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4 IN THE SUPERIOR COURT
5 STATE OF CALIFORNIA, COUNTY OF ALAMEDA
6 BEFORE THE HONORABLE ANDREW STECKLER, JUDGE
7 DEPARTMENT NUMBER 2

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9 THE PEOPLE OF THE STATE OF CALIFORNIA,)
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11 Plaintiff,) No. 20-CR-004787A
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WHEELER-BATSON MOTION

JULY 29TH, 2020

RENE C. DAVIDSON COURTHOUSE
OAKLAND, CALIFORNIA

A P P E A R A N C E S

FOR THE PEOPLE:

MAGGIE CALONGE
Deputy District Attorney

FOR THE DEFENDANT:

MICHAEL WU
Deputy Public Defender

1 JULY 29TH, 2020

2 WHEELER-BATSON MOTION

3 (PROCEEDINGS)

4 MR. WU: The defense will pass.

5 THE COURT: Defense passes. Peremptory lies with the
6 People

7 MS. CALONGE: Thank you. The People would like to
8 thank and excuse Mr. Robert Duncan. Thank you, sir.

9 MR. WU: I do have a motion.

10 THE COURT: Mr. Duncan, I'll ask to you wait outside in
11 the vestibule. Okay.

12 MR. DUNCAN: Okay.

13 THE COURT: We're going to -- actually, the Court needs
14 to take a recess now. I'm going to declare a recess for
15 everyone for the next 20 minutes. Please come back at 20
16 minutes to 12:00, if you would.

17 Do not form or express any opinion about this case. Do
18 not talk about the case with anyone, including other jurors.

19 THE COURT: I'll be back in five minutes.

20 (Whereupon, a brief recess was taken.)

21 THE COURT: Back on the record in the matter of People
22 vs. Smith-Pequeno. Mr. Smith-Pequeno is present. Both
23 counsel are present. And none of the jurors are physically
24 present in the courtroom. We are silenced with respect to
25 Bluejeans. Everyone's on mute, correct?

26 THE CLERK: Yes, judge.

27 THE COURT: Well, I would ask counsel because anyone on
28 Bluejeans right now is not part of these proceedings. And the

1 question is, I think the public broadcast should still be on,
2 as long as that's not going to the courtroom. I don't know if
3 other jurors can listen in on Rocket Broadcaster in the other
4 rooms.

5 Does counsel object to us closing off all public
6 access?

7 MR. WU: I would object to that, your Honor.

8 THE COURT: So your request is to keep broadcast on?

9 MR. WU: Correct.

10 THE COURT: But turn off Bluejeans.

11 MS. CALONGE: That's fine.

12 THE COURT: Do you submit on that, Ms. Calonge?

13 MS. CALONGE: That's fine.

14 THE COURT: Let's keep Rocket Broadcast on so we're
15 still public to the extent that we can be, but not letting any
16 other prospective jurors hear and see these proceedings. I'm
17 confirming that everyone's on mute. And let me see. Can
18 anyone hear this in the ancillary rooms? I'm not seeing any
19 response.

20 Mr. Wu, you have a motion.

21 MR. WU: I do, your Honor. So I'm objecting to the
22 peremptory challenge of Mr. Duncan under the Batson-Wheeler
23 cases. My client, Mr. Smith-Pequeno is a Hispanic male.
24 That's been mentioned and discussed during the jury selection
25 process. Mr. Robert Duncan, his jury number is 104109135, is
26 an African American man. Throughout this entire jury
27 selection process so far, throughout yesterday and today, Mr.
28 Duncan has been the one and only African American person to be

1 questioned as a prospective juror. We don't know anything
2 about the upcoming jurors so far. Mr. Duncan is the only
3 person that we have seen so far that is African American. Mr.
4 Duncan did say during his questioning that he has had bad
5 experiences with police officers. But when questioned by both
6 myself and Ms. Calonge, Mr. Duncan recognized that this case
7 does not appear to be one where officer credibility is at
8 issue, where there are allegations of excessive force or lying
9 by officers. And he said that given this type of case, he can
10 be fair. He has not -- he very clearly indicated that he
11 believes he can be fair and impartial in this case. That if
12 the prosecution proved their case, beyond a reasonable doubt,
13 he could vote guilty. There was nothing from his answers to
14 our questions that indicated in any way that he could not be
15 fair. So under the Batson-Wheeler cases, it does appear, or I
16 would submit that a prima facie showing of a reasonable
17 inference of systematic exclusion of a cognizable group has
18 been made. And I would object to his being excused on that
19 basis.

