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Attorney for Appellant DAYSTAR PETERSON

IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA
SECOND APPELLATE DISTRICT
DIVISION 3

THE PEOPLE OF THE STATE OF CALIFORNIA,
Plaintiff and Appellee,

v.

DAYSTAR PETERSON
Defendant and Appellant.

Court of Appeal
No. B331774

Superior Court
No. BA490599

**APPEAL FROM THE SUPERIOR COURT OF
LOS ANGELES COUNTY**

Honorable David Herriford, Judge

**MOTION FOR BAIL PENDING APPEAL PURSUANT TO PENAL CODE
SECTION 1272.1 AND
CALIFORNIA RULES OF COURT, RULE 8.312**

TO THE HONORABLE PRESIDING JUSTICE LEE SMALLEY EDMON, AND THE
HONORABLE ASSOCIATE JUSTICES OF THE COURT OF APPEAL, SECOND
APPELLATE DISTRICT, DIVISION 3:

Appellant DAYSTAR PETERSON, through counsel, requests release on reasonable bail. This motion is based on the accompanying points and authorities.

Dated: October 2, 2023

Respectfully submitted,



CRYSTAL MORGAN for Unite the People, Inc.
State Bar No. 335712
Counsel for Appellant DAYSTAR PETERSON

MEMORANDUM OF POINTS AND AUTHORITIES

Appellant, DAYSTAR PETERSON, (“Appellant Peterson” or “Appellant” or “Defendant/Appellant”) by and through his attorney, CRYSTAL MORGAN for Unite the People, Inc., respectfully submits this memorandum of points and authorities in support of his request for release on reasonable bail pending finality of his appeal.

STATEMENT OF THE CASE

The Appellant maintains his innocence notwithstanding the findings of the Superior Court. The jury found that on the early morning of July 12, 2020, the Defendant/Appellant committed a shooting that resulted in injuries to Megan Pete's¹ feet. Prior to an investigation, a felony complaint was lodged by Appellee on October 8, 2020, in the Superior Court of California for the County of Los Angeles, Central Judicial District, under case number BA490599, charging Appellant Daystar Peterson² with the following: count 1, assault with a semiautomatic firearm – personal use of firearm in violation of Penal Code section 245, subd. (b), finding the assault had been committed through use of a firearm, causing great bodily injury, through Penal Code sections 12022.5, subds. (a) and (d) and 12022.7, subd. (a), and count 2: having a concealed firearm within a vehicle – not registered, in violation of Penal Code section 25400, subd. (a)(1). Count 3 was added on December 5, 2022, for discharging a firearm with gross negligence in violation of Penal

¹ Megan Pete is informally known by the public as “Megan Thee Stallion” as she is a musical artist.

² Daystar Peterson is informally known by the public as “Tory Lanez” as he is a musical artist, entrepreneur, and charitable philanthropist.

Code section 246.3, subd. (a), causing great bodily injury within the meaning of Penal Code section 12022.7, subd. (a).

Appellant Peterson was convicted on December 23, 2022, by a jury of all 3 Counts. On August 8, 2023, after a 2-day hearing, Appellant was sentenced to the mid-term of 6-years for count 1, Penal Code section 245, as the base term, with the enhancement attached hereto through Penal Code section 12022.5, also established as a mid-term sentence length for an additional 4-years. The second enhancement pursuant to Penal Code section 12022.7, was dismissed, as to counts 1 and 3. As to count 2, Penal Code section 25400(a)(1), Appellant was sentenced to the mid-term of 2 years to run concurrent with the time imposed in count 1. Regarding count 3, Penal Code section 246.3, subd. (A), the Appellant received the mid-term sentence length of 2-years, which was stayed pursuant to Penal Code section 654. Appellant was sentenced to a total of 10-years.

Appellant has accumulated approximately a year of custody credits as he was awarded 305 days presentencing. It has been approximately 60 days since August 8, 2023. Due to a portion of the sentence falling under Penal Code section 667.5(c), Appellant would have 33.3% applied to these 50 days, which is an additional 16 days when rounding down. Therefore, Appellant has amassed roughly 381 days thus far.

It is of importance to consider that as of the writing of this pleading, Governor Newsom is considering adding Penal Code section 1385.2, by passing Assembly Bill 1310. This bill would make enhancements under the Penal Code section 12022.5 and section 12022.53, “legally invalid.” Therefore, if this bill is passed Appellant’s enhancement would no longer be an authorized sentence. Due to such, the classification of Appellant’s

case would change from “violent” through Penal Code section 667.5(c) to “serious.” Thereby, Appellant would then have 50% applied to his actual time served from the date of his sentencing hearing, on August 8, 2023. Either way, the Appellant’s sentence will be reduced from the nine years remaining to be served, due to freely awarded time credits.

A notice of appeal was filed on August 11, 2023. On August 28, 2023, Appellant applied to the Superior Court for release on bail pending appeal. (Exhibit A³ [bail motion].) On September 14, 2023, the Honorable David Herriford denied the request, citing the following reasons: 1) the enhancement’s classification as “violent” as discussed *supra*; 2) a history of increasing or adjusting Appellant’s bail pending trial; and, 3) the risk of deportation as Appellant is not a citizen. (Exhibit B [minute order].) For reasons set below, the denial was unjustified. (Cal. Rules of Court, rule 8.312(b).)

Appellant is presently in the custody of Warden Kelvin Hixon and is incarcerated at North Kern State Prison. Appellant’s inmate/ CDCR identification number is BW0168.

Appellant is not likely to flee and does not pose a danger to the safety of any other person or to the community, as explained *infra*. (Pen. Code, § 1272.1, subs. (a) & (b)).

For the reasons set forth below, the appeal is not for the purposes of delay and raises substantial legal questions which, if decided in favor of the Appellant, is likely to result in reversal. (Pen. Code, § 1272.1, subd. (c)).

³ Exhibits and prior Superior Court proceedings referenced are incorporated as if set forth fully, verbatim, herein.

DISCUSSION

1. This Court Has Jurisdiction To Order Release Pending Appeal.

As noted above, Appellant made an application to the superior court as required by rule 8.312(b). (See Exhibit A.) For reasons to follow, the trial court's ruling was unjustified.

2. The Defendant Is Unlikely To Flee And Is Not a Danger to the Safety of Any Person or the Community.

It is within the court's discretion to determine whether Appellant should be granted bond. (See: *In re Podesto* (1976) 15 Cal.3d 921, 926 & fn. 1.) Under Penal Code section 1272.1, subdivision (a), this court must consider (1) the ties of the defendant to the community, including his or her employment, the duration of his or her residence, the defendant's family attachments and his or her property holdings; (2) the defendant's record of appearance at past court hearings or of flight to avoid prosecution; and (3) the severity of the sentence the defendant faces. Here, clear and convincing evidence establishes the defendant is unlikely to flee.

At the hearing below, the trial court erred by concluding that bail was not appropriate in this instance, due to the charges, the history of bail being modified or increased, and worries due to his status as a citizen of Canada. Yet, for the reasons averred *infra*, these concerns are slight at best. Appellant had been granted bail throughout the pendency of the trial, and nothing has changed from that time, but for the verdict.

Appellant Peterson is a well-known musician and businessman; therefore, it is not possible for him to abscond. He is a household name through his artistry and philanthropy,

internationally. For years, Appellant has generously donated his time and provided funding for countless charities and has been in such a position to do so, due to his status. Appellant Peterson is involved with numerous programs that provide support and guidance to children, and paid legal fees for countless incarcerated individuals. (Exhibit C [Appellant's Sentencing Motion]).

Moreover, Appellant is not a threat and does not pose a danger to the community. Under Penal Code section 1272.1, subdivision (b), this court must consider among other factors, whether the crime for which the defendant was convicted is a violent felony, as defined in Penal Code section 667.5, subdivision (c). Appellant does not stand convicted of such an offense but does have an enhancement through Penal Code section 12022.5, which falls into this category. Yet, on the other hand, Appellant Peterson does not have any prior offenses, as this is his first instance with the criminal process. Additionally, to note as shown above, as of the writing of this pleading, the Governor may sign into law Assembly Bill 1310, which would make enhancements under the Penal Code, section 12022.5 and section 12022.53, "legally invalid." Therefore, if this bill is passed and section 1385.2 is added to the Penal Code through AB 1310, Appellant's enhancement would no longer be valid, which would change the classification of his case from "violent" through Penal Code section 667.5(c) to "serious."

Importantly, in a prior bail hearing on October 26, 2022, the Superior Court determined that the Appellees had not met the substantial likelihood test as required by the California Constitution, and followed in the seminal cases of: *In re White*, 95 Cal 5th 455, and *In re Harris*, 71 Cal.App.5th 1085, 1091 (Cal. Ct. App. 2021).

The *White* Court determined that the California Constitution provides that a defendant "shall be released on bail by sufficient sureties" unless an exception applies. (Cal. Const., art. I, § 12.) One such exception covers "[f]elony offenses involving acts of violence on another person, or felony sexual assault offenses on another person, when the facts are evident or the presumption great and the court finds based on clear and convincing evidence that there is a substantial likelihood the person's release would result in great bodily harm to others." (*Id.*, art. I, § 12, subd. (b).) (*White* at 18.)

In the *Harris* case, the Court applied the substantial likelihood test from *White*, to the case before it. "We proceed by "applying the substantial evidence test to pure questions of fact and de novo review to questions of law. *Harris* at 1094. *Harris* found two elements that must be present to grant bail pending trial: (1) "whether the record contains substantial evidence of a qualifying offense" and if so, then (2) "whether any reasonable fact finder could have found, by clear and convincing evidence, a substantial likelihood that the defendant's release would result in great bodily harm to one or more members of the public." (*Harris* at 1101.)

Although in this bail hearing for the Appellant in the Superior Court, the issue was whether to grant bail pending trial, and now Appellant is before this honorable Appellate Court requesting bail pending the outcome of his appeal, he avers that nothing in his case has changed from this bail hearing to the writing of this pleading, but for the conviction and imposition of the sentence. This is imperative as in Appellant's bail hearing on October 26, 2022, ultimately the Judge determined that, "[He didn't] think the people [had] satisfied the substantial likelihood test that's required under *Harris* and under *In re White*, 95 Cal

5th 455.” Appellant further avers that he is not a violent person and this was an isolated incident where alcohol was a major contributing factor. Dr. Gharibian prepared a report addressing such, that was presented in Appellant’s sentencing hearing. (*See Exhibit C [Appellant’s Sentencing Motion].*)

The trial court unjustifiably concluded that bail was not appropriate, by stating that the charges were categorized as “violent” under the Penal Code, as the enhancement that Appellant was convicted of was a pending charge prior to trial, when the likelihood test was not met. Again, nothing has changed since this time, except that the verdict and sentence were rendered. Additionally, at the time of the prior bail hearings, there was more than one “violent” enhancement pending trial; yet, the Superior Court nonetheless granted such a request.

Appellant Peterson continues to have strong ties to the community, as shown through testimony at his sentencing hearing within this honorable court on August 7th and 8th, 2023.

As petitioned in the Superior Court, Appellant averred that if he was granted bail during the pendency of his appeal, but was not permitted to live in Florida with his wife and child, aged 6 years old, as he was for the majority of time prior to the trial, they would relocate to Los Angeles where the child would be enrolled and begin regularly attending school. They would rent a home near Appellant Peterson’s father, step-mother, siblings, and their children. They are a close-knit family. Peterson was born and raised in Toronto, Canada. His mother and father were missionary preachers. He is the youngest of six children. His family moved around often due to his mother and father’s line of work. His

family lived in Toronto, Montreal, Orlando, and Florida. There was no history of domestic violence in the home and he reported that he grew up with a good family. His parents were also not abusing any drugs or alcohol. Appellant's biological mother suddenly passed from an undiagnosed disease when he was only 11 years old. At this time, he began to act out and turned to alcohol and music for comfort, as he moved from one home to living with friends in a dangerous area when he was the tender age of 14 years-old. Appellant's father testified that Appellant, nor anyone, truly recovers from such trauma, yet he was grateful that Appellant had his music as an outlet.

In the past, Appellant has rented properties and vehicles in Los Angeles from time-to-time from Aryan Nafari, owner of ASB exotics, LLC. (Exhibit D [letter of support] Mr. Nafari reports that Appellant Peterson makes all of his payments timely, and has not caused any damage to any property that has been rented to him. Moreover, Mr. Nafari stated that he has grown close to Appellant and his family, so he trusts him. This has led Mr. Nafari to observe Appellant's love for his family, always putting their needs above his own.

The Appellant owns property in the State of Florida, along with various businesses, including a restaurant. He has a long list of philanthropy that he is involved in, including supporting children through various entities, and sitting on the advisory board of a non-profit legal corporation, Unite the People, Inc., located in Long Beach, California, where he has donated his time, celebrity, and provided funding for those who traditionally otherwise could not afford legal help.

There was a total of 76 letters of support for the Appellant, on top of witness testimony, that evidenced a wide range of charity, from buying a wheelchair for a child to

assisting others in various ways to be able to access healthcare. One witness testified regarding the Appellant's support for children during the pandemic by organizing to collaborate with Amazon and Adidas to provide diapers and shoes, and also spend time with said youth. He supports Diamonds on the Rise in Baltimore, and United America Outreach, where the less fortunate are given assistance. Notably, two chaplains at the Men's Central Jail, who supported the Appellant due to the daily prayer call that he started, which they report, "lessened the hostility in the 3300 module, where he has been housed." Letters from police officers, state representatives, and a former deputy district attorney, were also included in this package, where they gave their support to the Appellant. (*See* Exhibit C [Appellant's Sentencing Motion].)

Although the Peterson family originally hails from Canada, they no longer have strong ties to this location nor any other location outside of the United States. Appellant Peterson does have a close friend who is like family, that he helps by providing for her child, despite this not being his biological child. Additionally, a couple of Appellant's siblings live in Canada, but frequent the Los Angeles area to join their family. The converse is not true, as Appellant does not visit his home country often. When he does, it is for employment and at this time he will visit his friends and family. It is important to note, that Appellant was permitted to travel from Florida, where he was residing, to various countries in order to perform; and he still attended every court appearance without fail.

Currently and since Appellant Peterson's entry into the United States, he has been granted a work Visa and maintained it without issue. As he recently married the mother of his child, both of whom are citizens of the United States, his status will change. Further,

he has not been given notice of any detainers filed by the United States Immigration and Customs Enforcement. Additionally, if Appellant is notified of such, he would qualify for an INA § 212(h) waiver, due to his charges not banning him from such relief and because his young son and wife are “qualifying relatives” who would experience extreme hardship if he was not admitted to the United States as he has been in the past.

Appellant Peterson remained out on bail from the time of his arrest on July 12, 2020, throughout the pendency of the underlying proceedings, from which this appeal stems. The Superior Court amended Appellant’s bail after arraignment on October 13, 2020, and hearings that increased or amended the terms of bail on August 23, 2021, April 5, 2022, and October 26, 2022. The first was due to the Appellant appearing at a music festival after Ms. Pete. Appellant contends that they were performing at the same large music festival, but he took precautions and at no time did he see Ms. Pete. Later bail was increased due to a social media post, where the case was referenced. The final hearing modified the terms and required monitoring, due to an uncharged allegation that Appellant had been in a physical altercation in Chicago, Illinois. To this day, this incident is unfounded, as the only proof was a photo of the alleged’s face with bruises shared on social media. Appellant was released from home confinement on November 28, 2023, and appeared every day of trial. During the short-time Appellant was monitored, he did not have one violation per the Superior Court’s order, nor was there even an instance where the battery registered as low.

This evidences that the Appellant does not pose to be a flight risk, nor a danger to society or any individual, as he merely wishes to support his family and earn a living as is

permissible pending the outcome of his appeal. Additionally, Appellant would be helpful in the preparation of such with his attorney of record.

3. The Appeal is Not Taken for Delay, and the Appeal Raises Substantial Legal Questions That, If Decided in Favor of the Appellant, Are Likely To Result in Reversal.

For purposes of Penal Code section 1272.1, subdivision (c), “a substantial legal question means a close question, one of more substance than would be necessary to a finding that it was not frivolous. In assessing whether a substantial legal question has been raised on appeal by the defendant, the court shall not be required to determine whether it committed error.”

Appellant intends to raise several issues on appeal including, but not limited to, the following: the presentation of expert witness testimony and the scientific nature of such evidence as presented to the jury surrounding the DNA testing that was performed on the weapon in question; possible errors surrounding the addition of the enhancement with the conceivable addition of Penal Code section 1385.2 through the hopeful passage of AB 1310; errors of the Superior Court regarding the sentence term imposed when considering mitigating factors that were presented at the sentencing hearing; multiple instances of ineffective assistance of counsel, regarding more than one attorney of record; the appearance of bias through several examples concerning the honorable Superior Court; errors surrounding the admission or exclusion of evidence; violations of Due Process rights and other Constitutional considerations, most importantly that which arises through the Sixth Amendment to the United States Constitution as to protect the right to

confront one’s accusers, as called for and analyzed using the two-prong test established by *Crawford v. Washington* (2004) 541 U.S. 36, 60, which is followed in the State of California through *People v. Sanchez* (2016) 63 Cal.4th 665, 680 (applying the same standard in California). It also is not a bar to these rights when considering the Appellant’s status as a legal alien living and employed within the United States. “[Where] the United States is prosecuting a foreign national in a court established under Article III, . . . all of the trial proceedings are governed by the Constitution.” (*United States v. Verdugo-Urquidez*, 494 U.S. 259,278 (1990).) Each of the aforementioned issues presents “a close question, one of more substance than would be necessary for a finding that it was not frivolous.” (Pen. Code, § 1272.1, subd. (c).)

Moreover, each of these issues would require reversal if successful, and thus, bail on appeal is appropriate in this instance where there are meritorious issues to be presented on appeal. Reversal is required when under *Crawford* a witness is unavailable, and a defendant is not afforded the ability to cross-examine the witness in question. The key witness in Appellant Peterson’s trial was definitionally “unavailable” in two instances, and due to such, the entirety of an interview with the district attorney’s office was admitted into the record. Not only, arguably, was this statement riddled with hearsay and double hearsay, but additionally, it was testimonial and as such through *Crawford* requires the two prongs in the test *supra* be satisfied. Appellant Peterson’s rights were not afforded to him under the Confrontation Clause.

