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FILED
SUPERIOR COURT
COUNTY OF SAN BERNARDINO
SAN BERNARDINO DISTRICT

JAN 28 2026

BY: Tina Ybarra DEPUTY

SUPERIOR COURT OF CALIFORNIA, COUNTY OF
STREET ADDRESS: 247 West Third Street
MAILING ADDRESS: Same as above
CITY AND ZIP CODE: San Bernardino, 92415
BRANCH NAME: San Bernardino Justice Center

PEOPLE OF THE STATE OF CALIFORNIA
v.
DEFENDANT: Maria
DATE OF BIRTH: 1.14.60

CASE NUMBER: FSB

FOR COURT USE ONLY
DATE:
TIME:
DEPARTMENT:

ORDER ON MOTION TO VACATE CONVICTION OR SENTENCE

☐ Pen. Code, § 1016.5
☑ Pen. Code, § 1473.7(a)(1)
☐ Pen. Code, § 1473.7(a)(2)
☐ Pen. Code, § 1473.7(a)(3)

1. **FOR APPOINTMENT OF COUNSEL**
   a. ☐ The court **grants** the request for appointment of counsel.
   b. ☐ The court **denies** the request for appointment of counsel because the Moving Party has not shown *(choose all that apply)*
      ☐ a prima facie case ☐ indigency.

2. **FOR PENAL CODE SECTION 1016.5 RELIEF**
   a. ☐ The court **grants** the Moving Party's request to vacate the judgment and to permit the Moving Party to withdraw the plea of guilty or nolo contendere and enter a plea of not guilty.
   b. ☐ The court **denies** the Moving Party's request to vacate the judgment and to permit the Moving Party to withdraw the plea of guilty or nolo contendere and enter a plea of not guilty.

3. **FOR PENAL CODE SECTION 1473.7(a)(1) RELIEF**
   a. **Request to Waive Personal Appearance** *(if applicable)*
      (1) ☐ The court finds good cause to **grant** the request that the court hold the hearing without the personal presence of the Moving Party.
      (2) ☐ The court **denies** the request that the court hold the hearing without the personal presence of the Moving Party.
   b. **Timeliness**
      (1) ☐ The court **deems the motion timely** because the Moving Party did not receive, or acted with reasonable diligence after receiving, notice from immigration authorities.
      (2) ☐ The court exercises its discretion to **deem the motion timely.**
      (3) ☐ The court **deems the motion untimely and dismisses the motion** after a hearing (*People v. Alatorre* (2021) 70 Cal.App.5th 747).
   c. **Vacatur of Conviction or Sentence**
      (1) ☑ The court **grants** the Moving Party's request to vacate the conviction or sentence on the basis that the conviction or sentence is legally invalid due to a prejudicial error damaging the Moving Party's ability to meaningfully understand, defend against, or knowingly accept the actual or potential adverse immigration consequences of a conviction or sentence.
         ☑ The court permits the Moving Party to withdraw the plea of guilty or nolo contendre and enter a plea of not guilty.
      (2) ☐ The court **denies** the Moving Party's request to vacate the conviction or sentence on the basis that the conviction or sentence is legally invalid due to a prejudicial error damaging the Moving Party's ability to meaningfully understand, defend against, or knowingly accept the actual or potential adverse immigration consequences of a conviction or sentence.

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CR-188 [Rev. September 1, 2024]

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4. **FOR PENAL CODE SECTION 1473.7(a)(2) RELIEF**

a. **Request to Waive Personal Appearance** *(if applicable)*

(1) ☐ The court finds good cause to **grant** the request that the court hold the hearing without the personal presence of the Moving Party.

(2) ☐ The court **denies** the request that the court hold the hearing without the personal presence of the Moving Party.

b. **Undue Delay**

(1) ☐ The court finds that the Moving Party **filed without undue delay** from the date the Moving Party discovered, or could have discovered through the exercise of due diligence, the evidence of actual innocence.

(2) ☐ The court finds that the Moving Party **failed to file the motion without undue delay** from the date the Moving Party discovered, or could have discovered through the exercise of due diligence, the evidence of actual innocence, and **dismisses** the motion after a hearing.

c. **Vacatur of Conviction or Sentence**

(1) ☐ The court **grants** the Moving Party's request to vacate the conviction or sentence based on newly discovered evidence of actual innocence.