20 THE COURT: I do find a prima facie case. So I want to
21 hear the response for Batson step two from the prosecution.

22 MS. CALONGE: In terms of Mr. Duncan, he stated quite
23 clear first and foremost with the general venire that he had
24 problems with police by raising his hand resolutely. There
25 was no qualification or no shaking --

26 THE COURT: No what?

27 MS. CALONGE: Qualification, no shaking of his hand.
28 Some people had given like an indication that they were

1 intermediate or waving their hand, because at this point we
2 were just looking for hand raises. He raised his hand
3 entirely up with his palm held forward the entirety of the
4 time. He went on to say that he would devalue police
5 testimony. When I had the opportunity while he was on the
6 stand to speak with him about it, he used the following
7 language, that he, himself, was wrongfully accused by O.P.D.

8 Furthermore, he did qualify it by saying he could be
9 fair and impartial in this case. But he gave that answer
10 hesitatingly. And further he went on to say that this is not
11 a case of police brutality. Meaning, that in my mind he would
12 have that question of his own actions, and his interactions,
13 specifically with the Oakland Police Department, which is the
14 only police department who would have testimony in this case.
15 Those officers, whether he recognized them by name or not,
16 could have been the officers with whom he had this prior
17 wrongful accusation by O.P.D.

18 THE COURT: The officers in this case?

19 MS. CALONGE: I don't know. Some folks --

20 THE COURT: You didn't follow-up. I asked everyone if
21 they knew any of those officers.

22 MS. CALONGE: Yes, judge. But it's been my experience
23 in prior cases where reading a name and seeing the face are
24 two entirely different things. Assuming that arguendo that he
25 saw these officers, and these were not the individuals who he
26 felt wrongfully accused him, that is a negative sentiment
27 towards police in general. And that was the basis that I
28 sought to exercise my peremptory challenge.

1 In fact, Ms. Katherine Audage and Paul Meyer were the
2 other two that I noted who raised their hand, as did Mr. Amit
3 Bhatti, B-h-a-t-t-i. Those were the three. All three of them
4 went for cause. However, were they not gone for cause, I
5 would have removed them based on that anti-police sentiment as
6 well.

7 THE COURT: Anything further?

8 MS. CALONGE: No, nothing further.

9 THE COURT: Any response?

10 MR. WU: Yes.

11 MS. CALONGE: Judge, I'm sorry. There's one more
12 thing. I would just reply that in terms of things that
13 wouldn't be readily apparent upon review of this case, Mr.
14 Duncan first came in, in a suit and tie. Today he was dressed
15 in flip flops and socks, indicating a much more relaxed
16 posture in terms of his presence here. Both yesterday and
17 today in terms of when other people were indicating responses
18 negative to the police, I saw his head nodding. And I saw his
19 arms crossed. In terms of sentiment, negative sentiment
20 towards police, specifically Oakland Police Department, that
21 was the reason for the exercise of the peremptory.

22 THE COURT: Okay. Thank you. Mr. Wu.

23 MR. WU: Yes, your Honor. So we already established
24 that Mr. Duncan has previously had bad experiences with the
25 police. But as I think most people would agree, if we
26 automatically disallow people from serving on a jury because
27 they have bad experiences with the police, when there's a
28 disproportionate amount of bad experiences with the police

1 that certain groups experience over other groups, that would
2 disproportionately mean that those people from that group, and
3 I'm specifically talking about people from the African
4 American community, would be disproportionately not allowed to
5 serve on juries. And we were both given the opportunity to
6 ask specific questions about Mr. Duncan's experience with the
7 police, and how that would affect him in this case.

8 He did say that if this was -- he mentioned if this was
9 a case involving police brutality, that might be a different
10 story because he has bad experiences that might have involved
11 something like that. But he very clearly said, this not being
12 a case involving any police brutality, he could be fair. He
13 could be fair and impartial.

14 I don't know what's the way that he was dressing today
15 versus yesterday has to do with anything. The same thing, him
16 nodding his head about police officer testimony, we were given
17 a chance to follow-up on that and clarify. And he was very
18 clear about his ability to put that aside, especially given
19 that those kinds of issues are not involved in this case.