The trial court did not comment on this prong, in the hearing for bail pending appeal argued on September 14, 2023.

CONCLUSION

For the reasons presented, it is respectfully requested that this court exercise its discretion to permit Appellant Peterson's release from custody on reasonable bail pending finality of his appeal. If granted, bail will allow him to continue his employment while staying in the geographic Los Angeles area, so that he may continue to support and lead his family, and be present during these formidable years with his young son. Based upon this Motion, and the previously mitigating factors, which were presented at his sentencing hearing, Appellant Peterson's request for bail pending appeal is warranted.

Dated: October 2, 2023

Respectfully submitted,



CRYSTAL MORGAN for Unite the People, Inc.
State Bar No. 335712
Counsel for Appellant DAYSTAR PETERSON

EXHIBIT A

1 CRYSTAL MORGAN SBN: 335712
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7 ATTORNEY FOR DEFENDANT: DAYSTAR PETERSON

8 **SUPERIOR COURT OF THE STATE OF CALIFORNIA**
9 **COUNTY OF LOS ANGELES – CENTRAL DISTRICT**

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

12 vs.

13 DAYSTAR PETERSON,
14 Defendant

CASE NO.: BA490599

**POINTS AND AUTHORITIES IN SUPPORT OF
MOTION FOR BAIL ON APPEAL**

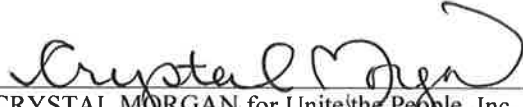
DATE: _____
DEPT: _____
TIME: _____

15 **TO THE HONORABLE DAVID HERRIFORD, SUPERIOR COURT JUDGE, LOS ANGELES**
16 **COUNTY DISTRICT ATTORNEY'S OFFICE, AND TO THE CLERK OF THE LOS ANGELES COUNTY**
17 **SUPERIOR COURT:**

18 PLEASE TAKE NOTICE that as soon as counsel may be heard in Department ____ at ____ of the
19 above-entitled court, but not earlier than five court days subsequent to notice being delivered upon the prosecuting
20 attorney, Defendant/Appellant, Daystar Peterson, hereby applies to this court for bail pending appeal, and requests
21 that it be set at a reasonable amount. This motion is made pursuant to Penal Code sections 1272 and 1272.1,
22 California Rule of Court, Rule 8.312(b), and the accompanying Memorandum of Points and Authorities.

23 Date: August 28, 2023

24 Respectfully submitted,

25 
26 CRYSTAL MORGAN for Unite the People, Inc.
27 Attorney for Defendant/Appellant DAYSTAR PETERSON

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5 ATTORNEY FOR DEFENDANT: DAYSTAR PETERSON

6 **SUPERIOR COURT OF THE STATE OF CALIFORNIA**
7 **COUNTY OF LOS ANGELES – CENTRAL DISTRICT**

8 THE PEOPLE OF THE STATE OF CALIFORNIA,

9 Plaintiff,

10 vs.

11 DAYSTAR PETERSON,

12 Defendant

CASE NO.: BA490599

**POINTS AND AUTHORITIES IN SUPPORT OF
MOTION FOR BAIL ON APPEAL**

DATE: _____

DEPT: _____

TIME: _____

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14
15 **MEMORANDUM OF POINTS AND AUTHORITIES**

16 **A. Applicable Law**

17 Penal Code section 1272.1 sets three criteria for release on bail pending appeal. Mr. Peterson submits that
18 he meets all three:

19 **1. Section 1272.1(a) – Mr. Peterson is not likely to flee. Analyzing the subparts:**

20 **a. Section 1272.1(a)(1) – Ties to the community:**

21 Mr. Peterson continues to have strong ties to the community, as shown through testimony at his sentencing
22 hearing within this honorable court on August 7th and 8th, 2023. If released, he would live locally in the Los
23 Angeles area, with his wife, Raina Chassagne, and their child, aged 6 years-old. Upon receiving bail, Mr. Peterson's
24 wife and child will be relocating from Florida to Los Angeles, where the child will be regularly attending school.
25 They will rent a home near Mr. Peterson's father, step-mother, siblings, and their children.

26 Mr. Peterson currently and in the past has contracted to rent homes and at times vehicles from Aryan
27 Nafari, owner of ASB exotics, LLC. Mr. Nafari reports that Mr. Peterson makes all of his payments timely, and has

1 not caused any damage to any property that has been rented to him. Moreover, Mr. Nafari stated that he has grown
2 close to Mr. Peterson and his family, so he trusts him. This has led Mr. Nafari to observe Mr. Peterson's love for his
3 family, always putting their needs above his. *See* Exhibit 1.

4 Mr. Peterson's son and wife, along with his parents and siblings, rely heavily upon him for care. They are
5 close-knit, where they participate in a weekly prayer group as a family. Mr. Peterson also was not only participating
6 in such with his family throughout his trial and now during his incarceration, but moreover, he also has been leading
7 such groups and ministering to fellow incarcerated individuals. Although the Peterson family originally hails from
8 Canada, they do not have strong ties to this location. Mr. Peterson does have a close friend who is like family, that
9 he helps provide for her child, despite this not being his biological child. Additionally, a couple of Mr. Peterson's
10 siblings live in Canada, but frequent the Los Angeles area to join their family. The converse is not true, as Mr.
11 Peterson does not visit his home country often. When he does, it is for employment and at this time he will visit his
12 friends and family.

13 Mr. Peterson is a well-known musician; therefore, it is not possible for him to abscond. He is a household
14 name through his artistry and philanthropy. For years, Mr. Peterson has generously donated his time and provided
15 funding for countless charities and has been in such a position to so, due to his status. Mr. Peterson has been
16 involved with supporting the youth, and paid legal fees for countless incarcerated individuals. *See* Exhibit 2.

17 Giving Mr. Peterson bail will allow him to continue his employment while staying in the geographic Los
18 Angeles area. Based upon this Motion, and the previously stated mitigating information at his sentencing hearing,
19 Mr. Peterson's request for bail pending appeal is warranted.

20 **b. Section 1272.1(a)(2) – Record of appearance:**

21 Mr. Peterson was out of custody for most of the proceedings up through trial and he has appeared at every
22 court appearance. He has never once had a failure to appear and he asks that this Court weigh this fact. He was
23 permitted to appear at scheduled performances outside of the State of California, after charges were filed in October
24 of 2020. Due to an unproven and uncharged, yet alleged incident in Chicago between Mr. Peterson and another
25 individual, he was placed on house arrest in October of 2022. This shows that for the two years between the charges
26 and house arrest, Mr. Peterson appeared at each and every proceeding before this honorable court. Moreover, it
27 evidences that at no time did Mr. Peterson violate such terms imposed by this court. Mr. Peterson was released from
28

1 house arrest in December of 2022, so that he could be involved in trial preparations with his attorney. This motion is
2 based upon the same reasoning, as his current attorney of record is making this request in order for Mr. Peterson to
3 participate in the advancement of his current appellate efforts.

4 **c. Section 1272.1(a)(3) – Severity of sentence:**

5 Mr. Peterson was given middle term sentences for his charges, as there were no aggravating circumstances
6 proven to support an upper term sentence. Moreover, this is Mr. Peterson’s first offense, so he had no prior strikes
7 that could have been imposed. The jury found Defendant guilty of Count 1, assault with a semiautomatic firearm in
8 violation of Penal Code § 245, subd. (b), finding the assault had been committed through use of a firearm, causing
9 great bodily injury to Pete, per Penal Code §§ 12022.5, subds. (a) and (d) and 12022.7, subd. (a), respectively. The
10 jury also found Defendant guilty of Count 2, carrying a concealed firearm within a vehicle in violation of Penal
11 Code § 25400, subd. (a)(1), and of Count 3, discharging a firearm with gross negligence in violation of Penal Code §
12 246.3, subd. (a), causing great bodily injury within the meaning of Penal Code § 12022.7, subd. (a). Mr. Peterson
13 was sentenced to 10 years, and has approximately a year of custody credits at this time.

14 **2. Section 1272.1(b) – Mr. Peterson does not pose a danger to the community:**

15 Mr. Peterson does not pose any danger to the community. He does not have a lengthy criminal record, and
16 pleads that the instant charges stem from an isolated incident where he was intoxicated. Upon release, Mr. Peterson
17 will maintain his sobriety, and have no contact with the victim nor shall he or any of his associates by his direction
18 address her on social media or by other means.

19 **3. Section 1272.1(c) – Substantial issue on appeal:**

20 Mr. Peterson submits that his appeal raises substantial legal questions, which if decided in his favor, will
21 result in reversal. Although Mr. Peterson has not received the record on appeal, substantial errors have been
22 identified. Portions of the following arguments are in accordance to newly enacted or updated Penal Codes. This is
23 including, but not limited to: issues surrounding the presentation of expert witness testimony and the scientific
24 nature of such evidence as presented to the jury; errors surrounding the addition of the enhancement; the multiplicity
25 and similarity of the instant charges, along with a lack of evidence to carry such elements beyond a reasonable
26 doubt; issues regarding the sentence term imposed when considering mitigating factors that were presented at the
27 sentencing hearing; multiple instances of ineffective assistance of counsel, regarding more than one attorney of

1 record; errors surrounding the admission or exclusion of evidence; violations of Due Process rights and other
2 Constitutional considerations, most importantly that which arises through the Sixth Amendment to the United States
3 Constitution as to protect the right to confront one's accusers, as called for and analyzed using the two-prong test
4 established by *Crawford v. Washington* (2004) 541 U.S. 36, 60; *see also People v. Sanchez* (2016) 63 Cal.4th 665,
5 680 (applying the same standard in California).

6
7 **CONCLUSION**

8
9 As Mr. Peterson meets all of the criteria of section 1272.1, bail should be granted. He prays such so that he
10 may continue to provide for his family including his wife and son who is of tender years, along with his parents and
11 siblings. In particular, Mr. Peterson has no prior criminal history, has significant ties to the Los Angeles community,
12 is not a flight risk, nor is he a threat to society. His attorney would like his participation in the preparations of his
13 appeal, and there are substantial issues which have a high probability of a reversal in Mr. Peterson's favor. A
14 reasonable sum for bail will suffice to secure his court appearances.

15
16 Date: August 28, 2023

17 Respectfully submitted,

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20 CRYSTAL MORGAN for Unite the People, Inc.
21 Attorney for Defendant/Appellant DAYSTAR PETERSON
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24
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EXHIBIT 1



ASR Exotics, LLC.
5250 West Century Blvd
Los Angeles, California, 90045

Friday, August 4th, 2023

RE: Daystar Peterson

To Whom It May Concern,

We have been working with Daystar Peterson for the past four years, renting out properties and cars from us when he is visiting the Los Angeles area. Mr. Peterson has always been a loyal and reliable client to our company, consistently renting vehicles and homes from us, while also making sure that all of his payments were made on a timely manner. Peterson takes care of the homes and cars that we rent out to him like they are his own, leaving everything the same exact way that they were when rented out, clean, and without any damages. Even through his trial and when he was on house arrest, we had provided a car and home for him and his team for him to utilize.

Other than having Peterson as a client, we have turned into a family with him and his team. Everything from going to dinners, and celebrating Jewish holidays with him, he has become more than a client and someone that we could rely on and trust. His love for his family and his son is displayed on a day-to-day basis, making sure that they are taken care of before himself. The admiration that he shows his family is also exhibited towards us, and that is why it is so effortless working with Peterson.

After the first year of solely booking homes and cars for Peterson, we moved to booking all of his travels globally and handle everything from A-Z.

It is our sincere hope that the court takes this letter into consideration at the time of sentencing. Despite the current case, we believe Daystar Peterson to be a honorable individual, a valued member of his community, and an overall good human being.

Sincerely,

Aryan Nafari
ASR Exotics, LLC.

Document received by the CA 2nd District Court of Appeal.

EXHIBIT 2



Unite the People, Inc.
555 E Ocean Boulevard
Suite #205
Long Beach, CA 90802
www.unitethepeople.org
Main: (888) 245-9393
Fax: (562) 435-3581

January 9, 2023

To Whom It May Concern:

We are writing this correspondence in support of the pending bond hearing for Mr. Daystar Peterson. It is our prayer for the court to take into consideration the mass amount of work that Mr. Peterson has done to contribute to our cause, as well as his great contribution to the community. Mr. Peterson has spent many hours assisting those in need. His longstanding and unwavering support has been fundamental in many areas of our organization. Through Mr. Peterson's financial contributions our organization has been able to help several clients achieve resentencing and become reunited with their families. Through his most recent contribution UTP was able to secure the successful release of four more incarcerated people in 2022 and 1 individual in 2023. In addition to his financial contributions, Mr. Peterson has donated countless hours to mentorship, not only to the UTP staff, but also to our clients and their families. He has also provided these families with some much-needed moral support. Mr. Peterson has spent a considerable amount of time speaking with the less fortunate and individuals in underserved communities who face hardship while incarcerated. He has assisted with several homeless drives and together with UTP provided provisions to homeless individuals and families in the communities of both Long Beach and Compton. Mr. Peterson has personally donated his time and finances to help these underserved communities, not only during the COVID crisis, before and far beyond. Mr. Peterson has been a great asset to UTP, our clients, and the surrounding communities. As a member of our Advisory board, he has shared with us some most valuable knowable, some of which have become a cornerstone to our organization. He has shown his commitment, kindness and love for our community, clients, and cause since the moment he became part of the UTP family. We at Unite the People feel that the court should grant Mr. Peterson's bond motion. We are confident that he will not only abide by the orders of the court, but also that he will use his influence to continue champion for those who truly benefit from his philanthropy.

Thank you for your consideration.

Sincerely,

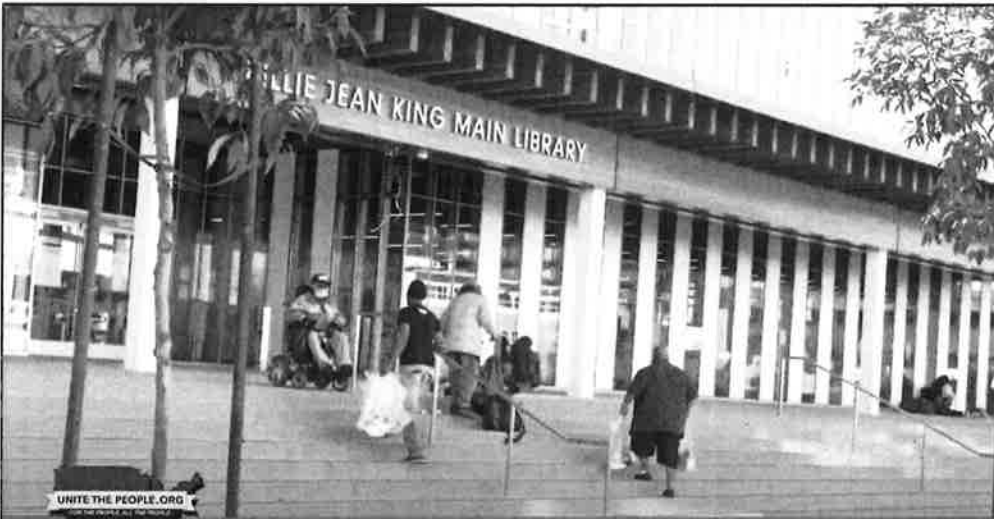
Unite the People, Inc.
Unite The People

Document received by the CA 2nd District Court of Appeal.





UNITE THE PEOPLE.ORG
1:19 / 2:26



UNITE THE PEOPLE.ORG
0:54 / 2:26



To whom it may concern,

I, Caesar McDowell, am the executive director and one of the co-founders of the organization Unite the People, Inc. We are a small, not-for-profit organization that deals with and assists the State of California's underprivileged communities in finding legal help for them and/or their incarcerated loved ones. I am very passionate about my organization's mission to help the people and to ensure this mission is upheld I only allow people with the same vision to be attached to our projects. With that being said, my organization's board only consist of members who have proven to me that they care deeply about their fellow people.

This letter is in support of one of our board members, Mr. Tory Lanez. He has been involved physically in the office as well as through charitable donations. Not only has Mr. Lanez donated to the organization over \$100,000.00 multiple times to help us assist the people of California, he has donated his time helping our administration team in the office. He has assisted us with communications through the institutional mailing system dealing with incarcerated individuals preparing for re-entry into society and providing the regular staff with an extra hand throughout the office. He has been an active member in the organization as well as being eager to help whenever he was able. Even through his busy schedule, Mr. Lanez shows support for the organization and his great energy boosts up morale in the office when he comes in. Over the time of working with Mr. Lanez, I have grown to know his character on a greater scale. He is a very kind and compassionate man to others and it is very unfortunate to see such a great character end up in such a situation as this. He has been a stellar board member and his help with our organization has been a great benefit to the many Californians we have been able to help. I believe strongly that Mr. Tory Lanez is an immense asset to the people and his work to help others reflects this greatly.

Even though Mr. Lanez has always asked to keep his philanthropy and time given to the organization under the radar, for the most part like many other celebrities, without his assistance and selfless giving it's not a definite that this organization would have been able to keep going and growing to help the people like it has. Thank you very much for your time.

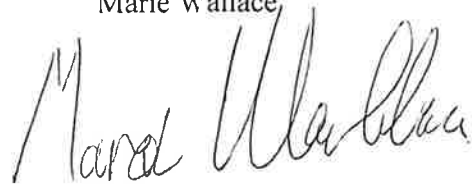
Cesar McDowell,
Co-Founder & Executive Director
Unite the People, Inc.