☐ The court permits the Moving Party to withdraw the plea of guilty or nolo contendere and enter a plea of not guilty.

(2) ☐ The court **denies** the Moving Party's request to vacate the conviction or sentence based on newly discovered evidence of actual innocence.

(3) The court's basis for the ruling:

5. **FOR PENAL CODE SECTION 1473.7(a)(3) RELIEF**

a. **Request to Waive Personal Appearance** *(if applicable)*

(1) ☐ The court finds good cause to **grant** the request that the court hold the hearing without the personal presence of the Moving Party.

(2) ☐ The court **denies** the request that the court hold the hearing without the personal presence of the Moving Party.

b. **Time Frames**

(1) ☐ The court finds that the motion **was filed in accordance with the time frames** in Penal Code section 745(j).

(2) ☐ The court finds that the motion **was filed prematurely under the time frames** in Penal Code section 745(j) and dismisses the motion after a hearing.

c. **Undue Delay**

(1) ☐ The court finds that the Moving Party filed **without undue delay** from the date the Moving Party discovered, or could have discovered through the exercise of due diligence, the evidence that provides a basis for relief under Penal Code section 745(a).

(2) ☐ The court finds that the Moving Party **failed to file the motion without undue delay** from the date the Moving Party discovered, or could have discovered through the exercise of due diligence, the evidence that provides a basis for relief under Penal Code section 745(a), and **dismisses the motion** after a hearing.

d. **Motion for Disclosure**

(1) ☐ The court grants the Moving Party's request for the following records or information relevant to a potential Penal Code section 745(a) violation:

(2) ☐ The court denies the Moving Party's request for disclosure of records or information.

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5. e. **Vacatur of Conviction or Sentence**

(1) The court finds the following violations of section 745(a) occurred *(check all that apply)*:

(a) ☐ The judge, an attorney, a law enforcement officer, an expert, or a juror in the case exhibited bias or animus toward the Moving Party because of the Moving Party's race, ethnicity, or national origin.

(b) ☐ During in-court trial proceedings, the judge, an attorney, a law enforcement officer, an expert, or a juror used racially discriminatory language about the Moving Party's race, ethnicity, or national origin. (Racially discriminatory language does not include relaying language used by someone else that is relevant to the case, or giving a racially neutral and unbiased physical description of the suspect.)

(c) ☐ The Moving Party was charged with or convicted of a more serious offense than defendants of other races, ethnicities, or national origin who have engaged in similar conduct and are similarly situated, **and** the prosecution more frequently sought or obtained convictions for more serious offenses against people who share the Moving Party's race, ethnicity, or national origin in the county where the convictions were sought or obtained.

(d) ☐ The Moving Party received a longer or more severe sentence compared to similarly situated individuals convicted of the same offense **and**:

(i) ☐ longer or more severe sentences were more frequently imposed for the same offense on people who share the Moving Party's race, ethnicity, or national origin than on others in the county; *and/or*:

(ii) ☐ longer or more severe sentences were more frequently imposed for the same offense on defendants in cases with victims of one race, ethnicity, or national origin than in cases with victims of other races, ethnicities, or national origins in that county.

(2) ☐ The court **grants** the Moving Party's request to vacate the conviction and sentence based on a violation of Penal Code section 745(a) and finds the conviction and sentence legally invalid.

(a) ☐ Refer to the court minute order from *(date)*:_____

OR *(check all that apply)*:

(b) ☐ The court orders the following new proceedings consistent with Penal Code section 745(a):

(c) ☐ The court finds a violation of Penal Code section 745(a)(3) and modifies the judgment to the following lesser included or lesser related offense:

(d) ☐ The court permits the Moving Party to withdraw the plea of guilty or nolo contendere and enter a plea of not guilty.

(e) ☐ The court grants the following remedies:

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5. e. (3) ☐ The court **grants** the Moving Party's request to vacate the sentence based on a violation of Penal Code section 745(a) and finds the sentence was legally invalid.

(a) ☐ Refer to the court minute order from *(date):*_____

OR *(check all that apply)*:

(b) ☐ The court imposes the following new sentence:

(c) ☐ The court grants the following remedies:

(4) ☐ The court **denies** the Moving Party's request to vacate the conviction or sentence based on a violation of Penal Code section 745(a).

(5) The court's basis for the ruling:

Date: 1-28-26

Rafael A. Arreola
(JUDICIAL OFFICER)

RAFAEL A ARREOLA

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