20 So I do think it's improper to excuse him for the
21 reasons stated.

22 THE COURT: All right. Anything further before I rule
23 on step three?

24 MS. CALONGE: Submitted.

25 MR. WU: Submitted.

26 THE COURT: Thank you both. As a part of the problem
27 to this situation in court this morning is there's the state
28 of the law, and then there's the state of the shifting sands

1 of the law. Counsel, and I'll just state this, just because
2 we're talking about very serious issues here, for what it's
3 worth. The Court is mindful of numerous dissents by Justice
4 Liu of the California Supreme Court. And Court is also
5 mindful of the Chief Justice of the Supreme Court of
6 California convening a working group to deal with systemic
7 bias with respect to jury selection and the current status of
8 the Wheeler-Batson apparatus, and how it's applied.

9 The Court is very concerned that Mr. Duncan is the
10 only self-described black juror thus far. We had two passes
11 from the defense. I think we had one pass from the People.
12 Maybe not. But we're getting on in jury selection. So it's
13 to the point where excusing him would excuse all of the black
14 jurors from this jury, although, I haven't taken a close look
15 at the other jurors coming up in the panel and their
16 self-described race, slash, ethnicity.

17 The Court paid very close attention to the questions
18 and answers by Mr. Duncan. And, of course, empathetic to the
19 People's position that he said that he has had bad experiences
20 with the police in the past. He raised his hand in response
21 to certain questions, and then these questions were posed, and
22 he gave answers with respect to police officers.

23 I think he pointed out, however, that in this case he
24 thought he could be fair and impartial because the case did
25 not rise on, or fall on, police officer testimony. At least
26 it didn't appear to him to be the case. And I think counsel
27 was agreeing with that. The Court's observation is that the
28 Court does agree with that as a fact in this case. Although,

1 that's not the fulcrum of the Court's decision here because
2 the People will be calling police officer witnesses. They
3 will be part of the People's case. So it does factor into the
4 reason for the People's challenge.

5 The Court's not convinced by, and doesn't necessarily
6 agree with you -- you said something about hesitatingly and
7 haltingly. What were you saying he was doing?

8 MS. CALONGE: Yes.

9 THE COURT: Hesitating in what? In his answers to you?

10 MS. CALONGE: Yes, as opposed to clear and unequivocal.

11 THE COURT: I thought he was being thoughtful. I would
12 phrase it different. I thought he was giving thoughtful
13 answers. And I don't give any weight to his arms being
14 crossed or the clothing he was wearing today as compared to
15 yesterday. Not quite sure what that means.

16 So I'll make a finding. But I want the record to be
17 clear, this has been manning about whereby the assumption is
18 that sustaining a Wheeler-Batson objection means the Court is
19 calling the other side racist, or themselves biased. My
20 ruling is not a reflection on Ms. Calonge, personally.

21 I am going to sustain the Wheeler-Batson challenge. I
22 find that on balance the reasons for striking Mr. Duncan were
23 pretextual, although there was a marginal, valid reason given
24 his past experiences with the police. The problem here, and
25 this is what I want counsel to focus on in these situations to
26 the extent that they can within the parameters of their case,
27 and I think the People know their case, they know the issues,
28 we're well along in jury selection, so why raise this as an

1 issue? African Americans encounter police throughout their
2 lives. Therefore, they'll be raising their hands in that
3 situation. They had bad experience with police. We've all
4 seen it. It's on the news. It's in the protests. If that's
5 the valid reason, then there are not going to be any African
6 Americans on the jury. So on balance, it's sustained.

7 So remedy. I'm inclined to reseal the juror. What
8 remedy are you asking?

9 MR. WU: That's what I'm asking.

10 THE COURT: Do you wish to be heard on that?

11 MS. CALONGE: No, judge. If that's the Court's ruling,
12 I will submit that.

13 THE COURT: That's the Court's ruling. That's what we
14 will do. Let's call the jury back in. Mr. Duncan will retake
15 his seat.

16 (Brief Pause.)

17 THE COURT: On the record matter of People vs.
18 Smith-Pequeno matter. Mr. Smith-Pequeno is present. Both
19 counsel are present. None of the jurors are present. We're
20 public, but not being broadcast to the jury assembly room, and
21 other ancillary rooms. We're taking up a matter outside the
22 presence of the jury. Ms. Calonge, you sent an e-mail about
23 half hour ago to the Court requesting a reconsideration of the
24 Court's Batson-Wheeler ruling. I'll allow further argument to
25 an extent. But this is going to be limited. Essentially, do
26 you submit on the motion to reconsider?

27 MR. WU: Yes.

28 THE COURT: I'll grant the motion to reconsider. I'll

1 reconsider. Let me make the following observations and then
2 hear from counsel. You may want to submit this as part of the
3 record. I printed it out.