To whom this may concern,

My name is Marie Wallace and I am writing on behalf of Tory Lanez so that you can see he is a caring person and would not do the crimes he is being charged with. I met Tory several years ago in the old neighborhood I used to live in. I was so touched by him the day I met him because I saw him as such a caring person not just a rapper. This is how many people know him as. One day, a young girl in the neighborhood named Tiffany, she was about 10 years old at the time and she was going down the sidewalk in her wheelchair and had fallen over in it due to it being too big for her to maneuver. Tory just happened to be driving down the street and seen her and immediately stopped and helped her up. Tiffany wasn't far from her house so he got her up and pushed her rest of the way home because he didn't want to take the chance of that happening again. Her mom Nancy was so happy that he did that and started to tell me how Tory asked if there was anything he could do for Tiffany to ensure she would never have to deal with that again. Her mom told him that Tiffany needed a wheelchair her size so that she can get around with ease but that they are a few thousand dollars and being a single mom of 3 kids she just couldn't afford it. Nancy said that he asked if he could stop by maybe the next day about the same time with a surprise for Tiffany and she told him it was ok. So the next day comes in the early afternoon and a medical truck shows up to her house and I see it outside, so I walk over to see what was going on and Nancy was in tears. Tory had paid for the best child size wheelchair there was, had it delivered and the people made sure it fit her and her needs. Then if it couldn't get better, later that day he stopped by to check on Tiffany to make sure she would be ok and like the chair and gave her mom about 3000.00 to pay her rent, food and whatever else she needed for her and the kids. From that day I have always looked at him as a man with a kind heart and he did something many others would not have done, even if they could help. I can never imagine Tory hurting anyone, he is one of the kindest people I know. I would like you to see this man could not hurt anyone because it's not in him. He is all about helping others and giving back. I hope to hear the side of a person who knows him personally, in a way many others don't see him.

Thank you for time and concern

Marie Wallace

A handwritten signature in cursive script that reads "Marie Wallace". The signature is written in dark ink and is positioned below the typed name.

To whom it may concern

I met Tory in Chicago when he helped passed out toys and educational games to the children of the underprivileged communities of Englewood and Roseland IL. He was very kind to the people organizing the toy drive and very sweet to the children. He showed compassion and care for these communities and I found him to be a very friendly man. He greeted everyone with a smile and was happy to participate in the charitable acts. We were able to speak briefly and I found he was a well put together young man. He was easy to talk to and open about all his passions and interest in regards to advocacy.

I learned Tory is an advocate of nonviolence and children's rights. I feel this incident does not represent him in the slightest. He was a very caring and generous young man as well a respectable person. He was easy to be around and he treated everyone with respect when I encountered him. He was also very well spoken and articulate. He is a fine example of a leader and someone that would be a great idol for the youths. He is passionate about giving back to the communities. While this is a bad situation he is in currently, I do feel like this does not reflect the caring and kind person he truly is.

Andrea DeBerry

A handwritten signature in cursive script that reads "Andrea DeBerry". Below the signature are three horizontal wavy lines, likely representing a flourish or a scan artifact.

Jan 09, 2023
Re: Daystar Peterson



To Whom It May Concern:

I met Tory Lanez when he would come into the office to talk with everyone and see what the organization would entail. He was very friendly and he spoke with everyone with respect. I was not expecting him to be so humble but you were able to talk to him like he was a regular person. He was very civil and he was funny. He was a very nice guy and I really enjoyed talking to him about the different things he had been experiencing. He was open with his experiences and why he was involving himself in the organization and I found him a very respectable man. He offered very helpful advice and insight to all of the staff regarding following dreams and doing what we love. He was a really good person to have in the office, he was fun to have around. I don't think that this incident should doom him especially considering the attack he has received on his character considering how nice of a person he is. This is one mistake and he isn't typically a problematic person. I can't see any more incidents like this happening in his future considering that he wants to bring good change to the world. I think everyone would be better off with him helping like he has been.

Kind Regards,

A handwritten signature in black ink, appearing to read "Olivia McDowell", written over a horizontal line.

Olivia McDowell
Firm Assistant
Unite the People

555 E. Ocean Blvd., Suite #205
Long Beach, CA 90802
Office#: (888)-245-9393
Fax#: (562)-435-3581
www.unitepeople.org

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Re: Daystar Peterson



To Whom It May Concern:

My name is Precious Meman and I am currently one of the legal administrative assistants at Unite the People. I am writing this letter on behalf of our Advisory Board Member Mr. Daystar Peterson. This organization advocates for criminal justice reform, social justice, and provides affordable legal services to disadvantaged families. As an Advisory Board Member, Mr. Peterson has demonstrated a myriad of charitable acts that has positively impacted our nonprofit organization and the community. He has donated to us, as well as visited the office to lend a helping hand, and meet staff members. Mr. Peterson has also used his platform to spread the word about our work and what we do to help. Thanks to these acts, Unite the People has been able to extend our services to more communities and families that desperately need our help, especially amid this pandemic.

Upon meeting Mr. Peterson it was very clear that his intentions are to help those families in need. He expresses a great amount of compassion and concern for families who have been affected by the justice system. Mr. Daystar Peterson was very adamant about assisting our nonprofit without seeking any recognition or praise. I believe that speaks to his character and how he is genuinely willing to help his community anyway he can. Unite the People would like to thank him for the tremendous support he has offered our organization and the families of our clients.

Best,

A handwritten signature in black ink, appearing to read "Precious Meman", written over a horizontal line.

Precious Meman
Firm Assistant
Unite the People

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Re: Daystar Peterson



To Whom It May Concern:

This letter is on behalf of Mr. Daystar Peterson, a.k.a. Tory Lanez from the staff of the organization Unite the People. Since 2014, our staff of criminal defense and civil rights attorneys have provided low cost legal services to the public, including post-conviction and immigration services. Our attorneys include former ACLU and Innocence Project staff who are excited to make a difference for low and middle income Californians in need of top quality legal representation. Tory has helped make our services more well-known to communities around California. As one the Advisory Board member for Unite the People, Tory's role at Unite the People consists of supplying our organization with a platform small organizations, like ourselves, would take years of canvassing and street marketing to obtain; while also becoming a great reference as to how we can help the community overcome social justice issues. What we are now able to do for the community, not only through affordable legal services, but on a legislative level, have taken a small organization from looking for ways to initiate change, to being instrumental in making the legislative change we need, starting in California.

Celebrities have taken the time they can to acknowledge our organization, whether it be through donations or commercials. Tory having put his time and effort forth for our company has shown, especially during this pandemic. Non-profits, small social justice organizations, similar to ours have rarely made it through these hard times unscathed, let alone at all. Tory and our in office staff have been monumental in our success, and done their part to make sure Unite the People's doors stay open so that their services can continue to help the community. With the pandemic showing no stagnation, and our country in a place of change, Unite the People, and every organization that has pure intentions to help be a part of that change we need, people like Tory with a voice that project to nations around the world, letting people know that there are people here to help. We cannot thank Tory enough for the efforts he has taken upon himself, to make sure Unite the People services reach everyone they can. What was once just an opportunity for the founder to help his brother get out of prison, is now such a larger movement than even the founder and staff alike could only hope for, with thanks to Tory.

Sincerely,

Unite the People

A handwritten signature in black ink that reads 'Victor J. People'. The signature is written in a cursive, flowing style.

555 E. Ocean Blvd., Suite #205
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Office#: (888) 245-9393
Fax#: (562)-435-3581
www.unitepeople.org

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Re: Daystar Peterson



To Whom It May Concern:

My name is Payton Lowry-Sanders, I am one of the main firm assistants for Unite the People. Unite the People, is a California-based nonprofit organization formed in 2014 by a small group of concerned citizens, defense attorneys, and families and friends of incarcerated loved ones. Our fight is for social justice, the national problems of mass incarceration, and the need for prison and sentencing reform. One of my main roles as firm assistant is to oversee marketing/ social media marketing. I am writing this letter on behalf of our Advisory Board member Mr. Daystar Peterson, a.k.a. Tory Lanez. Tory has been instrumental in bringing attention to causes such as social justice and prison reform. Tory has used his platform to project Unite the People's name to a level, a small organization of our stature, would take years to achieve. Our country is in a state of turmoil right now, you find celebrities reacting in different ways to this pandemic, as well as to the disproportionate policing of our communities. Tory has taken the time during this pandemic to be a light not only to a world that needs it, but to a small low-cost law firm that otherwise, would have had an uncertain future.

What we are now able to do for the community, not only through affordable legal services; but on a legislative level, has taken a small organization from looking for ways to initiate changes, to be instrumental in making the legislative changes we need, starting in California. It would be very easy for a celebrity of Tory's stature to simply make a donation and take the praise, which we expected, and celebrities have done it the past. When coming into the office my perception of Tory's intention with the organization had changed monumentally. With the pandemic showing no stagnation, and our country in a place of change, Unite the People, and every organization that has pure intentions to help be a part of that change need people like Tory, with a voice that project to nations around the world, that there are people here to help. We cannot thank Tory enough for the efforts he has taken upon himself, to make sure Unite the People services reach everyone they can. What was once just an opportunity for our founder to help his brother get out of prison, is now such a larger movement than even the founder and staff alike could only hope for, with thanks to Tory.

Best,

A handwritten signature in black ink, appearing to read "Payton Lowry-Sanders", written over a horizontal line.

Payton Lowry-Sanders
Firm Assistant
Unite the People

555 E. Ocean Blvd., Suite #205
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www.unitepeople.org

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Re: Daystar Peterson



To Whom It May Concern:

I am Mitchell McDowell Jr., the Founder of Unite the People, Inc. and the Owner of Kane's Heirs, Ent. I am writing this letter in support of one of my organization's board members, Tory Lanez. I met Tory over a year and a half ago when he joined the organization, Unite the People, Inc., to try and help people who have found themselves in legal trouble. Through my interactions with Tory, he has shown the mission the upmost respect and gencrosity. Tory went above and beyond to be helpful to the organization to the point where he would voluntarily come in to help the admin team when he was able. He was extremely down-to-earth and friendly to everyone in the office regardless of his celebrity status. He offered helping hands to anyone who needed it and really showed me that he cared about the work he was doing. Tory has been an advocate for the treatment of the incarcerated and his participation in the organization has made a large impact. I heavily respect his desire to help without his need to chase the notoriety that others have. It shows me that it is a genuine care for the people he advocates for and I know the world needs more people like him. More people who are not chasing every oppourtunity they can find to benefit solely for themselves. I have seen for myself that he brings positivity and dedication to anything he puts his mind to.

I, as a cofounder along with my brother, am very selective of the people that join Unite the People, Inc. because it is a family organization with the goal of helping other families that are having troubles helping themselves. That being said, after speaking to and getting to know Tory, it was clear he had a good head on his shoulders and we both agreed that people with the opportunity to help others should. He has a very commendable character and is a quality person. He shows through his work and personality that he likes to make people feel better and that is something everyone can benefit from, especially in these trying times.

With that being said, knowing his character, I would one thousand percent stand behind Tory. I would also be there to let others understand that saying anything other than, Tory's a great person, then I could honestly say you've never met him.

Kind Regards,

Mitchell McDowell
Founder
Unite the People

555 E. Ocean Blvd., Suite #205
Long Beach, CA 90802

Office#: (888)-245-9393

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www.unitepeople.org

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To Whom It May Concern:

I am writing in support of Daystar Peterson, known also as Tory Lanez. Mr. Peterson is an active member of our Board of Advisors and has provided our non-profit with leadership, ideas, and financial support. I have come to know him not only as a prominent musician but also as a kind man and a loving father of his three year old son, Kai Peterson. He is a gentle man who often talks of the joy his son brings him and the responsibility of being a father.

In addition with supporting our non-profit, Mr. Peterson has also volunteered with Adidas to provide shoes for the homeless youth on skid row in Los Angeles. Additionally, he worked with another non-profit; Cut 50 to provide meals for Black fathers reuniting with their family upon their release from prison. He's also done public speaking for at risk youth in the Washington D.C. schools. I find Mr. Peterson to be kind, caring and humble and I strongly speak to his good character.

Kind Regards,

Thomas Loversky
President
Unite the People

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To Whom It May Concern:

To whom this concerns. My name is Giavonic McDowell. I'm a staff member here at Unite The People, which is a small non-profit organization based in California. We intend on making progress in prison reform, as well as social justice. And as a matter of fact already have. With things like prop 57, Sb620, and PC 1170.95. More recently we worked with Senator's here in California on Gavin Newsom's 2020 Budget Act. Amendments were made to give incarcerated persons who have not recently had a serious disciplinary action here in California 12 weeks of good time credits. All these feats are parts of social justice reform that have come about by the efforts of all our staff as well as our community.

I'm writing this letter on behalf of Daystar Peterson (AKA) Tory Lanez, a board member here at Unite the People. He has helped to procure the changes that we have implemented through our organization. Mr.Peterson has utilized his status as well as his following on social media platforms to help spread the positive effects that can be attributed to Unite the People. He has also linked us with a part of the community that would otherwise maybe not be knowledgeable about the pressing issues of Proper Restorative Justice, Prison reform, and Social injustice.

I believe someone of Mr.Peterson's stature to come out and make a difference in the community is definitely admirable. How often do you see celebrities coming together with small homegrown non-profit organizations to make positive change on their own accord? I was ecstatic to see that Tory Lanez's point of view on positive change was so insightful. Growing up in Southern California myself, I've seen celebrities come out of my own communities to make millions of dollars and give absolutely nothing back to the community. While knowing that they grew up disadvantaged and could help others themselves now.

I think all these different points show the true intentions of Mr.Peterson as well as highlight his integrity. His morale is always positive and upbeat. He's willingly a contributor to the various communities in which he represents. All these points should be considered when judging the contents of Tory Lanez's character. Sincerely, Giavonie McDowell Staff Member Unite The People

Kind Regards,

Giavonie McDowell
Firm Assistant
Unite the People

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Long Beach, CA 90802

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Document received by the CA 2nd District Court of Appeal.

Elaina DeAngelo
535 Linden Avenue #14
Long Beach, CA 90802

January 09, 2022

RE: Daystar Peterson aka Tory Lanez

To: The Honorable Judge Presiding

I have known Daystar Peterson aka Tory Lanez as a friend and board advisor through our work with Unite the People Inc., a non profit that Mr. Peterson has selfishly donated many of his hours and money to out of the kindness of his heart. I was both troubled and surprised to hear about his recent case as he has always been a rather solid person, hard worker and excellent father. I understand the seriousness of this matter however, hope the court will show some leniency.

Mr. Peterson has always been an upright character in the community. As a board advisor, he has really been there for me and our clients. He made it a point to be there and show a significant amount of support during our clients and their families dire times of need. It was Mr. Peterson that was a source of light and hope for them and I believe he has truly been a great person over the years.

In addition, he is usually and upstanding member of the community. While it is unfortunate that he has made some bad decisions, thus resulting in this case. While I was surprised to hear of the misconduct, it comes as no surprise tha this is ready to accept responsibility for his actions. I believe that as we move forward, he will emerge a better person. In short, Mr. Peterson has expressed a deep sense of remorse in make such a serious mistake and I believe in his ability to pay his debt to society.

It is my sincere hope the court takes this letter into consideration at the time of sentencing. Despite the current case, I still believe Mr. Peterson to be an honorable individual, a valuable member of my community and a good human being.

Sincerely



Elaina DeAngelo

January 11, 2023

To whom it may concern,

My name is Daniela Porter and I have only met Tory Lanez once, late last year but since I have met him he has only been kind and respectful towards me. The day I was introduced to him, he had not met me once but greeted me with a warm smile and a hug and later treated me to a lovely lunch. He has been in my playlists repeatedly since I was 13 years old and it was an honor to meet him in person. He has helped me study for tests, get ready for basketball games in high school, and pulling all nighters finishing up homework without even knowing. Now, working long hours in my office I still listen to Tory and get through my day. In his music and the way he carries himself is soothing, focused and full of love. He is a kind individual with nothing but knowledge and love to give and spread. Thank you for time.

Sincerely,

Daniela Porter

A handwritten signature in black ink, appearing to read 'Daniela Porter', written in a cursive style.

To Whom it May Concern,

My name is Charquinta Griley. I am a paralegal with Unite the People, Inc. I am writing you today with hopes that Daystar Peterson's bond motion be granted. I have had the pleasure of working with Mr. Peterson over the past couple of years and I have found him to be a very bright and caring young man. I have witnessed him interact with our staff, clients and their families and with each interaction he has brought tons of joy. I have watched this man comfort and motivate many, even while facing his own storms. We have had many conversations regarding parenting and my children absolutely adore him! The man I know him to be is hardworking, loving and supportive. He is not your average philanthropist and I have had the pleasure of working side by side with him on many occasions. Not only has he helped our clients financially, but so many times he has selfishly given his time and participated in the events. He was never there as the celebrity; he was there as Daystar ready to help, and support everyone. In fact, what I like most about him was that he never frowned upon those in need, he never acted better than, instead he uplifted and encouraged. A trait that many in his position do not have. I pray that the court finds leniency on this man. He may have made mistakes, but he is human just like the rest of us. I do not know whether or not he is truly guilty of these crimes, but what I do know is that justice will prevail and that he does deserve a fair chance. Thank you in advance for your time and consideration.

Sincerely,

Charquinta G. Griley

Charquinta Griley

Paralegal

To Whom it May Concern,

My name is Dwayne Grandberry. I have had the pleasure of knowing Mr. Peterson for a little over two years now. I met him because he sits on the advisory board for the nonprofit that I work for, Unite the people. He is not your average board member. He is very involved with the staff and the work that we do for the community. I must admit it was surprising for me to see him go out into the community and connect with the people the way he does. With his status I didn't expect him to involve his self the way he does. Boy was I wrong! I have watched this man cover legal fee's for a clients, acquire donations for our homeless drives and take to the streets with the rest of the team to make sure that the people who needed the donations received them. He has mentored kids and is a very nice person. I truly hate to see him involved in such a situation. My purpose for writing this letter is to ask that the court consider all the good that he has done. He has helped a lot of people and asked nothing in return. They say that what you put out is what you get back so I pray that all of the good he has done returns to him now. Thank you for your time.

Sincerely,

Dwayne Grandberry

Document received by the CA 2nd District Court of Appeal.

