims based on the trial record, a defendant may raise a claim

1 alleging a violation of subdivision (a) on a direct appeal from the conviction or sentence. The defendant
2 may also move to stay the appeal and request remand to the superior court to file a motion pursuant to
3 this section. If the motion is based in whole or in part on conduct or statements by the judge, the judge
4 shall disqualify themselves from any further proceedings under this section. (1) At the hearing, evidence
5 may be presented by either party, including, but not limited to, statistical evidence, aggregate data, expert
6 testimony, and the sworn testimony of witnesses, The court may also appoint an independent expert. For
7 the motion and hearing under this section, out-of-court statements that the court finds trustworthy and
8 reliable, statistical evidence, and aggregated data are admissible for a limited purpose of determining
whether a violation of subdivision (a) has occurred.

9 PC745(c) if a motion is filed in the trial court and the defendant makes a prima facie showing of
10 a violation of subdivision (a), the trial court shall hold a hearing. A motion made at the trial shall be made
11 as practicable upon the defendant learning of the alleged violation. A motion that is not timely may be
12 deemed waived, in the discretion of the court.

13 **ARGUMENT**

14 **I.**

15 **THERE IS NO MERIT TO THE CLAIM THAT THE ONLY NATIVE AMERICAN JUROR** 16 **WAS INAPPROPRIATELY EXCUSED UNDER PENAL CODE SECTION 745(b)(1)**

17 Penal Code Section 745(b)(1) prohibits the state from exercising peremptory challenges based on
18 race, ethnicity, or national origin. Defendant argues that the prosecutor impermissibly struck the only
19 Native American juror. The record, however, demonstrates a clear, race-neutral basis for the strike: the
20 juror in question was a teacher who had personal knowledge of the Defendant's family. There has been
21 no showing of bias by the Prosecution.

22 A juror's familiarity with a party, especially in a case involving a serious capital charge is a
23 widely accepted, legitimate, non-discriminatory reason for exclusion. See *People v. Clark* (2011) 52 Cal.
24 4th 856, 906 (juror's acquaintance with individuals involved in the case constituted a valid ground for
25 excusal); *People v. Wheeler* (1978) 22 Cal. 3d 258, 276-277.

26 No Batson/Wheeler objection was preserved at trial, and Defendant fails to demonstrate that the
27 strike was part of a broader pattern of discrimination. The RJA requires a showing by a preponderance
28 of the evidence (Section 745(h)(1), that race was a motivating factor. Defendant offers no comparative

juror analysis, statistical data, or supporting affidavits – only speculation. That is insufficient under both the RJA and California constitutional standards. See *People v. Battle* (2021) 1 Cal. 5th 749, 776.

Finally, the People assert that this claim was previously denied on habeas on September 29, 2022.

II.

THE CLAIM THAT THE PROSECUTOR AND THE DEFENSE ATTORNEY USED DISCRIMINATORY LANGUAGE IN THE PENALTY PHASE OF THE SECOND TRIAL DOES NOT RISE TO THE LEVEL WHERE RELIEF WOULD BE JUSTIFIED

Defendant also alleges that both the prosecution and defense made discriminatory statements during the penalty phase of the second trial by referencing Native American culture and the use of drugs and alcohol on the reservation.

Defense tactically decided to use an expert to testify about the Native American culture and the substance abuse that was prevalent on the reservation. This tactic was likely used to elicit sympathy for the Defendant and the upbringing that he was exposed to. Defense opened the door to this evidence which now is being argued as racially biased fifty plus years later. This argument could have been made long before the RJA law came into existence and therefore is untimely as well. The prosecutor merely responded to the evidence brought in by defense, and in fact took offense to the generalization that because there was substance abuse on the reservation that the Defendant could not be expected to be law abiding.

The RJA is not a broad prohibition on all references to race or ethnicity. It prohibits conduct that invokes racial stereotyped or implies a defendant's guilt based on group characteristics rather than individual behavior. See *People v. McDaniel* (2021) 12 Cal. 5th 97, 132-133. When race-related evidence is relevant and introduced lawfully, its mention during closing argument does not automatically constitute a violation. Furthermore, if the alleged statements were made by defense counsel, they cannot be attributed to the prosecution for purposes of establishing a violation of Section 745(b)(1). The statute targets misconduct by the state, not the defendant's own legal representative.

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III.

CONCLUSION

Based on the foregoing argument, the People respectfully request that this court deny the defendant's request for relief under the Racial Justice Act. This motion is factually and legally insufficient to establish a violation under Penal Code Section 745. The record supports that the peremptory strike was based on a valid race neutral reason, and no improper use of racial stereotypes were used by the prosecution during the second trial. The People respectfully request that the Court deny this motion in its entirety,

DATED: July 18, 2025.

Respectfully submitted,

LISA A. SMITTCAMP
District Attorney

By:



Elana A. Smith
Senior Deputy District Attorney
Attorneys for Plaintiff

PROOF OF SERVICE

STATE OF CALIFORNIA, COUNTY OF FRESNO:

I am employed in the County of Fresno, State of California. I am over the age of 18 and not a party to the within action; my business address is FRESNO COUNTY DISTRICT ATTORNEY'S OFFICE, 2100 Tulare Street, Fresno, California 93721.

On July 18, 2025, I served the following document described as:

**PEOPLE'S OPPOSITION TO DEFENDANT'S AMENDED MOTION FOR RELEVANT DATA
UNDER THE RACIAL JUSTICE ACT**

On the interested parties in this action:

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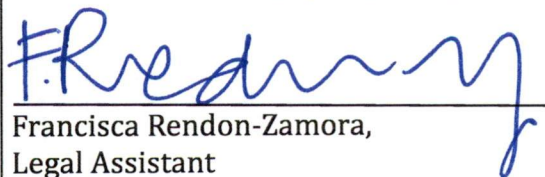
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 X **(State)** I declare under penalty of perjury under the laws of the State of California that the above is true and correct.
 (Federal) I declare that I am employed in the office of a member of the bar of this court at whose direction the service was made.

Executed on **July 18, 2025**, at Fresno, California.


Francisca Rendon-Zamora,
Legal Assistant

PROOF OF SERVICE