4 MR. WU: Just for the record, I actually will probably,
5 I will object to the motion to reconsider.

6 THE COURT: Okay. You're objecting to my changing my
7 ruling. But now I need to decide whether to reconsider it.
8 I'll reconsider it. That's over your objection.

9 MR. WU: Okay.

10 THE COURT: The first thing that you state, Ms.
11 Calonge, is that the reason that you're requesting this motion
12 to reconsider is because of the, quote, short amount of time
13 provided for a response. I want to state I did not limit
14 counsel. And there was no time limit provided. You had the
15 floor. I asked for deciding if there was anything further. I
16 always do that. I'm sure I did that in this case. So if
17 there was a short amount of time taken, that's one thing. But
18 there was certainly not a specified amount of time provided.

19 As a backdrop overview, I just want to state, because I
20 don't think I said it before, my understanding and recognition
21 that the Court's ruling sustaining the Wheeler-Batson
22 objection, I understand was not typical, unusual, off the
23 beaten path, for what it's worth. I don't think it's worth
24 anything, frankly. But it's worth noting. So I understand
25 that. And I would also observe that having practiced in these
26 courts for over 20 years, and having made these motions
27 myself, having presided over jury trials, subsequently, from
28 the bench, I have never seen one of these granted. I have

1 made motions and objections myself that have never been
2 granted.

3 I must say, as a judge, I haven't had occasion to rule
4 on such a motion. And if I have, I could count on one hand.
5 It hasn't come up. Certainly I have never sustained it before
6 or granted the motion before. So that's by way of backdrop.

7 So I understand my ruling. I didn't undertake it
8 lightly. Thought went into it in anticipation of peremptory
9 challenges starting yesterday.

10 You state the prosecutor is entitled to dismiss a
11 juror. I just take issue with that phrasing in terms of
12 entitlement. And I think that's part of the, in general,
13 underlying problem with this portion of jury selection.

14 As to the question of cognizable class, I'll let Mr. Wu
15 answer that for himself. But the Court's view was that Mr.
16 Duncan, I think we talked about it, he did identify himself as
17 mixed race. He wrote "white, black." So he is at least part
18 black. We didn't ascertain whether it's 50/50, or what part.
19 But it certainly appears to be on the questionnaire 50/50. So
20 the cognizable class is part African American or part black.
21 So that's the class.

22 The supplementation of the record, I'm not going to
23 consider what you put here. I think that what you put here
24 undermines, is itself thought of after the fact. So if you
25 have gone back and thought more about this, how to perfect the
26 record on this, that certainly is how this certainly feels.
27 So I'm not going to express any view on your subquotation on
28 the record.

1 As far as the subjective genuineness, I'll hold off my
2 comments on that before I hear from counsel. Same thing with
3 training provided by the Alameda District Attorney's Office.
4 I'll allow counsel to argue this. But you have the first word
5 in writing. And this is going to be a part of the record.
6 I'll let Mr. Wu respond, and I'll give you the last word, Ms.
7 Calonge.

8 MR. WU: Thank you, your Honor. With respect to the
9 question about, or Ms. Calonge's question as to which
10 cognizable class was addressed, if it wasn't clear, Mr.
11 Duncan, as the Court noted, did indicate that he identifies as
12 part white, part black. For the record, I would put, at least
13 my observations, that he does appear, and I believe that he
14 moves through the world, as a black man. And just to be, I
15 guess, clear in addressing the question, that is the
16 cognizable class that I'm notating as to that question.

17 I agree with the Court's evaluation of whether or not
18 supplemental reasoning is appropriate in this occasion. I
19 think the time that is given to address the issue is the most
20 accurate information that we have. Coming back a hour later
21 after having thought about other additional reasons, I think
22 that does undermine the nature of posing the question to the
23 person who had exercised the challenge, and asking for the
24 reason at that time. I do agree with the Court on that.

25 Does the Court want me to address the question of
26 subjective genuineness at this point? Or training from the
27 D.A.'s office?

28 THE COURT: Not necessarily training. But in the

1 Court's view, if there's infirmity in my ruling, it's in my,
2 my not finding subjective genuineness to be a problem here.
3 In other words, these points on this law might be well taken.
4 And I'm interested in the defense's position on that.