Dear Your Honor,

My name is Taniyah Davis. I am 13 years old and my mom is a friend of Tory Lanez. They work together at Unite the People and my mom is always talking about how great he is and how much he does for the people. I really like his music. I was able to meet him a couple of times and he was really nice to me and my little brother. One time I was at work with my mom and she was mad at me for not turning in my homework. Mr. Lanez came and talked to me and helped me finish my missing assignments so that my mom wouldn't be mad anymore. He didn't have to help me but I am happy that he did because I was about to be grounded. Every time he saw me after that he asked about my grades and told me to let my mom know if I needed anymore help. I think he is a really cool person. Im not the only kid that he has helped. I saw him helping some other kids there before too and he even helped us pass out donations to the homeless. I think he is really cool because it is hard to meet celebrities and when you do they are pretty mean and aren't as friendly as he is.

Dear Judge,

My name is Antonio Roberts. I am writing this letter so that you can see how Mr. Tory Lanez has inspired me. I met Tory Lanez when my family went to a meeting at Unite the people. We were there to talk about trying to get my uncle released from prison. I was so shocked when one of my favorite rappers walked into the room. I want to be a music producer when I finish school so meeting him was a dream come true. He was super cool when I met him. He gave me his autograph and asked me what I wanted to be when I grew up. I told him I wanted to be a producer. He listened to some of the beats that I had made and gave me some advice. He told me to make sure I stayed in school so that I could go to college and told me about some schools that have really good music programs. We talked the whole time my family was in there meeting. He is a really nice guy and that talk we had has totally changed my life. Before meeting him, I didn't want to go to college I just wanted to make music. I thought I just had to make good beats and I would make a lot of money. I didn't understand how important it was to have the right training or a degree. He told me that being a great producer was more than just making beats and that I had to learn the business side too. Since our talk my grades have improved and I am graduating high school next year. Tory Lanez is one of the coolest people I have ever met and I just wanted to share my experience meeting him with you. Hopefully this letter helps him.

Thank you

Antonio Roberts

Jan 08, 2023

To Whom it May Concern,

My name is Deanna Boyd and my family is one that received assistance from Tory Lanez donation to cover our legal fees. At the time my family was facing hard times and did not know how we were going to come up with the money to pay a lawyer to get my brother back in court. Tory paid those fees for us and for that my family is forever grateful. We are still fighting for my brother's freedom, but we are one step closer. My heart goes out to this man because like us there were a lot of families facing the same issue and because of him some of their loved ones get to come home. Our family ask that you show him leniency. He has given us hope and a fighting chance and we hope he receives the same

Thank You,

Deanna Boyd

Document received by the CA 2nd District Court of Appeal.

To whom it may concern,

My name is Vanessa Gomez. Tory Lanez and Unite the People have been working tirelessly to help us bring my father home. We received a donation from Tory Lanez to cover the rest of our unpaid legal fees. That donation really helped my mom because she was not sure if we could keep up with the payments. To see the relief in her eyes and the relief we all felt is unexplainable. I know other families got the same help too. My father has been gone for over 20 years. I was a little girl when he left and I now have children of my own. Because of his kindness I may now get a chance to be reunited with my father. My family is patiently waiting on the day my father is released and we may have not made it this far without Tory Lanez generosity. This is my family's story and we hope it helps him.

Re: Mr. Daystar Peterson

January 9, 2023

Your Honor,

My name is Janae Brown, and I am a political Science student at Clark Atlanta University. I have only met Mr. Peterson once in person; however, my mother has worked with him for a while now. She is always talking about how sweet of person he is and how much he does for others which is why I was compelled to write this letter on his behalf. My mother and I usually talk every day and I can say during our conversations she brings up Mr. Peterson almost weekly. She always talks about his donations to the community and mentorship to the children, their staff, and clients. When I met Mr. Peterson, he was very polite and asked a lot of questions about my schooling. He also told me if there was anything that I needed help with to just let my mom know and he would help if he could. I watched him laugh and joke with the kids at the event we all attended and the smiles on all the kid's faces were priceless. He talked to them about school, dreams, goals, careers, and things of that nature. He seems like a very genuine and caring man. My mother truly adores Mr. Peterson and I hope that God gives him grace in this situation. Thank you for taking the time to read my letter. Blessing and best wishes to you and your family.

Sincerely,

J. Brown.

Document received by the CA 2nd District Court of Appeal.



MOHAMMED ALY (SBN 312419)
Supervising Attorney
Unite The People, Inc.
555 E Ocean Blvd Suite 205
Long Beach, CA 90802
www.unitethepeople.org
mohammed@unitethepeople.org

August 26, 2020

Jackie Lacey, Los Angeles District Attorney
Los Angeles District Attorney's Office
Long Beach Branch Office
211 West Temple Street
Los Angeles, CA 90012

RE: Letter of Support for Daystar Peterson

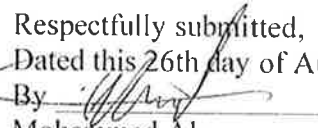
To the Los Angeles District Attorney's Office:

As the supervising attorney of Unite The People, I write to inform your office of Mr. Daystar Peterson's significant contributions to our work. Based in Long Beach, Los Angeles County, Unite The People advocates for social justice causes and provides pro bono or low-cost legal services to those in California's criminal justice system. We are a registered nonprofit organization under section 501(c)(3) of the Internal Revenue Code. Mr. Peterson has proven himself invaluable in our work by elevating issues impacting African-Americans and other people of color throughout California.

We were devastated to hear about the criminal allegations against "Torey Lanez" from news reports. The behavior described in the media struck us as wholly inconsistent with Mr. Peterson's character of kindness, patience, and generosity of spirit. From our perspective, Mr. Peterson truly understands that his responsibility towards the vulnerable and underprivileged comes with his influence and success.

We know that Mr. Peterson will continue to be of service to us as our advisory board member and volunteer. We commend your prosecutorial discretion in this matter, and we hope than an appropriate resolution is found.

Please feel free to call me to discuss this letter if I can be of any assistance.

Respectfully submitted,
Dated this 26th day of August, 2020
By 
Mohammed Aly
Supervising Attorney

Document received by the CA 2nd District Court of Appeal.

1 **PROOF OF SERVICE**

2 I, Cyndi DeAngelo, employed in the County of Los Angeles, State of California. I am
3 over the age of eighteen (18) years and not a party to the within action. My business address is
4 555 E Ocean Blvd, Suite 205, Long Beach, CA 90802.

5 On **August 28, 2023**, served the foregoing document(s) described as:

6 **POINTS AND AUTHORITIES IN SUPPORT OF MOTION FOR BAIL ON APPEAL**

7 [] **BY FACIMILE:** by transmitting via facsimile the document(s) listed above to the fax
8 number(s) set forth below on this date before 5:00 p.m.

9 [X] **BY MAIL:** I am readily familiar with the firm’s practice of collection and processing of
10 correspondence for mailing with the United States Postal Service and said correspondence is
11 deposited with the United States Postal Service the same day.


12 [] **BY OVERNIGHT MAIL:** by causing the document(s) listed above to be picked up by an
13 overnight delivery service company for delivery to the addressee(s) set forth below on the next
14 business day.

15 [] **BY ELECTRONIC SERVICE:** by electronically serving via email delivery the document(s)
16 listed above to the agency set forth below on this date before 5:00 p.m.

<u>Agency/Attorney</u>	<u>Electronic Service Address(es)</u>
Los Angeles District Attorney’s Office Headquarters 211 W Temple Street, Suite 1200 Los Angeles, CA 90012	

18 I declare under penalty of perjury under the laws of the State of California that the
19 foregoing is true and correct.

20 Executed on August 28, 2023, at Long Beach, California.

21
22 
23 _____
24 Cyndi DeAngelo

Document received by the CA 2nd District Court of Appeal.

EXHIBIT B

CASE NO. BA490599
DEF NO. 01

PAGE NO. 42
DATE PRINTED 09/27/23

HEARING ON DEFENDANT'S MOTION FOR BAIL ON APPEAL IS SET ON
SEPT. 14, 2023 AT 10:30 A.M. DEFENDANT TO BE ORDERED OUT
9.05.23 HEARING DATE IS VACATED.

NEXT SCHEDULED EVENT:

09/14/23 1030 AM APPEAL STATUS/BAIL ON APPEAL DIST CENTRAL DISTRICT DEPT
132

ON 09/14/23 AT 1030 AM IN CENTRAL DISTRICT DEPT 132

CASE CALLED FOR APPEAL STATUS/BAIL ON APPEAL

PARTIES: DAVID V. HERRIFORD (JUDGE) DERRICK CALLICOATTE (CLERK)
ANNETTE BLANCO (REP) KATHY U. TA (DA)

DEFENDANT IS PRESENT IN COURT, AND REPRESENTED BY CRYSTAL MORGAN PRIVATE
COUNSEL

-BKG 6523038 /DDA:KATHY TA #243716

THE MATTER IS CALLED FOR HEARING ON DEFENDANT'S MOTION FOR BAIL

ON APPEAL. ATTORNEYS CRYSTAL MORGAN AND MICHAEL HAYDEN FROM
UNITE THE PEOPLE APPEARING FOR DEFENDANT. DDA KATHY TA AND
ALEXANDER BOTT FOR THE PEOPLE.

• THE COURT HAS READ AND CONSIDERED THE MOTION AND POINTS AND
AUTHORITIES IN SUPPORT OF.

• THE COURT HEARS ARGUMENT FROM BOTH SIDES. THE PARTIES SUBMIT.

• THE MOTION IS DENIED.

NEXT SCHEDULED EVENT:
PROCEEDINGS TERMINATED

Document received by the CA 2nd District Court of Appeal.

EXHIBIT C

1 JOSE A. BAEZ (Pro Hac Vice, Florida Bar No.: 13232)

2 **THE BAEZ LAW FIRM**

3 1200 Brickell Ave., Suite 1410

4 Miami, FL 33131

5 Telephone: 305-999-5100

6 Email: jose@baezlawfirm.com

7 T. EDWARD WELBOURN (SBN 201304)

8 **CORRIGAN WELBOURN STOKKE, APLC**

9 4100 Newport Place, Suite 550

10 Newport Beach, CA 92660

11 Telephone: 949-251-0330

12 Facsimile: 949-251-1181

13 Email: ed@cwsdefense.com

14 Attorneys for Defendant

15 **SUPERIOR COURT OF THE STATE OF CALIFORNIA**
16 **COUNTY OF LOS ANGELES – CENTRAL DISTRICT**

17 THE PEOPLE OF THE STATE OF
18 CALIFORNIA,

19 Plaintiff,

20 v.

21 DAYSTAR PETERSON,

22 Defendant.

Case No.: BA490599

**NOTICE OF DEFENDANT'S
STATEMENT IN MITIGATION AND
SENTENCING MEMORANDUM, AND
STATEMENT IN MITIGATION AND
SENTENCING MEMORANDUM
PURSUANT TO PENAL CODE
SECTION 1170**

Judge: Hon. David Herriford

Date: August 7, 2023

Time: 8:30am

Department: 132

23 **TO THE HONORABLE DAVID HERRIFORD, SUPERIOR COURT**
24 **JUDGE, ALEXANDER BOTT AND KATHY TA, DEPUTY DISTRICT**
25 **ATTORNEYS, FOR THE PEOPLE OF THE STATE OF CALIFORNIA:** the
26 Petitioner in the above-captioned matter, Daystar Peterson, by and through his attorneys of
27 record, Jose A. Baez of The Baez Law Firm and T. Edward Welbourn (State Bar No.

1 201304) of Corrigan Welbourn Stokke, APLC, submit the following Statement in
2 Mitigation and Sentencing Memorandum for this Court to consider when sentencing Mr.
3 Peterson on **August 7, 2023, at 8:30 AM**, or as soon thereafter as counsel may be heard
4 before this Court.

5
6 Respectfully submitted,

7
8 Dated: August 1, 2023

9 JOSE BAEZ

10 JOSE BAEZ
11 Pro Hac Vice, Florida Bar No.: 13232

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27 ATTORNEYS FOR DEFENDANT
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14 Attorneys for Defendant

15 **SUPERIOR COURT OF THE STATE OF CALIFORNIA**
16 **COUNTY OF LOS ANGELES – CENTRAL DISTRICT**

17 THE PEOPLE OF THE STATE OF
18 CALIFORNIA,

19 Plaintiff,

20 v.

21 DAYSTAR PETERSON,

22 Defendant.

Case No.: BA490599

**DEFENDANT’S STATEMENT IN
MITIGATION AND SENTENCING
MEMORANDUM PURSUANT TO
PENAL CODE SECTION 1170**

Judge: Hon. David Herriford

Date: August 7, 2023

Time: 8:30 am

Department: 132

23 **TO THE HONORABLE DAVID HERRIFORD, SUPERIOR COURT**
24 **JUDGE, ALEXANDER BOTT AND KATHY TA, DEPUTY DISTRICT**
25 **ATTORNEYS, FOR THE PEOPLE OF THE STATE OF CALIFORNIA:**

26 **I. INTRODUCTION**

27 On December 23, 2022, a jury found Defendant Daystar Peterson (hereinafter “Mr.
28 Peterson”) guilty as charged on: Count One, in violation of Penal Code § 245(b), Assault

1 with a Semi-Automatic Firearm; Count Two, in violation of Penal Code § 25400(a)(1),
2 Possession of a Concealed Firearm in a Vehicle - Unregistered; and Count Three, in
3 violation of Penal Code § 246.3(a), Discharge of a Firearm with Gross Negligence. On
4 Count One, the jury made a special finding that Defendant personally used a firearm during
5 the commission of the offense within the meaning of Penal Code § 12022.5(a). On Counts
6 One and Three, the jury also made a special finding that Defendant personally inflicted
7 great bodily injury within the meaning of Penal Code § 12022.7(a).

8 Under California’s determinate sentencing laws, Mr. Peterson faces terms of three,
9 six, or nine years in prison on Count One. *See* CAL. PENAL CODE § 245(b). The People
10 recommend that this Court sentence Mr. Peterson to a total aggregate sentence of thirteen
11 years in state prison. More specifically, the People recommend a base middle term of six
12 years on Count One, with a consecutive term of four years for personal use of a firearm in
13 the commission of a felony (“the firearm enhancement”), pursuant to Penal Code section
14 12022.5(a); and a consecutive term of three years for personal infliction of great bodily
15 injury on any person other than an accomplice in the commission of a felony (“the bodily-
16 injury enhancement”), pursuant to Penal Code section 12022.7(a). In addition, the People
17 recommend a middle term of one year on Count Two, and a middle term of one year on
18 Count Three. The People recommend that Counts Two and Three run concurrently to
19 Count One.

20 This Statement and Mitigation and Sentencing Memorandum is based on the record
21 of conviction, the testimony presented at trial, any and all motions and exhibits previously
22 submitted to this Court in pretrial and posttrial proceedings, a mental health evaluation
23 conducted by Dr. Emin Gharibian, and testimony from the following witnesses: Dr. Emin
24 Gharibian, Moses Peterson, Raina Chassagne, Caesar McDowell, Jonarthan
25 Vimalleswaran, Elis Pachecho, Michael Fux, Sam Lewis, Miles McNerney, and Sonstar
26
27

1 Peterson. Mr. Peterson’s maximum exposure in this case is twenty-two years and eight
2 months in state prison.

3 **II. STATEMENT OF FACTS**

4 On July 12, 2020, at approximately 4:30 AM, Mr. Peterson, along with his security
5 guard, Jaquan Smith, and two women, Kelsey Harris and Megan Pete, left a party at Kylie
6 Jenner’s home in Hollywood Hills, California. The group left in Mr. Peterson’s black
7 Cadillac sport utility vehicle (“SUV”). (Dec. 12, 2022 Tr. at 71, 130; Dec. 13, 2022 Tr. at
8 5-10; Dec. 20, 2022 Tr. at 84.) Mr. Peterson had a romantic history with both Ms. Pete and
9 Ms. Harris. (Dec. 13, 2022 Tr. at 4, 58.) While inside of the vehicle, a verbal argument
10 reportedly ensued between Mr. Peterson, Ms. Harris, and Ms. Pete.

11 At Ms. Pete’s request, Mr. Smith stopped the SUV in a residential neighborhood on
12 the 1800 block of Nichols Canyon Road. Ms. Pete exited the SUV and walked away from
13 the vehicle, intending to call another ride. (Dec. 12, 2022 Tr. at 58; Dec. 13, 2022 Tr. at
14 11-14, 88-89.)

15 As Ms. Pete was walking away, yelling from inside the SUV continued. As Ms. Pete
16 turned back around, a firearm was discharged from the SUV in her direction. (Dec. 13,
17 2022 Tr. at 15, 17-18.) Mr. Peterson and Ms. Harris ran to Ms. Pete’s aid and attempted to
18 provide her medical assistance before helping her back into the SUV. (Dec. 13, 2022 Tr.
19 at 19-23.) The SUV then headed in the direction of Ms. Pete’s home. (Dec. 13, 2022 Tr. at
20 20, 22-23.)

21 Residents in the neighborhood called 911 to report a shooting. Officers from the Los
22 Angeles Police Department (LAPD) responded to the calls. (Dec. 12, 2022 Tr. at 57-66;
23 Dec. 13, 2022 Tr. at 25.) En route to the scene, officers noticed a vehicle matching the 911
24 call description approximately one mile from the scene of the shooting. (Dec. 12, 2022 Tr.
25 at 67-69, 71-75; Dec. 20, 2022 Tr. at 83-84.) Officers then initiated a felony detention stop
26 of Mr. Peterson’s vehicle. (Dec. 12, 2022 Tr. at 96-98.) All passengers were commanded
27

1 to exit the vehicle and police searched the SUV. Officers discovered an “olive green” nine-
2 millimeter semiautomatic handgun on the floorboard of the front passenger seat. It was
3 later determined to be an unregistered firearm. (Dec. 12, 2022 Tr. at 99-103.) The owner
4 of the firearm was never determined.

5 When officers observed that Ms. Pete was bleeding from her right foot, they
6 questioned her about the source of her injuries. Ms. Pete stated she had not been shot.
7 Instead, Ms. Pete told officers that she sustained the injuries from stepping on broken glass.
8 (Dec. 13, 2022 Tr. at 98-99.) Ms. Pete was transported to Cedar-Sinai Medical Center,
9 where she received medical treatment for bilateral injuries to her feet, which included
10 surgery to remove “bullet fragments.” (Dec. 12, 2022 Tr. at 100; Dec. 13, 2022 Tr. at 32;
11 Dec. 15-16, 2022 Tr. at 4-18.)

12 At the conclusion of the stop, Mr. Smith, Ms. Harris, and Mr. Peterson were taken
13 into police custody. Among the three individuals detained, Mr. Peterson was the only one
14 arrested on suspicion of carrying a concealed firearm within a vehicle in contravention of
15 Penal Code § 25400, subd. (a)(1), and later charged in connection with these allegations.

16 As part of an ongoing investigation, Ms. Pete was interviewed several times,
17 including on July 16, 2020, and November 12, 2020. (Dec. 13, 2022 Tr. at 55-57.) In these
18 later interviews, Ms. Pete changed her original story and told LAPD Detective Ryan
19 Stogner that she had been shot by Mr. Peterson. Ms. Pete claimed she had conveyed a
20 different story on the morning of the shooting because she was scared, traumatized, and
21 embarrassed. On November 12, 2020, Ms. Pete identified Defendant through a single
22 photographic identification procedure. (Dec. 13, 2022 Tr. at 98-102, 146; Dec. 20, 2022
23 Tr. at 103-105, 114-115.)

24 As the investigation into the shooting continued, further questions were raised.
25 Several other witnesses were interviewed and provided differing versions of events. (Dec.
26 20, 2022 Tr. at 31). No one, except for Ms. Pete, identified the individual who discharged
27

1 the gun. After the incident, Ms. Harris and Ms. Pete immediately discontinued their long-
2 term friendship and employer-employee relationship. (Dec. 13, 2022 Tr. at 4-5, 50-51.)

3 Forensic testing did not resolve any of these questions. Both Ms. Harris and Mr.
4 Peterson had gunshot residue (“GSR”) on their hands. (Dec. 12, 2022 Tr. at 110-111; Dec.
5 15-16, 2022 Tr. at 54.) Inexplicably, considering these GSR results and the wildly
6 conflicting versions of events, the only DNA sample collected for analysis and comparison
7 to the firearm and magazine was a sample belonging to Mr. Peterson. The test results ruled
8 Mr. Peterson out as a contributor to the DNA recovered from the magazine and were
9 “inconclusive” as to the gun. (Dec. 15-16, 2022 Tr. at 107-109.)

10 In July of 2023, Dr. Emin Gharibian, Psy.D., performed a mental health evaluation
11 on Mr. Peterson at the Men’s Central Jail in Los Angeles. Dr. Gharibian is a licensed
12 psychologist specializing in neuropsychological and forensic evaluations. Dr. Gharibian
13 has over ten years of education and training in clinical psychology and neuropsychology
14 and extensive experience evaluating adults and adolescents for psychological and
15 neuropsychological conditions. Dr. Gharibian has extensive training and experience in
16 psychological and neuropsychological assessment in correctional facilities and other
17 clinical settings.

18 Dr. Gharibian specializes in providing comprehensive neuropsychological
19 evaluations for a variety of neurological conditions and for numerous purposes, including
20 mental health diversion, sentencing mitigation, violence-risk assessments, and civil and
21 criminal competency and capacity. In addition to his private practice at Verdugo
22 Psychological Associates, Dr. Gharibian serves as a forensic psychologist for the California
23 Department of Corrections and Rehabilitation (“CDCR”). Dr. Gharibian’s curriculum vitae
24 is attached to this memorandum as Exhibit A, and his Psychological Evaluation Report is
25 attached as Exhibit B.

1 Mr. Peterson was born to missionary preachers in Toronto, Canada, and is the
2 youngest of six children. Due to his parents' work as missionary preachers, Mr. Peterson
3 and his family relocated often. As a child, Mr. Peterson was subjected to corporal
4 punishment, including use of a belt or tree branch which would result in welts on his body.

5 When Mr. Peterson was only eleven years old, his mother died unexpectedly. Mr.
6 Peterson's mother suffered complications of anemia, was admitted to the hospital, and
7 passed away after one day. Following the death of his mother, Mr. Peterson struggled with
8 his emotions and started to "act out." From ages eleven to fifteen, Mr. Peterson was
9 shuffled from relative to relative in various U.S. states and in Canada.

10 From ages fourteen to seventeen, Mr. Peterson lived with three of his brother's
11 friends, who were all in their mid-twenties, in an area that was "crack infested" and plagued
12 by violence. Mr. Peterson felt abandoned by his family and continued to act out. Mr.
13 Peterson ultimately turned to music during this time.

14 Mr. Peterson was the victim of multiple violent crimes when he was still a teenager.
15 These incidents included being "jumped," hit in the head with a wrench, stabbed, and shot
16 at. In one instance, someone pulled a gun on Mr. Peterson, put the gun next to his hooded
17 sweatshirt, and pulled the trigger. Mr. Peterson believed that he was going to die, before
18 realizing that the gunshot only blew out a portion of his hooded sweatshirt. Mr. Peterson
19 also suffered loss when two of his friends were shot and killed.

20 Mr. Peterson dropped out of high school in tenth grade to focus on music. After
21 briefly moving back in with his father, Mr. Peterson moved in with his friend and his
22 friend's aunt around the age of sixteen or seventeen. It was during this time that Mr.
23 Peterson turned to alcohol and marijuana as a means of coping with his emotions and his
24 pain.

25 At age eighteen, Mr. Peterson signed a contract with Sean Kingston and moved back
26 to the United States to pursue his music career. Invigorated by the opportunity he was
27

1 given, Mr. Peterson stopped acting out and focused instead on his career. Mr. Peterson's
2 manager was instrumental in providing him mentorship and teaching him how to manage
3 his anger and emotions. As he grew more successful in the music industry, Mr. Peterson
4 became active in donating funds and volunteering time with local charities serving
5 underprivileged communities.

6 As his music career progressed, Mr. Peterson continued using alcohol as a means of
7 coping with stress and unresolved traumas from his childhood. Based on his pattern of
8 alcohol use and the negative impact that it had on his day-to-day function and life in
9 general, Dr. Gharibian found that Mr. Peterson meets the diagnostic criteria for Alcohol-
10 Use Disorder, Severe. Dr. Gharibian is not able to determine guilt or innocence in this case
11 or to verify Mr. Peterson's version of events. Dr. Gharibian, however, has made several
12 key findings which show that, assuming that the allegations in this case are true, Mr.
13 Peterson's childhood trauma and alcohol-use disorder were contributing factors in the
14 offense.

15 **III. THIS COURT SHOULD SENTENCE MR. PETERSON TO A TERM OF**
16 **PROBATION.**

17 Penal Code § 1203(b)(3) allows the sentencing court to place a defendant on
18 probation “[i]f the court determines that there are circumstances in mitigation of the
19 punishment prescribed by law or that the ends of justice would be served by granting
20 probation to the person” CAL. PENAL CODE § 1203(b)(3). “[P]robation is not a matter
21 of right, but an act of grace or clemency, the granting or denial of which is within the
22 court's discretion and that in determining whether a convicted defendant is a deserving
23 candidate for clemency, the court is entitled to consider all the facts and circumstances of
24 the case” *People v. Axtell* (1981) 118 Cal.App.3d 246, 256-57 (internal citations
25 omitted).

1 **A. The Facts and Circumstances Here Demonstrate an Unusual Case in Which the**
2 **Interests of Justice Would Be Best Served if He is Granted Probation.**

3 Because the jury found that Mr. Peterson personally used a firearm and personally
4 inflicted great bodily injury, he is presumptively ineligible for probation. *See* CAL. PENAL
5 CODE § 1203(e). Section 1203(e), however, provides that the presumption of ineligibility
6 may be overcome in “unusual cases in which the interests of justice would best be served
7 if the person is granted probation” CAL. PENAL CODE § 1203(e). Rule of Court
8 4.413(c) provides factors that “may indicate the existence of an unusual case in which
9 probation may be granted if otherwise appropriate. . . .” CAL. RULES OF COURT 4.413(c).
10 The factors present here demonstrate an unusual case in which probation may be granted
11 if otherwise appropriate.

12 **1. Assuming the Allegations are True, the Crime in this Case was Committed**
13 **Because of a Mental Condition Not Amounting to a Defense, and There is a**
14 **High Likelihood That Mr. Peterson Would Respond Favorably to Mental**
15 **Health Care and Treatment Required as a Condition of Probation.**

16 Rule of Court 4.413(c)(2)(B) provides a factor limiting a defendant’s culpability
17 where “[t]he crime was committed because of a mental condition not amounting to a
18 defense, and there is a high likelihood that the defendant would respond favorably to
19 mental health care and treatment that would be required as a condition of probation”
20 CAL. RULES OF COURT 4.413(c)(2)(B). First, assuming the allegations are true, the
21 offense in this case was committed because of a mental condition—alcohol-use disorder.
22 As Dr. Gharibian concluded in his report, Mr. Peterson’s alcohol use “compromised his
23 ability to manage and regulate his emotions and behaviors and that his alcohol use
24 disorder played a significant role in the alleged offenses.” *See* Psychological Evaluation
25 Report 5-6, July 27, 2023 (hereinafter “Evaluation Report”). Thus, Mr. Peterson’s
26 alcohol-use disorder, although not amounting to a defense, reduced his culpability.
27
28

1 Second, there is a high likelihood that Mr. Peterson would respond favorably to
2 mental health care and treatment that would be required as a condition of probation. *See*
3 *Evaluation Report* at 8-9. More specifically, Dr. Gharibian recommends placement in a
4 residential drug treatment program which utilizes evidence-based treatments, such as
5 cognitive-behavioral therapy (CBT) for substance use, life/work-related stress, and
6 unresolved issues from childhood trauma. *See Evaluation Report* at 9. Dr. Gharibian also
7 recommends use of a sponsor as part of Mr. Peterson’s treatment program, random drug
8 and alcohol testing, and referral to a psychiatrist for medication consultation to determine
9 if medications would be appropriate. *See Evaluation Report* at 9.

10 **2. The Results of Mr. Peterson’s Risk/Needs Assessment Demonstrates That He**
11 **is at a Low Risk for Violent Recidivism.**

12 Rule of Court 4.413(c)(3) provides that, along with all other relevant information,
13 the sentencing court may consider the results of a risk/needs assessment of the defendant.
14 CAL. RULES OF COURT 4.413(c)(3). “The weight of a risk/needs assessment is for the
15 court to consider in its sentencing discretion.” CAL. RULES OF COURT 4.413(c)(3).

16 As part of a risk/needs assessment, Dr. Gharibian completed the Historical
17 Clinical Risk Management (HCR-20), “a comprehensive set of professional guidelines
18 for the assessment and management of violence risk.” *See Evaluation Report* at 6. Based
19 on the assessment, Dr. Gharibian concluded that Mr. Peterson presents a low risk for
20 violent recidivism in the community. *See Evaluation Report* at 6-8.

21 More specifically, Dr. Gharibian found that, although Mr. Peterson has a historical
22 risk factor of trauma as a child and adolescent, he “stopped acting out” as an adult and
23 began focusing on his music career. *See Evaluation Report* at 6-7. As an adult, Mr.
24 Peterson’s primary historical risk factor is his chronic alcohol and marijuana use, which
25 he used to “escape and cope with his emotions and feeling of abandonment and
26 rejection,” and to help manage anxiety and stress. *See Evaluation Report* at 7. Despite
27

1 these factors, Dr. Gharibian concluded that several aspects of Mr. Peterson’s history and
2 current functioning exhibit his “amenability to managing his risk for violence in the
3 community with the support that will be available to him,” including placement in a
4 residential alcohol treatment program. *See* Evaluation Report at 7-8. Mr. Peterson has a
5 history of prosocial conduct and behavior, including active involvement in charitable and
6 community organizations serving underprivileged communities. *See* Evaluation Report at
7 7. Based on the above factors, Dr. Gharibian ultimately concluded that Mr. Peterson
8 poses “a low risk for violent recidivism if he were to participate in treatment and stay
9 sober as a condition of probation.” *See* Evaluation Report at 8 (emphasis in original). To
10 further assure that Mr. Peterson is a low risk for recidivism, counsel proposes home
11 detention as a condition of probation.

12 **3. The Factors Present in This Case Demonstrate an Unusual Case in Which the**
13 **Interests of Justice Would Best Be Served if Mr. Peterson is Granted**
14 **Probation.**

15 The above factors, both individually and cumulatively, establish that this is an
16 unusual case in which the interests of justice would best be served if Mr. Peterson is
17 granted probation. Accordingly, this Court should find that Mr. Peterson has overcome
18 the presumption of ineligibility and exercise its discretion to sentence him to a term of
19 probation.

20 **B. Because Mr. Peterson Has Overcome the Presumption of Ineligibility, this Court**
21 **Should Exercise Its Discretion to Sentence Mr. Peterson to a Term of Probation.**

22 Once a sentencing court determines that the presumption of ineligibility has been
23 overcome, it must consider criteria enumerated in Rule 4.414, which affects the decision
24 to grant or deny probation, including facts relating to the crime and facts relating to the
25 defendant. CAL. RULES OF COURT 4.413(b); *see also People v. Stuart* (2007) 156
26 Cal.App.4th 165, 178. “The listing of factors in these rules for making discretionary
27 sentencing decisions is not exhaustive and does not prohibit a trial judge from using
28

1 additional criteria reasonably related to the decision being made.” CAL. RULES OF COURT
2 4.08(a) The decision to grant or deny probation requires the sentencing court to consider
3 all the facts and circumstances of the case. *People v. Weaver* (2007) 149 Cal.App.4th
4 1301, 1312 (citing *People v. Birmingham* (1990) 217 Cal.App.3d 180, 185). “The
5 circumstances utilized by the trial court to support its sentencing choice need only be
6 established by a preponderance of the evidence.” *Weaver*, 149 Cal.App.4th at 1313
7 (quoting *People v. Leung* (1992) 5 Cal.App.4th 482, 506). Here, the above factors, along
8 with Mr. Peterson’s active engagement with charity work and the community, weigh
9 heavily in support of granting probation in this case.

10 **1. Mr. Peterson’s Insignificant Record of Criminal Conduct, His Willingness and**
11 **Ability to Comply with Terms of Probation, and the Low Likelihood That He**
12 **Will Be a Danger to Others Weigh Heavily in Favor of Granting Probation.**

13 Facts relating to the defendant include, in pertinent part:

14 (1) Prior record of criminal conduct, whether as an adult or a juvenile,
15 including the recency and frequency of prior crimes; and whether the prior
16 record indicates a pattern of regular or increasingly serious criminal
17 conduct;

18 . . .

19 (3) Willingness to comply with the terms of probation;

20 (4) Ability to comply with reasonable terms of probation as indicated by the
21 defendant’s age, education, health, mental faculties, history of alcohol or
22 other substance abuse, family background and ties, employment and
23 military service history, and other relevant factors;

24 . . .

25 (8) The likelihood that if not imprisoned the defendant will be a danger to
26 others.

27 CAL. RULES OF COURT 4.414(b).

1 Mr. Peterson's insignificant record of criminal conduct, along with his willingness
2 and ability to comply with terms of probation, weigh heavily in favor of granting him a
3 term of probation in lieu of incarceration. First, as the prosecution acknowledges in its
4 sentencing memorandum, Mr. Peterson has an insignificant record of criminal conduct. In
5 addition, Mr. Peterson's prior record does not indicate a pattern of regular or increasingly
6 serious criminal conduct.

7 Second, Mr. Peterson has demonstrated a willingness to comply with the terms of
8 probation, if sentenced to such. Mr. Peterson has demonstrated that he would comply
9 with any residential substance abuse treatment programs, including random drug and
10 alcohol testing and any other terms of probation. *See* Evaluation Report at 8.

11 Third, Mr. Peterson has demonstrated the ability to comply with reasonable terms
12 of probation, as indicated by the circumstances. Mr. Peterson is thirty-one years old with
13 a GED from Peel Adult Learning Centre in Brampton, Ontario, Canada. Other than his
14 mental health diagnoses, Mr. Peterson is in good health, is able to work, and has
15 demonstrated an insurmountable work ethic throughout his music career. Mr. Peterson
16 comes from a loving family with strong, Christian values. Mr. Peterson has a wide
17 support system, which includes family, friends, personal staff, entertainment managers,
18 artists and other professionals within the entertainment industry, and other individuals in
19 the charity and activist communities. Considering his risk factors, Dr. Gharibian
20 concluded that Mr. Peterson would be able to comply with terms of probation. *See*
21 Evaluation Report at 6-8.

22 Fourth, there is a low likelihood that Mr. Peterson will be a danger to others if not
23 incarcerated. Mr. Peterson presents a low risk for violent recidivism in the community.
24 *See* Evaluation Report at 6-8.

1 **2. The Likely Effect of Imprisonment on Mr. Peterson and His Very Young Son**
2 **Weights Heavily in Favor of Granting Probation.**

3 In addition to the above factors, Mr. Peterson’s imprisonment will most certainly
4 have a devastating impact on both him and his six-year-old son, Kai. As Dr. Gharibian
5 recommends, Mr. Peterson requires evidence-based treatments, such as CBT, to address
6 his substance use, life/work-related stress, and unresolved issues from childhood trauma.
7 In prison, such treatment is typically unavailable or substandard, and would thereby
8 deprive Mr. Peterson of necessary mental health treatment. *See, e.g., Kelli Canada, et al.,*
9 *Multi-Level Barriers to Prison Mental Health and Physical Health Care for Individuals*
10 *With Mental Illnesses*, 12:777124 FRONT PSYCH. (2022).