5 MR. WU: With respect to that, judge, I did receive
6 this at 1:02 and have not had a chance to read every single
7 case here. I do want to make clear that our argument is not
8 that the People made that challenge with any kind of conscious
9 racial animus, or anything like that. The question here I
10 think that we're considering is, was this discriminatory,
11 whether or not it's conscious, on purpose, or anything of that
12 nature.

13 Here, the reasons given, first, as a first point, do
14 not appear to be even race neutral. As the Court pointed out,
15 and as I pointed out in my argument, we could give what might
16 appear to be a race neutral reason. And the example that
17 first came to my mind is if someone talks about having been,
18 for example, a victim of red lining, or something like that,
19 speaks about that, and we use that as a race neutral reason
20 for removing someone from the jury, underlying that is a
21 race-based context. And I think that is what we're dealing
22 with here. The reason given by Ms. Calonge I do not doubt is
23 genuine that she was concerned about his statements about
24 having had bad experiences with the police. But as we
25 discussed, those are issues that occur in a very race-based
26 context. And I think that is important to consider. And
27 whether or not there was any actual racial animus I don't
28 think is the question. It's whether or not it was, in effect,

1 discriminatory. And I do think in case like this, whereas
2 we've seen, there has been only one black person as a
3 prospective juror thus far. To excuse that juror when
4 everything else that he had to say with response to all of our
5 questions appeared to be honest and thoughtful, there was
6 nothing said for this specific case that would justify
7 excusing him, other than what appears to be a race-based
8 reason, which is impermissible. With that, I'm asking the
9 Court maintain its ruling.

10 THE COURT: Thank you. Ms. Calonge, anything further?

11 MS. CALONGE: Yes, judge. Your Honor, perhaps Court
12 and counsel first missed my e-mail sent at 1:13. And I'll
13 start first with the amount of time to provide a response.
14 There's no reflection upon the Court in terms of the amount of
15 time during the hearing that was held. What I meant by that
16 statement was simply that I should have called a time-out
17 right then and there when the objection was raised. I should
18 have asked for more time and properly laid out the reasons as
19 opposed to sitting here for approximately five minutes and
20 thinking on the fly as to all of the aspects of the
21 Batson-Wheeler motion.

22 THE COURT: Can I make an observation there? I don't
23 fault you -- I appreciate that. And I don't fault you for not
24 calling a time-out. I must tell you, I would have denied your
25 request under the circumstances, given where we were in the
26 and are in this jury selection process in this trial. So if
27 it will make it any easier for you, I would have probably
28 denied that request. But as I said, from my vantage point, I

1 started devoting thought to this issue and all the possible
2 reasons, pretextual or otherwise, when the juror was up here
3 answering questions over the course of yesterday and yesterday
4 evening. Anyway, I interrupted you. I wanted to tell you
5 that I appreciate your comment.

6 MS. CALONGE: I thank the Court for that. And I thank
7 the Court for it's consideration, given I know that the Court
8 is weighing this seriously and thinking about this seriously,
9 as are the People, especially given the consequences to the
10 People of such a finding. I will say specifically to myself
11 of such a finding.

12 THE COURT: Is there a mandatory reporting requirement?

13 MS. CALONGE: Yes, judge.

14 THE COURT: Well, look, I'm focused on the fairness of
15 the trial here. I could tell you personally I'll do
16 everything that I can to get out of that. If I have to make a
17 reporting requirement, if I have to report it, I'll report it.
18 But it will have a huge asterisk next to it, if that's where
19 this is headed. I got your back on that. I'm not sure it's
20 mandatory. But as I said, this is a new road for me. You
21 could take a moment if you need it.

22 (Brief Pause.)

23 THE COURT: While you're doing that, I'm looking at
24 some requirements here. Give me a second. I might be able to
25 put your mind at ease.

26 (Brief pause.)

27 THE COURT: No. It's discretionary.

28 MS. CALONGE: That's not my understanding.

1 THE COURT: I'm reading my own guidance here written by
2 the Honorable William J. Murray, Jr., and citing to Canon 3d,
3 2, California Code of Judicial Ethics. Based on my
4 understanding of my requirements, I'm not going anywhere with
5 this, so you know.

6 Are you aware of anything?

7 MR. WU: I have no idea.

8 THE COURT: You're not seeking anything?

9 MR. WU: No. That's not what I'm asking.

10 THE COURT: I'm not going anywhere with this. So if
11 there's error, it is mine. I'm on the hook for it. Ms.
12 Calonge, I'm not going anywhere with this, nor do I see the
13 need to from where the Court sits.

14 MS. CALONGE: I'm sorry, judge.

15 THE COURT: Take your time.

16 (Brief Pause.)