11 In addition, Mr. Peterson is being held in solitary confinement, where he is placed
12 in a “half cell” twenty-four hours a day for most days. Mr. Peterson has been deprived of
13 his daily one-hour recreation time and has only been provided dayroom time three days
14 since he became incarcerated in December of 2022. Countless research studies have
15 shown the severe impact of solitary confinement on an individual’s mental and physical
16 health. *See, e.g., Keramet Reiter, et al., Psychological Distress in Solitary Confinement:*
17 *Symptoms, Severity, and Prevalence in the United States, 2017–2018*, 110:S1 AMERICAN
18 J. OF PUBLIC HEALTH (2020). Indeed, many human rights organizations across the globe
19 have advocated against solitary confinement, arguing that the practice may amount to
20 torture. *See, e.g., Press Release, United Nations Human Rights Council, United States:*
21 *Prolonged solitary confinement amounts to psychological torture, says UN expert* (Feb.
22 28, 2020), [https://www.ohchr.org/en/press-releases/2020/02/united-states-prolonged-](https://www.ohchr.org/en/press-releases/2020/02/united-states-prolonged-solitary-confinement-amounts-psychological-torture)
23 [solitary-confinement-amounts-psychological-torture.](https://www.ohchr.org/en/press-releases/2020/02/united-states-prolonged-solitary-confinement-amounts-psychological-torture)

24 Moreover, Mr. Peterson is the father of a very young son named Kai. Prior to his
25 incarceration, Mr. Peterson not only provided for his son financially, but also acted as
26 Kai’s role model and pillar of emotional support. Mr. Peterson’s incarceration has
27
28

1 significantly interfered with his ability to actively participate in his son’s growth.
2 Research shows that parental incarceration has a severe impact on a child’s physical,
3 mental, and emotional development. *See, e.g.*, Julie Poehlmann-Tynan & Kristin Turney,
4 *A Developmental Perspective on Children with Incarcerated Parents*, 15:1 CHILD DEV.
5 PERSP. 3-11 (2020).

6 **3. Mr. Peterson’s History of Charity Work and Active Engagement with**
7 **Underserved Communities Weighs Heavily in Favor of Granting Probation.**

8 Finally, this Court should take into consideration Mr. Peterson’s positive influence
9 and involvement in the local community and in philanthropy. Mr. Peterson has worked
10 extensively with Unite the People (“UTP”) as a member of the Advisory Board. UTP is
11 geared towards providing “a pillar of hope” for underprivileged communities, including
12 individuals who are incarcerated and their loved ones. UTP places strong emphasis on the
13 need for rehabilitation in order to allow incarcerated individuals the opportunity to better
14 themselves and to become contributing members to society.

15 Prior to his incarceration, Mr. Peterson served as a member of UTP’s Advisory
16 Board. During this time, Mr. Peterson worked closely with UTP to help several clients
17 achieve resentencing and become reunited with their families. In addition to his financial
18 contributions, Mr. Peterson has donated countless hours of mentorship to UTP clients and
19 staff. Mr. Peterson has also assisted with numerous supply drives to provide provisions to
20 homeless individuals and families in Long Beach and Compton, California. Mr. Peterson
21 also worked with #cut50 (now known as Dream Corps)—a bipartisan national initiative
22 seeking to reduce the prison population while making communities safer—by providing
23 meals for black fathers and their families as part of the “100 Black Fathers” fund.

24 During the COVID-19 pandemic, Mr. Peterson established the Tory Lanez Dream
25 City Fund to assist struggling families. Prior to his incarceration, Mr. Peterson was
26 beginning the process of founding Confidential Pharma, an independent pharmacy
27

1 providing affordable access to healthcare for underserved communities in Hallandale
2 Beach, Florida. Due to Mr. Peterson’s incarceration, however, Confidential Pharma was
3 unable to open its doors and currently remains in limbo.

4 In addition, Mr. Peterson has provided opportunities for underprivileged
5 individuals in the entertainment industry. For example, Mr. Peterson has worked with the
6 Michael Vincent Academy, a makeup school in Los Angeles. In addition to his financial
7 contributions, Mr. Peterson has brought numerous students to work on the sets of his
8 music videos, thereby providing them with valuable experience and crucial production
9 credits.

10 Mr. Peterson’s charity work is not limited to California. Mr. Peterson has also
11 served underprivileged communities across the country by assisting in toy drives in
12 Florida and Illinois; hosting a “Back to School” drive for underserved children in
13 Maryland; mentoring beneficiaries of Diamonds on the Rise, a non-profit organization
14 assisting underprivileged communities in Maryland; hosting a Thanksgiving turkey drive
15 in New York; donating water to communities in Louisiana, Texas, and Michigan;
16 delivering household supplies to children in New Jersey; and volunteering at a
17 community event providing supplies for Haitian immigrants impacted by the border crisis
18 in Texas. Mr. Peterson’s charity work has even crossed international boundaries. He has
19 likewise engaged underserved communities by providing humanitarian aid with Uniting
20 America Outreach in Mexico; working as a Charity Ambassador for The A-Star
21 Foundation, based in the United Kingdom; and volunteering with the Organizația Pentru
22 Apărarea Drepturilor Omului, also known as the Organization for Human Rights Defence,
23 to raise funds at a Hope for Haiti event.

24 Mr. Peterson unfortunately has not been able to continue his active engagement
25 with charitable organizations and underprivileged communities due to his recent
26 incarceration. If sentenced to a term of probation, Mr. Peterson will be able to resume his
27

1 charitable activities and provide much needed support for underserved communities in
2 Los Angeles and beyond.

3 **4. The Factors Present in This Case Weigh Heavily in Favor of Granting Mr.**
4 **Peterson Probation.**

5 These factors, both individually and cumulatively, weigh heavily in favor of
6 sentencing Mr. Peterson to a term of probation in lieu of incarceration. Accordingly, this
7 Court should exercise its discretion to sentence Mr. Peterson to a term of probation.

8 **IV. THIS COURT SHOULD EXERCISE ITS DISCRETION TO STRIKE OR**
9 **DISMISS THE SENTENCING ENHANCEMENTS IN THIS CASE.**

10 Penal Code § 12022.5(a) provides for an additional and consecutive term of
11 imprisonment for three, four, or ten years for any person who personally uses a firearm in
12 the commission of a felony. CAL. PENAL CODE § 12022.5(a). Section 12022.7(a) provides
13 for an additional and consecutive term of three years for personal infliction of great bodily
14 injury in the commission of a felony. CAL. PENAL CODE § 12022.7(a). The prosecution has
15 alleged both enhancements in this case.

16 Pursuant to § 1385, the sentencing court has the discretion, in the interest of justice,
17 to strike or dismiss the firearm and bodily-injury enhancements. CAL. PENAL CODE § 1385;
18 CAL. RULES OF COURT § 4.428(c)(1); CAL. PENAL CODE § 12022.5(c); *see also People v.*
19 *Parra Martinez* (2022) 78 Cal.App.5th 317, 320-21. In exercising such discretion, a
20 sentencing court must consider and afford great weight to evidence offered by the
21 defendant to prove any of the mitigating circumstances in § 1385(c). CAL. PENAL CODE §
22 1385(c)(2); CAL. RULES OF COURT § 4.428(c)(2). The mitigating circumstances
23 enumerated in section 1385(c) are not exclusive. CAL. PENAL CODE § 1385(c)(4); CAL.
24 RULES OF COURT § 4.428(c)(2)(B).

25 “Proof of the presence of one or more of these circumstances weighs greatly in favor
26 of dismissing the enhancement, unless the court finds that dismissal of the enhancement
27

1 would endanger public safety.” CAL. PENAL CODE § 1385(c)(2); CAL. RULES OF COURT §
2 4.428(c)(2)(A). Section 1385(c)(2) defines “endanger public safety” to mean that “there is
3 a likelihood that the dismissal of the enhancement would result in physical injury or other
4 serious danger to others.” CAL. PENAL CODE § 1385(c)(2). If the court dismisses the
5 enhancement pursuant to section 1385(c), then both the enhancement and its punishment
6 must be dismissed. CAL. RULES OF COURT § 4.428(c)(3).

7 As a preliminary matter, dismissal of these enhancements would not endanger
8 public safety. According to Dr. Gharibian’s report, Mr. Peterson presents a low risk for
9 violent recidivism. *See* Evaluation Report at 6-8. Thus, there is a low likelihood that
10 dismissal of the enhancement would result in physical injury or other serious danger to
11 others.

12 **A. Multiple Enhancements Are Alleged in a Single Case.**

13 Section 1385(c)(2)(B) provides a mitigating circumstance where multiple
14 enhancements are alleged in a single case. CAL. PENAL CODE § 1385(c)(2)(B). If a
15 sentencing court determines that this mitigating circumstance is present and that dismissal
16 will not endanger public safety, then the court has the discretion to dismiss all but one
17 enhancement. CAL. PENAL CODE § 1385(c)(2)(B); *see also People v. Walker* (2022) 86
18 Cal.App.5th 386, 396-97. Because there are multiple enhancements alleged here—the
19 firearm enhancement and the bodily-injury enhancement—and because striking all but one
20 enhancement would not endanger public safety, this Court should strike at least one
21 enhancement.

22 **B. The Current Offense is Connected to Mental Illness.**

23 Section 1385(c)(2)(D) provides a mitigating circumstance where the current offense
24 is connected to mental illness. CAL. PENAL CODE § 1385(c)(2)(D). Section 1385(c)(5)
25 defines “mental illness” as “a mental disorder as identified in the most recent edition of the
26

1 Diagnostic and Statistical Manual of Mental Disorders [DSM]” CAL. PENAL CODE §
2 1385(c)(5). According to Dr. Gharibian’s report, Mr. Peterson meets the diagnostic criteria
3 for alcohol-use disorder. *See* Evaluation Report at 4-5. Alcohol-use disorder is identified
4 as a mental disorder in the DSM-V.

5 Section 1385(c)(5) further provides that a sentencing court may conclude that a
6 defendant’s mental illness was connected to the offense if, after reviewing any relevant
7 and credible evidence, the court concludes that “the defendant’s mental illness
8 substantially contributed to the defendant’s involvement in the commission of the
9 offense.” CAL. PENAL CODE § 1385(c)(2)(D). Assuming the allegations are true, Dr.
10 Gharibian concluded that Mr. Peterson’s alcohol use “compromised his ability to manage
11 and regulate his emotions and behaviors and that his alcohol use disorder played a
12 significant role in the alleged offenses.” *See* Evaluation Report at 5-6. The evidence
13 adduced at trial demonstrates that Mr. Peterson was intoxicated at the time of the offense.
14 Because the record evidence and Dr. Gharibian’s report demonstrate that Mr. Peterson’s
15 substance-use disorder substantially contributed to his involvement in the commission of
16 the offense, assuming the allegations are true, this Court should find that the offense is
17 connected to Mr. Peterson’s mental illness and afford significant weight to this mitigating
18 circumstance.

19 **C. The Current Offense is Connected to Prior Victimization or Childhood Trauma.**

20 Section 1385(c)(2)(E) provides a mitigating circumstance where the current offense
21 is connected to prior victimization or childhood trauma. CAL. PENAL CODE §
22 1385(c)(2)(E). Section 1385(c)(6) defines “childhood trauma” as “physical, emotional, or
23 sexual abuse, or physical or emotional neglect” experienced by the defendant as a minor.
24 CAL. PENAL CODE § 1385(c)(6). Section 1385(c)(6) further provides that a sentencing court
25 may conclude that a defendant’s childhood trauma was connected to the offense if, after
26 reviewing any relevant and credible evidence, the court concludes that “the defendant’s
27

1 childhood trauma substantially contributed to the defendant’s involvement in the
2 commission of the offense.” CAL. PENAL CODE § 1385(c)(6).

3 The current offense in this case is connected to Mr. Peterson’s prior victimization
4 or childhood trauma. Mr. Peterson experienced several incidents of physical, emotional, or
5 sexual abuse, or physical or emotional neglect. During his childhood, Mr. Peterson was
6 subjected to corporal punishment, including use of a belt or tree branch, resulting in welts
7 on his body. *See* Evaluation Report at 2. Mr. Peterson also experienced tremendous loss
8 and trauma from the sudden death of his mother when he was only eleven years old. *See*
9 Evaluation Report at 2-3. In addition, Mr. Peterson experienced emotional neglect, as he
10 was shuffled between family members in different states and in Canada. *See* Evaluation
11 Report at 2-3. At age fourteen, Mr. Peterson was kicked out of his grandmother’s house
12 and moved in with three men in their mid-twenties. *See* Evaluation Report at 3. As a minor
13 teenager, Mr. Peterson was the victim of multiple incidents of violence. *See* Evaluation
14 Report at 3. These incidents of trauma will be corroborated by several witnesses at the
15 sentencing hearing.

16 Dr. Gharibian concluded in his report that Mr. Peterson’s grief, loss, and trauma
17 through his childhood and adolescence contributed to the development of alcohol-use
18 disorder. *See* Evaluation Report at 2-5. According to the report, Mr. Peterson began
19 drinking heavily at only fifteen years old. *See* Evaluation Report at 4. His alcohol use
20 escalated in his early twenties, as he used alcohol to cope with his emotions and unresolved
21 trauma from childhood. *See* Evaluation Report at 4-5. Because Mr. Peterson’s childhood
22 trauma contributed to the development of alcohol-use disorder, and because this disorder
23 “ultimately played a significant role in the commission of the offense,” this Court should
24 find that, assuming the allegations are true, Mr. Peterson’s childhood trauma substantially
25 contributed to his involvement in the commission of the offense.

1 **D. Nonstatutory Factors in This Case Weigh Heavily in Favor of Dismissing or**
2 **Striking the Firearm and Bodily-Injury Enhancements.**

3 Although instructive, the mitigating circumstances enumerated in section 1385(c)
4 are not exclusive. CAL. PENAL CODE § 1385(c)(4); CAL. RULES OF COURT § 4.428(c)(2)(B).
5 In deciding whether to strike or dismiss the firearm and bodily-injury enhancements, this
6 Court should also take into consideration Mr. Peterson’s positive influence and active
7 involvement in the local community and in charitable work, as discussed above.

8 Finally, this Court should consider the sentencing disparity which this case
9 presents. The sentence sought by the People in this case is an extreme deviation from the
10 policies imposed by the District Attorney’s Office under District Attorney (“DA”)
11 George Gascón. From December of 2020 through February of 2021, the DA’s Office
12 issued several Special Directives (“SD”) regarding its policies on sentencing
13 enhancements. Noting that sentencing enhancements are “a legacy of California’s ‘tough
14 on crime’ era,” Special Directive 20-08 concluded that “the current statutory ranges for
15 criminal offenses alone, without enhancements, are sufficient to both hold people
16 accountable and also to protect public safety.” *See* Special Directive 20-08 at 1, Dec. 7,
17 2020, available at [https://da.lacounty.gov/sites/default/files/pdf/SPECIAL-DIRECTIVE-](https://da.lacounty.gov/sites/default/files/pdf/SPECIAL-DIRECTIVE-20-08.pdf)
18 [20-08.pdf](https://da.lacounty.gov/sites/default/files/pdf/SPECIAL-DIRECTIVE-20-08.pdf). In support of this policy, SD 20-08 reasoned as follows:

19 California has enacted over 100 sentencing enhancements, many of which
20 are outdated, incoherent, and applied unfairly. There is no compelling
21 evidence that their enforcement improves public safety. In fact, the opposite
22 may be true. . . .

23 [A] study [by Stanford Computational Policy Lab] found that the use of
24 sentencing enhancements -- mostly Prop. 8 priors and Three Strikes
25 enhancements -- accounted for half of the time served for enhancements.
26 The study concluded that we could substantially reduce incarceration by
27 ceasing to use enhancements. These enhancements also exacerbate racial
28 disparities in the justice system

1 Other studies increasingly indicate that spending more time in prison can
2 *cause* the risk of later reoffending; as the harms and traumas experienced in
3 prison grow, the ability to reintegrate after release falls.

4 *See* Special Directive 20-08 at 3 (emphasis in original).

5 Special Directive 20-08.1 instructs Deputy District Attorneys (“DDAs”) to move
6 to dismiss and withdraw any enhancements in pending cases. *See* Special Directive 20-
7 08.1 at 1, Dec. 15, 2020, available at
8 <https://da.lacounty.gov/sites/default/files/policies/SD-20-08-1.pdf>. Special Directive 20-
9 08.2 allows enhanced sentences in cases involving the most vulnerable victims and in
10 specified extraordinary circumstances. *See* Special Directive 20-08.2 at 1, Dec. 18, 2020,
11 available at <https://da.lacounty.gov/sites/default/files/policies/SD-20-08-2.pdf>.

12 More specifically, SD 20-08.2 provides that enhancements may be filed in cases
13 involving the specified extraordinary circumstances, with written Bureau Director
14 approval upon written recommendation by the Head Deputy. SD 20-08.2 provided two
15 types of extraordinary circumstances: (1) the physical injury personally inflicted upon the
16 victim is “extensive”; or (2) “the type of weapon or manner in which a deadly or
17 dangerous weapon including firearms is used exhibited an extreme and immediate threat
18 to human life.” *See* Special Directive 20-08.2 at 2. SD 20.08.2 further provided that these
19 exceptions must be narrowly construed and that “[f]acts or circumstances that are
20 sufficient to meet the legal definition of great bodily injury or use of a deadly or
21 dangerous weapon alone are insufficient to warrant extraordinary circumstances.” *See*
22 Special Directive 20-08.2 at 2.

23 Special Directive 21-01 requires DDAs to make motions to dismiss or withdraw
24 any enhancements pursuant to Penal Code § 1385, “based on individual case review
25 pursuant to the considerations set forth by The Committee [on Revision of the Penal
26 Code].” *See* Special Directive 21-01 at 2, Feb. 10, 2021, available at
27

1 <https://da.lacounty.gov/sites/default/files/policies/Special-Directive-21-01.pdf>. In
2 determining whether to seek dismissal or withdrawal of enhancements, the Committee
3 recommended consideration of the following factors, in pertinent part:

- 4 ▪ The current offense is connected to mental health issues.
- 5 ▪ The current offense is connected to prior victimization or childhood
6 trauma.
- 7 ▪ Multiple enhancements are alleged in a single case or the total sentence
8 is over 20 years.

9 *See* Special Directive 21-01 at 3. SD 21-01 further provides for a presumption in favor of
10 dismissal or withdrawal when any one of the above factors apply.

11 The Committee-recommended list is not exhaustive because “there may be factors
12 beyond those listed above where it would be in the interest of justice to dismiss or
13 withdraw an enhancement.” *See* Special Directive 21-01 at 3. SD 21-01 further instructs
14 DDAs to “consider the ‘interests of justice’ broadly in determining whether an
15 enhancement is appropriate in their case.” *See* Special Directive 21-01 at 3. Finally, SD
16 21-01 provides that the presumption of dismissal and withdrawal can be overcome only if
17 there is “clear and convincing evidence that dismissal of the enhancement would
18 endanger public safety.” *See* Special Directive 21-01 at 3.

19 As to probation, Special Directive 20-08 provides that, if a charged offense is not
20 probation-eligible, the presumptive sentence will be the lower term, unless extraordinary
21 circumstances justify the middle term. SD 20-08 provides that extraordinary
22 circumstances must be approved by the appropriate bureau director. DA Gascón
23 reiterated this policy in SD 20-08.2, requiring documentation of reasons for deviation
24 from the lower term. *See* Special Directive 20-08.2 at 3.

25 This is not a case in which the application of sentencing enhancements is justified
26 under the DA’s own policies. First, this case does not involve a victim who is among “the
27 most vulnerable.” Although SD 20-08.2 does not define “the most vulnerable victims,”

1 common understanding would include children, senior citizens, and people with
2 disabilities. Ms. Pete does not fall under any of those categories. Indeed, as will be
3 discussed later in this memorandum, Ms. Pete does not even qualify as a “particularly
4 vulnerable” victim for purposes of aggravation.

5 Second, there is insufficient evidence of “extraordinary circumstances” in this
6 case. While there was indeed physical injury, the injuries were not “extensive.” In
7 addition, although a firearm was used, “[f]acts or circumstances that are sufficient to
8 meet the legal definition of . . . use of a deadly or dangerous weapon alone are
9 **insufficient to warrant extraordinary circumstances.**” *See* Special Directive 20-08.2 at
10 2 (emphasis added).

11 Moreover, pursuant to the factors listed in SD 21-01, dismissal and withdrawal of
12 enhancements are justified in this case. As Dr. Gharibian concluded in his report, the
13 alleged offense here is connected to mental health issues and to prior victimization or
14 childhood trauma. Finally, there are multiple enhancements alleged in this single case.

15 As SD 21-01 provides, “[t]he presumption will be in favor of dismissal or
16 withdrawal when any one of the factors apply.” *See* Special Directive 21-01 at 2. In light
17 of the lack of extraordinary circumstances and the presence of factors creating a
18 presumption of dismissal and withdrawal of enhancements, it is unclear as to why the
19 People did not move to dismiss or withdraw the enhancements in this case, as required
20 under the DA’s own policies. Instead, the People’s charging decisions in this case stand
21 in stark contrast to the well-established policies in the above-cited Special Directives.
22 Had DA Gascón’s Special Directives been honored by dismissing and withdrawing the
23 enhancements, Mr. Peterson would be facing a lower term of three years, as opposed to
24 the thirteen-year middle term recommended by the People.

1 **E. This Court Should Exercise its Discretion to Strike or Dismiss the Firearm and**
2 **Bodily-Injury Enhancements in This Case.**

3 In light of the presence of the above mitigation, this Court is required to consider
4 and should afford great weight to the above-discussed statutory and nonstatutory
5 mitigating circumstances. Accordingly, this Court should exercise its discretion under §
6 1385 and strike or dismiss the firearm and bodily-injury enhancements.

7 **V. BECAUSE MR. PETERSON EXPERIENCED PSYCHOLOGICAL,**
8 **PHYSICAL, AND CHILDHOOD TRAUMA, AND SUCH TRAUMA WAS A**
9 **CONTRIBUTING FACTOR IN THE ALLEGED OFFENSE, THIS COURT IS**
10 **REQUIRED TO IMPOSE THE LOWER TERM.**

11 Rule of Court 4.420(a) provides that the sentencing court must, in its sound
12 discretion, order imposition of a sentence not to exceed the middle term. CAL. RULES OF
13 COURT 4.420(a). Here, no circumstances justify imposition of a sentence exceeding the
14 middle term, and the People recommend imposition of the middle term.

15 Although Rule 4.420(d) allows the sentencing court discretion in selecting between
16 the middle and lower terms, Rule 4.420(e) provides, in pertinent part:

17 Notwithstanding section 1170(b)(1), and unless the court finds that the
18 aggravating circumstances outweigh the mitigating circumstances such that
19 imposition of the lower term would be contrary to the interests of justice,
20 the court **must** order imposition of the lower term if any of the following
21 was a contributing factor in the commission of the offense:

22 (1) The defendant has experienced psychological, physical, or childhood
23 trauma, including, but not limited to, abuse, neglect, exploitation, or sexual
24 violence

25 CAL. RULES OF COURT 4.420(e) (emphasis added). Circumstances upon which the
26 sentencing court relies in making its sentencing choice must be established by a
27 preponderance of evidence. *People v. Lewis* (1991) 229 Cal.App.3d 259, 264.

28 First, Mr. Peterson has experienced psychological, physical, and childhood
trauma, including abuse and neglect. Dr. Gharibian concluded in his report that Mr.

1 Peterson’s grief, loss, and trauma throughout his childhood and adolescence contributed
2 to the development of alcohol-use disorder. *See* Evaluation Report at 2-5. Mr. Peterson’s
3 alcohol use escalated in his early twenties, as he used alcohol to cope with his emotions
4 and unresolved trauma from childhood. *See* Evaluation Report at 4-5.

5 Second, assuming that the allegations in this case are true, Mr. Peterson’s
6 psychological, physical, and childhood trauma was a contributing factor in the
7 commission of the offense. In his report, Dr. Gharibian concluded that Mr. Peterson’s
8 alcohol-use disorder “ultimately played a significant role in the commission of the
9 offense.” *See* Evaluation Report at 2-6. Accordingly, this Court is required to impose the
10 lower term in this case.

11 **VI. THE CIRCUMSTANCES IN MITIGATION JUSTIFY IMPOSITION OF**
12 **THE LOWER SENTENCING TERM.**

13 Even if this Court finds that it is not required to impose the lower term under Rule
14 4.420(e), it should nonetheless exercise its discretion to do so. “In selecting between the
15 middle and lower terms of imprisonment, the sentencing judge may consider circumstances
16 in aggravation or mitigation, and any other factor reasonably related to the sentencing
17 decision.” CAL. RULES OF COURT 4.420(d). Circumstances in mitigation and circumstances
18 in aggravation must be proven by a preponderance of the evidence. *People v. Sandoval*
19 (2007) 41 Cal.4th 825, 836. “[T]he weighing of aggravating and mitigating circumstances
20 simply is a process by which the trial court selects the most appropriate sentence in a
21 particular case.” *People v. Black* (2007) Cal. 4th 799, 814, fn. 4.

22 **A. The Circumstances in Aggravation Proposed by the People Should Be Afforded**
23 **No Weight.**

24 Rule 4.421 provides a list of factors included as circumstances in aggravation. CAL.
25 RULES OF COURT 4.421. “An aggravating circumstance is a fact that makes the offense
26 ‘**distinctively** worse than the ordinary.” *People v. Black* (2007) 41 Cal.4th 799, 817

1 (quoting *People v. Moreno* (1982) 128 Cal.App.3d 103, 110, 179 Cal.Rptr. 879) (emphasis
2 added). In its sentencing memorandum, the People allege four circumstances in
3 aggravation: (1) the alleged offense involved great violence, great bodily harm, threat of
4 great bodily harm, or other acts disclosing a high degree of cruelty, viciousness, or
5 callousness; (2) the defendant was armed with or used a weapon at the time of the
6 commission of the alleged offense; (3) the victim was particularly vulnerable; and (4) the
7 defendant lacks remorse.

8 **1. The Offense in This Case Did Not Involve a High Degree of Cruelty,**
9 **Viciousness, or Callousness.**

10 Rule 4.421(a)(1) provides an aggravating circumstance where “[t]he crime involved
11 great violence, great bodily harm, threat of great bodily harm, or other acts disclosing a
12 high degree of cruelty, viciousness, or callousness.” CAL. RULES OF COURT 4.421 (a)(1).
13 Here, the People assert callousness based on Ms. Pete’s testimony that the defendant
14 shouted “Dance, bitch” and fired several rounds in Ms. Pete’s direction, while she was
15 “wearing only a bikini and no shoes.” The People further argue that the defendant’s actions
16 “posed a significant danger to everyone . . . in the vicinity,” and that his “conscious
17 disregard for the well-being and safety of all those around them signifies a high degree of
18 indifference for human life.”

19 Although the terms “cruelty,” “viciousness,” or “callousness” have not been
20 precisely defined in statute or court rule, courts have generally found the presence of this
21 aggravator only where the offense involved extraordinary circumstances exhibiting “a **high**
22 **degree** of cruelty, viciousness, or callousness.” CAL. RULES OF COURT 4.421 (a)(1)
23 (emphasis added); *see also Sandoval*, 41 Cal.4th at 840 (noting that the potential
24 aggravating circumstances at issue in a particular case rest upon “a somewhat vague or
25 subjective standard”). The case law on this issue stands in stark contrast to the facts of the
26 alleged offense in the instant case.

1 For example, the court in *People v. Nevill* (1985) 167 Cal.App.3d 198, found a high
2 degree of cruelty, viciousness, or callousness under the facts of that case:

3 Here, this was not a simple shooting, it was slaughter. Nevill’s point-blank
4 mutilation shows a callousness on his part transcending that which is
5 necessarily inherent in an intentional killing. Nevill tells us that Webster’s
6 New World Dictionary defines ‘callousness’ as a character trait implying
7 cold bloodedness or unfeeling. We accept that definition and hold the
8 shooting of an unsuspecting, unarmed, defenseless person 10 times while her
9 16-month-old baby is standing beside her exhibits the vilest kind of
10 insensitivity, more than is inherent in the statutory definitions of voluntary
11 manslaughter by using a firearm.

12 *People v. Nevill* (1985) 167 Cal.App.3d 198, 206.

13 The court in *People v. Collins* (1981) 123 Cal.App.3d 535, likewise found a high
14 degree of cruelty, viciousness, or callousness under the facts of that case:

15 In our view, one who holds a cocked gun to his victim’s head over a period
16 of several hours is significantly more culpable than one who merely points
17 the weapon at the victim. The conduct of the former is certainly indicative of
18 viciousness and callousness. Additionally, one of the goals to be achieved by
19 the Determinate Sentencing Law is imposition of ‘terms proportionate to the
20 seriousness of the offense’ Under the factual circumstances of this case,
21 the sentencing court did not err in finding defendant’s continual holding of a
22 cocked gun to his victim’s head a factor in aggravation.

23 *People v. Collins* (1981) 123 Cal.App.3d 535, 539 (internal citations omitted).

24 As the *Nevill* and *Collins* Courts suggest, not every firearm offense is automatically
25 deemed to exhibit a high degree of cruelty, viciousness, or callousness. Instead, there must
26 be additional facts, such as the defendant holding a firearm to the victim’s head, mutilation
27 of the victim, and/or prolonged attacks on the victim. *See, e.g., People v. Bishop* (1984)
28 158 Cal.App.3d 373, 377-79 (defendant kidnapped and raped teenage victims for hours,
shot them several times, and left them for dead; defendant “put these victims through a
long, torturing, horrifying ordeal.”); *People v. Martinez* (2008) 166 Cal.App.4th 1598,
1607 (“Defendant engaged in a prolonged vicious attack on the victim, repeatedly hitting
and kicking her.”).

1 Here, there is no evidence that the defendant held a firearm to Ms. Pete's head.
2 Indeed, the testimony at trial, and the People itself in its Motion in Support of
3 Circumstances in Aggravation, indicate that the perpetrator pointed the firearm in Ms.
4 Pete's direction, but not at her head. The fact that only bullet fragments were recovered
5 from Ms. Pete's feet further supports a finding that the perpetrator pointed the firearm
6 towards the ground. Moreover, the shooting itself was brief, distinguishable from
7 prolonged, torturous attacks present in other cases.

8 The *Nevill* Court likewise noted that the defendant's actions "transcend[ed] that
9 which is necessarily inherent in an intentional killing." This analysis is instructive here,
10 where the circumstances did not transcend those which are necessarily inherent in the
11 charged offenses. There are no facts which make this case "distinctively worse than the
12 ordinary." *See People v. Black* (2007) 41 Cal.4th 799, 817. Because the offense did not
13 disclose a **high degree** of cruelty, viciousness, or callousness, this Court should find that
14 this circumstance in aggravation does not apply and should afford it no weight in this
15 Court's sentencing decision.

16 **2. This Court Should Afford No Weight for the Use-of-a-Weapon Circumstance**
17 **in Aggravation.**

18 Rule 4.421(a)(2) provides an aggravating circumstance where "[t]he defendant was
19 armed with or used a weapon at the time of the commission of the crime." CAL. RULES OF
20 COURT 4.421 (a)(2). This Court should afford the use-of-a-weapon aggravator no weight,
21 as Mr. Peterson is already facing higher sentencing terms for use of a semiautomatic
22 firearm. This is particularly true if this Court applies the firearm enhancement. If this Court
23 applies both the firearm enhancement and the use-of-a-weapon aggravator, Mr. Peterson
24 will, in effect, be facing triple punishment for the same fact: (1) use of a semiautomatic
25 firearm as an element of the offense; (2) personal use of a firearm as a sentencing
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1 enhancement; and (3) use of a weapon as a circumstance in aggravation. Accordingly, this
2 Court should afford no weight to this aggravating circumstance.

3 **3. The Victim in This Case Was Not Particularly Vulnerable.**

4 Rule 4.421(a)(3) provides an aggravating circumstance where “[t]he victim was
5 **particularly** vulnerable.” CAL. RULES OF COURT 4.421 (a)(3) (emphasis added). Here, the
6 People argue that Ms. Pete was “particularly vulnerable” because she was unarmed,
7 “dressed only in a bikini, shoeless and on foot in a neighborhood completely foreign to
8 her,” during nighttime.

9 The term “particularly” means “in a special or unusual degree, to an extent greater
10 than in other cases.” *People v. Smith* (1979) 94 Cal.App.3d 433, 436. “Vulnerable” means
11 “defenseless, unguarded, unprotected, accessible, assailable, one who is susceptible to the
12 defendant’s criminal act.” *Id.* In the overwhelming majority of cases, “particularly
13 vulnerable victims’ have had inherent personal characteristics that, sometimes in
14 combination with the manner in which the crime was committed, render them more
15 vulnerable than other victims.” *Butler v. Curry* (9th Cir. 2008) 528 F.3d 624, 649; *see also*,
16 *e.g., People v. Bishop* (1984) 158 Cal.App.3d 373, (victims were very young and of small
17 stature); *People v. McGlothlin* (1998) 67 Cal.App.4th 468 (victims were elderly and were
18 attacked in a parking lot late at night) ; *People v. Alvarado* (2001) 87 Cal.App.4th 178,
19 195-96 (victim was a small, eighty-one-year-old woman who lived alone and only spoke
20 Portuguese); *People v. Karsai* (1982) 131 Cal.App.3d 224 (victim was young and
21 physically weak; “While age and physical traits are not the only factors which may indicate
22 particular vulnerability, they are the most obvious.”). “The California courts have in a few
23 cases relied on aspects of the status of the victim that are more changeable than age or
24 physical frailty, but have done so only when the victim was seriously, if only temporarily,
25 incapacitated.” *Butler*, 528 F.3d at 649; *see also, e.g., People v. Hoover* (2000) 77
26 Cal.App.4th 1020 (extremely intoxicated victim in domestic-violence case); *People v.*

1 *White* (1981) 117 Cal.App.3d 270, 172 Cal.Rptr. 612, 618 (1981) (shooting a victim
2 already incapacitated from earlier gunshot), *abrogated on other grounds by People v. Scott*
3 (1994) 9 Cal.4th 331, 353 n. 16; *People v. Loudermilk* (1987) 241 Cal.Rptr. at 214 (sleeping
4 victim); *Smith*, 156 Cal.Rptr. at 503 (sleeping victims).

5 In *Butler v. Curry* (9th Cir. 2008) 528 F.3d 624, the Ninth Circuit concluded that
6 the sentencing court erred in finding that the victim was “particularly vulnerable.” *Butler*,
7 528 F.3d at 650. The *Butler* Court noted that there was no evidence at the time of the
8 offense that the victim was “less able than other victims to ward off attacks because of any
9 such disability or incapacitation.” *Id.* The *Butler* Court dismissed the argument that the
10 victim was particularly vulnerable merely because her back was turned:

11 A jury might have concluded that having one’s back turned is similar to being
12 asleep in the sense that both are temporary states, and that in each case the
13 defendant takes advantage of a moment of greater assailability. But they are
14 not so similar that we can say with confidence, particularly in light of the
15 many cases focused on characteristics such as age and physical frailty, that a
16 jury would conclude that an individual with her back turned is a “particularly
17 vulnerable victim.”

18 *Id.*

19 The People rely on *People v. Eades* (1979) 95 Cal.App.3d 688, in support of its
20 argument. The sentencing court in *Eades* determined that, despite the fact that the victim
21 was a healthy, armed police officer, he was nonetheless “particularly vulnerable” because
22 he was “‘totally unaware of the existence of the weapon in the hands of the individual in
23 the backseat; that he was in a position from which he had essentially no means of protecting
24 himself . . .’ and that he was mentally occupied while driving the vehicle.” *Eades*, 95
25 Cal.App.3d at 690. The appellate court upheld the sentencing court’s finding, concluding
26 that “the circumstances in [*Eades*] could not be characterized as ‘typical.’” *Id.* The *Eades*
27 Court elaborated:

28 The facts reveal that without warning or any apparent motivation or
provocation, the defendant, from the rear seat of a moving vehicle, shot the

1 driver victim twice at point-blank range. The victim was unaware of the
2 defendant's possession of the weapon while he was operating the vehicle and
3 could not protect himself from defendant's action. . . . The devious and
4 sudden manner in which defendant shot and killed the victim rendered the
5 availability of weapons and the victim's training irrelevant.