17 THE COURT: From where the Court sits, this is a -- let
18 me put it this way: Lawyers practice law. And the practice,
19 the reason it says "practice," the way I thought of it is
20 because we're learning every day. And I say legal work up
21 until and beyond a lawyer's retirement as a learning process.
22 I make mistakes every trial, multiple. And what I try to do
23 is learn from my mistakes. I'm not saying this was a mistake.
24 It was a mistake if I uphold my ruling in this court in this
25 trial, perhaps, for you to have struck Mr. Duncan. But if
26 that's what you take from it, then that, frankly, is the only
27 sanction that's needed, that we move the ball forward in 2020
28 in trial practice in Alameda County. That we all together

1 move the ball forward in assuring ourselves of diverse juries
2 to the extent possible. We have a problem here with panel
3 diversity. And it starts in the pipeline. There's a lot I
4 could say about Mr. Duncan. And there's a lot of things that
5 we could visualize by way of his answers and other demeanor
6 that may have been more harmful. And may have got this Court
7 to overrule the Wheeler-Batson objection. But on balance, and
8 I'll complete my ruling once you're done, Ms. Calonge, but
9 getting back to the reason why we had to take a brief recess
10 just now, I don't see a mandatory reporting requirement. I
11 will do everything in my power to not make a report. Frankly,
12 that requires volitional action. So I'm not going to do
13 anything. I see it as the corrective action needed is the
14 remedy that I granted here, and you have to try a case in
15 front of one juror who knows that you tried to kick him off.
16 And that is corrective action.

17 So, Ms. Calonge.

18 MS. CALONGE: Your Honor, I will just ask that my
19 e-mail sent to the Court and counsel be made part of the
20 record.

21 THE COURT: It may. Any objection?

22 MR. WU: No.

23 THE COURT: Both e-mails are part of the record.

24 MS. CALONGE: Please.

25 THE COURT: Anything further, Ms. Calonge?

26 MS. CALONGE: No, thank you, judge.

27 THE COURT: On the paragraph about subjective
28 genuineness and your citations to Reynoso and Adanandus, and

1 I'll give you a a copy of this, Kim, and other cases. To the
2 extent that you're correct that I do need to find subjective
3 pretext, and I think I do --

4 MS. CALONGE: Yes, judge.

5 THE COURT: -- to at least some extent. I'll make a
6 finding that there were mixed motives here. You know, the
7 potentially valid motive is this prospective juror can answer
8 about bad experiences with the police in his past, and the
9 fact that you're calling police officers as witnesses in this
10 case. But then on balance, there are also pretextual reasons,
11 and that for good or ill, again I'm stating that the effect in
12 this case, under all of the circumstances that were set forth
13 at the original argument, and subsequently by me and Mr. Wu,
14 the fact is that the exercise of this challenge is not race
15 neutral. And such that your challenge was motivated, is this
16 Court's finding, in substantial part by discriminatory intent.
17 That's the basis for my ruling. Having said that, I'm not
18 taking any corrective action other than grant the remedy in
19 this case, which was to re-seat Mr. Duncan.

20 Charlena, I'll give you this marked up version of mine.
21 Don't make this part of the record. Print your own out and
22 make those part of the record please. Can we call in the
23 jurors now?

24 MS. CALONGE: May I request a brief continuance?

25 THE COURT: How much time do you want?

26 MS. CALONGE: Three minutes.

27 THE COURT: Let's say 2:00 o'clock. I'll make an
28 announcement. Deputy, if you could, or Charlena, tell the

1 people out there we'll break until 2:00. And then I'll tell
2 the people on Bluejeans.

3 (PROCEEDINGS CONCLUDED)


4 STATE OF CALIFORNIA)
5 COUNTY OF ALAMEDA) ss.

6 I, KIM PEREA, do hereby certify:

7 That on JULY 29TH, 2020, I **reported in shorthand**
8 **writing the proceedings in the matter of People of the State**
9 **of California versus MARCOS SMITH-PEQUENO, heard before the**
10 **Honorable ANDREW STECKLER, Department No. 2 of the Alameda**
11 **County Superior Court, Rene C. Davidson Courthouse.**

12 That thereafter I caused the same to be transcribed
13 into typewriting and that the foregoing Pages 1 through 20 is
14 a full, true, and correct transcription of my notes taken at
15 the time and place therein stated.

16 Dated: AUGUST 7TH, 2020.

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22 **Kim Perea, CSR No. 11971**