6 *Id.*

7 The instant case is distinguishable. Ms. Pete was not shot at point-blank range, nor
8 was she mentally distracted while operating a vehicle. Even if this Court finds that this case
9 is analogous to *Eades*, this Court should nonetheless find that *Eades* was wrongly decided.

10 The *Eades* Court reasoned that the victim was particularly vulnerable because he
11 was "open to attack as any other person would have been, regardless of age, physical
12 stature, or mental capabilities." *Id.* This rationale, however, defies the definition of
13 "particularly" and would render nearly every victim "particularly vulnerable." The *Eades*
14 Court's conclusion that the victim was "open to attack **as any other person would have**
15 **been,**" *id.* (emphasis added), acknowledges that he was **not** vulnerable "to a special or
16 unusual degree, to an extent greater than in other cases." *See Smith*, 94 Cal.App.3d at 436.
17 "A victim is thus not 'particularly' vulnerable where all victims of the crime of conviction
18 are vulnerable in the same manner." *Butler*, 528 F.3d at 624 (citing *People v. Bloom* (1983)
19 142 Cal.App.3d 310).

20 While Ms. Pete was unarmed and had her back turned, this vulnerability was not "to
21 a special or unusual degree, to an extent greater than in other cases." *See Sandoval*, 41
22 Cal.4th at 842 (although victims were "unarmed and taken by surprise," the record "does
23 not reflect such a clear-cut instance of victim vulnerability . . . as might be the case if, for
24 example, the victims had been elderly, very young, or disabled, or otherwise obviously and
25 indisputably vulnerable."). Ms. Pete was as vulnerable as any other individual would have
26 been under the circumstances. Because the prosecution has failed to show that Ms. Pete
27 was particularly vulnerable, this Court should find that this circumstance in aggravation
28 does not apply and should afford it no weight in its sentencing decision.

1 **4. This Court May Not Consider Lack of Remorse to Aggravate Mr. Peterson’s**
2 **Sentence.**

3 The sentencing court may consider lack of remorse to aggravate a sentence where
4 the defendant acknowledges guilt. *People v. Key* (1984) 153 Cal.App.3d 888, 900-01.
5 Where the defendant steadfastly denies guilt and the evidence of guilt is not overwhelming,
6 lack of sorrow or remorse is insufficient to aggravate a sentence. *People v. Key* (1984) 153
7 Cal.App.3d 888, 901.

8 The People assert that “acknowledgement of guilt” may be present where the
9 defendant makes statements which are “tantamount to a confession, despite the defense
10 making no such concessions at trial.” In support, the prosecution cites *People v. Fowler*
11 (1980) 109 Cal.App.3d 557, where the defendant was arrested for felony drunk driving in
12 relation to an automobile accident occurring one evening at approximately 10 pm. *People*
13 *v. Fowler* (1980) 109 Cal.App.3d 557, 562. At approximately 3 am the following morning,
14 the defendant was arrested and admitted to law enforcement that she had been driving the
15 vehicle at the time of the accident. *Id.* Although the defendant denied at trial being the
16 driver, the Third District found that her admission at 3 am “was tantamount to a confession,
17 since there was no dispute that the vehicle was the instrument of the deaths and injuries
18 and that the cause was the unlawful operation of that vehicle.” *Id.* at 563.

19 First, Mr. Peterson has consistently and steadfastly denied guilt. Mr. Peterson’s
20 recorded jail call to Ms. Harris and his apology text message to Ms. Pete are not tantamount
21 to a confession. The defense posed a plausible explanation for the jail call and text
22 message—that Mr. Peterson was apologizing for the argument in the car before the
23 shooting and for having a sexual relationship with both Ms. Harris and Ms. Pete. In fact,
24 the trial court sustained the defense’s speculation objection when the People asked Ms.
25 Pete to testify as to what Mr. Peterson was “referring to when he was apologizing” to her.
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1 (Dec. 13, 2022 Tr. at 142). Mr. Peterson did not make any admissions that he shot Ms. Pete
2 and the People's assertions as to the reason for the apology is pure speculation.

3 Second, *Fowler* is clearly distinguishable. Shortly after midnight, approximately
4 two hours after the accident, the defendant in *Fowler* admitted that she had approximately
5 four or five alcoholic beverages before the accident, and law enforcement concluded that
6 the defendant was still under the influence of alcohol during that admission. *Fowler*, 109
7 Cal.App.3d at 562. Although the defendant initially claimed that her husband was driving
8 the car, she later admitted that she was driving. *Id.* The Third District that reasoned the
9 defendant's admission amounted to a confession because she admitted to a fact which
10 firmly establishes an undisputed conclusion. *Id.* at 562. In other words, because the
11 evidence established that the defendant was under the influence of alcohol and because the
12 defendant admitted that she was driving, the logical conclusion is that her admission
13 amounts to a confession of drunk driving.

14 Here, Mr. Peterson gave only a vague apology to Ms. Harris and Ms. Pete, which
15 could reasonably be interpreted as an apology for the argument in the car and the mixed
16 sexual relationships. This evidence is speculative at best and by no means establishes the
17 conclusion that Mr. Peterson shot Ms. Pete.

18 Third, the evidence of guilt in this case is not overwhelming. Several witnesses,
19 including Ms. Pete herself, displayed significant issues with credibility at trial and gave
20 conflicting versions of events. (Dec. 20, 2022 Tr. at 31). In addition, the primary alternative
21 suspect, Ms. Harris, despite being offered immunity in exchange for her testimony, pleaded
22 lack of recollection and otherwise avoided answering questions. (Dec. 14-15, 2022 Tr. at
23 82, 112-116, 128-135, 139-140, 178, 181, 208.)

24 The firearm was unregistered and there was no conclusive determination as to
25 ownership. (Dec. 12, 2022 Tr. at 99-103.) Testimony at trial showed that the gunfire came
26 from the side of the vehicle that Ms. Harris had occupied. (Dec. 13, 2022 Tr. at 10, 14-16.)
27

1 Both Harris and Mr. Peterson had gunshot residue (“GSR”) on their hands. (Dec. 12, 2022
2 Tr. at 110-111; Dec. 15-16, 2022 Tr. at 54.) Forensic testing ruled out Mr. Peterson as a
3 contributor to the DNA recovered from the magazine and were “inconclusive” as to the
4 gun. (Dec. 15-16, 2022 Tr. at 107-109.) DNA collected from the firearm and magazine,
5 notably and questionably, was not compared to any other person in the vehicle at the time
6 of the shooting. (Dec. 15-16, 2022 Tr. at 118.) Thus, the evidence of guilt is questionable
7 at best and by no means overwhelming.

8 In light of the above, this Court may not consider lack of remorse as an aggravating
9 circumstance. Mr. Peterson’s jail call to Ms. Harris and text message to Ms. Pete are in no
10 way an acknowledgement of guilt. Mr. Peterson steadfastly denies guilt and the evidence
11 of guilt is not overwhelming. Accordingly, this Court should find that this circumstance in
12 aggravation does not apply and should afford it no weight in this Court’s sentencing
13 decision.

14 **B. This Court Must Consider and Should Afford Great Weight to Mr. Peterson’s**
15 **Circumstances in Mitigation.**

16 Circumstances in mitigation present factors which the sentencing court may
17 consider in its broad discretion in imposing a prison term under the determinate sentencing
18 statute, and/or factors that may justify the court in striking additional punishment for an
19 enhancement. CAL. PENAL CODE § 1170(b); CAL. RULES OF COURT § 4.405(5). A
20 defendant is “entitled to have the sentencing court give serious consideration to these
21 mitigating circumstances, weighing them against the aggravating circumstances.” *People*
22 *v. Tatlis* (1991) 230 Cal.App.3d 1266, 1274. Failure to consider all circumstances in
23 mitigation may constitute reversible error. *People v. Covino* (1980) 100 Cal.App.3d 660,
24 672. The mitigating circumstances enumerated in Rule of Court 4.423 are simply
25 illustrative, and a broad scope of information may be considered by the sentencing court,
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1 including every factor having a legitimate bearing on the matter. *People v. Tatlis* (1991)
2 230 Cal. App. 3d 1266; *see also* CAL. RULES OF COURT 4.423(c).

3 Applicable statutory circumstances in mitigation in this case include: (1) Mr.
4 Peterson's insignificant record of criminal conduct; (2) Mr. Peterson was suffering from a
5 mental or physical condition that significantly reduced culpability for the crime; (3) Mr.
6 Peterson experienced psychological, physical, or childhood trauma, and it was a factor in
7 the commission of the crime; (4) the commission of the current offense is connected to Mr.
8 Peterson's prior victimization, childhood trauma, and mental illness; (5) Mr. Peterson
9 would have been granted probation but for his presumptive ineligibility; and (6) multiple
10 enhancements are alleged in a single case. In addition, the following nonstatutory
11 circumstances in mitigation justify imposition of the lower term: (7) Mr. Peterson is not a
12 danger to others; (8) both Mr. Peterson and his young son will be negatively impacted by
13 his incarceration; (9) Mr. Peterson has extensive involvement in the community and charity
14 work; and (10) misapplication of the DA's official policy on sentencing enhancements will
15 result in a disparate sentence which is not justified by extraordinary circumstances.

16 **1. Mr. Peterson Has an Insignificant Record of Criminal Conduct.**

17 Rule 4.423(b)(1) provides a mitigating circumstance where "[t]he defendant has no
18 prior record, or has an insignificant record of criminal conduct, considering the recency
19 and frequency of prior crimes." CAL. RULES OF COURT § 4.423(b)(1). The People
20 acknowledge the presence of this circumstance in their sentencing memorandum.
21 Accordingly, this Court should afford significant weight to this mitigator.

22 **2. Mr. Peterson's Mental Condition Significantly Reduced Culpability for the**
23 **Offense; His Psychological, Physical, or Childhood Trauma Was a Factor in**
24 **the Commission of the Offense; and the Current Offense is Connected to His**
25 **Prior Victimization, Childhood Trauma, and Mental Illness.**

26 Rule 4.423(b) provides the following mitigating circumstances relating to mental
27 health and childhood trauma:

1 (2) The defendant was suffering from a mental or physical condition that
2 significantly reduced culpability for the crime;

3 (3) The defendant experienced psychological, physical, or childhood trauma,
4 including, but not limited to, abuse, neglect, exploitation, or sexual violence
5 and it was a factor in the commission of the crime;

6 (4) The commission of the current offense is connected to the defendant's
7 prior victimization or childhood trauma, or mental illness as defined by
8 section 1385(c)

9 CAL. RULES OF COURT § 4.423(b)(2)-(4).

10 In this case, Mr. Peterson suffered from a mental condition, alcohol-use disorder, at
11 the time of the offense. Dr. Gharibian concluded that Mr. Peterson's alcohol use
12 "compromised his ability to manage and regulate his emotions and behaviors and that his
13 alcohol use disorder played a significant role in the alleged offenses." *See* Psychological
14 Evaluation Report 5-6. Thus, Mr. Peterson's alcohol-use disorder reduced his culpability
15 for the alleged offense.

16 Mr. Peterson has also experienced psychological, physical, and childhood trauma,
17 including abuse and neglect. Dr. Gharibian concluded in his report that Mr. Peterson's
18 grief, loss, and trauma through his childhood and adolescence contributed to the
19 development of alcohol-use disorder. *See* Evaluation Report at 2-5. Mr. Peterson's
20 alcohol-use disorder "ultimately played a significant role in the commission of the
21 offense." *See* Evaluation Report at 2-6. Thus, assuming the allegations are true, Mr.
22 Peterson's psychological, physical, and childhood trauma was a factor in the commission
23 of the offense. Likewise, the current offense is connected to Mr. Peterson's childhood
24 trauma and mental illness, alcohol-use disorder. Accordingly, this Court should afford
25 significant weight to each of these circumstances in mitigation.
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1 **3. Mr. Peterson Would Have Been Granted Probation But for His Presumptive**
2 **Ineligibility.**

3 Rule 4.423(b)(9) provides as a mitigating circumstance where “[t]he defendant is
4 ineligible for probation and but for that ineligibility would have been granted probation.”
5 CAL. RULES OF COURT § 4.423(b)(9). If this Court finds that Mr. Peterson has failed to
6 overcome the presumption of ineligibility, the defense asserts that he would have otherwise
7 been granted probation in light of the factors discussed previously, including his
8 insignificant record of criminal conduct, his willingness and ability to comply with the
9 terms of probation, the likely effect of his imprisonment on both him and his very young
10 son, Dr. Gharibian’s conclusion that he is not a danger to others, and his extensive work
11 with charitable organizations and active engagement with underserved communities.
12 Because, absent the presumption of ineligibility, Mr. Peterson would have been granted
13 probation, this Court should afford significant weight to this circumstance in mitigation.

14 **4. Multiple Enhancements are Alleged in a Single Case.**

15 Rule 4.423(b)(11) provides a mitigating circumstance where “[m]ultiple
16 enhancements are alleged in a single case.” CAL. RULES OF COURT § 4.423(b)(11).
17 Here, the prosecution has alleged both the firearm enhancement and the bodily-injury
18 enhancement. Because there are multiple enhancements alleged in a single case, this Court
19 should afford significant weight to this circumstance in mitigation.

20 **5. This Court Should Consider Several Nonstatutory Circumstances in**
21 **Mitigation, Including Mr. Peterson’s Low Risk for Recidivism, the Likely**
22 **Effect of Incarceration on Him and His Very Young Son, His Active**
23 **Involvement in Charitable Organizations, and Disparate Application of**
24 **Sentencing Enhancements in This Case.**

25 Numerous nonstatutory circumstances likewise warrant imposition of the lower
26 term. First, Dr. Gharibian found that Mr. Peterson is not a danger to others. Second,
27 incarceration would have a devastating impact on Mr. Peterson and his very young son.
28 Third, Mr. Peterson has had extensive involvement in the community and in charity work.

1 Finally, disparate application of the DA's official policy on sentencing
2 enhancements will result in a disparate sentence which is not justified by extraordinary
3 circumstances. As discussed above, there is insufficient evidence of "extraordinary
4 circumstances" in this case. If the DA's own sentencing policies were applied here, Mr.
5 Peterson would be facing a lower term of three years, rather than a middle term of thirteen
6 years. Thus, this Court should afford significant weight to all of the above circumstances
7 in mitigation, both individually and cumulatively.

8 **C. Because the Circumstances in Mitigation Outweigh the Alleged Circumstances in**
9 **Aggravation, This Court Should Sentence Mr. Peterson to the Lower Term.**

10 This Court should afford significant weight to all of the above circumstances in
11 mitigation and no weight to the People's asserted circumstances in aggravation. In
12 weighing mitigators against aggravators, this Court should find that the mitigation
13 outweighs the aggravation and accordingly sentence Mr. Peterson to the lower term. Such
14 a sentence best serves the interests of justice and is consistent with the letter and spirit of
15 California's determinate sentencing laws.

17 Respectfully
18 submitted,

19 Dated: _____

20 _____
21 JOSE BAEZ

22 JOSE BAEZ
23 Pro Hac Vice, Florida Bar No.: 13232
24 **THE BAEZ LAW FIRM**
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26 Miami, FL 33131
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PROOF OF SERVICE
STATE OF CALIFORNIA, COUNTY OF LOS ANGELES

I am employed in the State of California. I am over the age of 18 years and not a party to the within action. My business address is [address].

On August 1, 2023, I served a true and correct copy of the within Notice of Defendant's Sentencing Memorandum and Sentencing Memorandum with Points and Authorities in support of the same on the interested parties in this action by placing the true copy/original thereof, enclosed in a sealed envelope, postage prepaid, addressed as follows:

Superior Court of California
County of Los Angeles – Central District
Clara Shortridge Foltz Criminal Justice Center
Attn: Hon. David Herriford, Judge
210 West Temple Street, Dept. 132
Los Angeles, CA 90012

Los Angeles County District Attorney
Central Branch Office
Attn: Alexander Bott, DDA (SBN: 278468)
Attn: Kathy Ta, DDA (SBN: 243716)
211 West Temple Street, Suite 900
Los Angeles, CA 90012

I am readily familiar with the business practice of my place of employment in respect to the collection and processing of correspondence, pleadings and notices for mailing with United States Postal Service.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

Executed on August 1, 2023, at Los Angeles, California.

[name]

EXHIBIT D



ASR Exotics, LLC.
5250 West Century Blvd
Los Angeles, California, 90045

Friday, August 4th, 2023

RE: Daystar Peterson

To Whom It May Concern,

We have been working with Daystar Peterson for the past four years, renting out properties and cars from us when he is visiting the Los Angeles area. Mr. Peterson has always been a loyal and reliable client to our company, consistently renting vehicles and homes from us, while also making sure that all of his payments were made on a timely manner. Peterson takes care of the homes and cars that we rent out to him like they are his own, leaving everything the same exact way that they were when rented out, clean, and without any damages. Even through his trial and when he was on house arrest, we had provided a car and home for him and his team for him to utilize.

Other than having Peterson as a client, we have turned into a family with him and his team. Everything from going to dinners, and celebrating Jewish holidays with him, he has become more than a client and someone that we could rely on and trust. His love for his family and his son is displayed on a day-to-day basis, making sure that they are taken care of before himself. The admiration that he shows his family is also exhibited towards us, and that is why it is so effortless working with Peterson.

After the first year of solely booking homes and cars for Peterson, we moved to booking all of his travels globally and handle everything from A-Z.

It is our sincere hope that the court takes this letter into consideration at the time of sentencing. Despite the current case, we believe Daystar Peterson to be a honorable individual, a valued member of his community, and an overall good human being.

Sincerely,

Aryan Nafari
ASR Exotics, LLC.