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ADRIAN "A.J." GONZALEZ TO REMAIN IN ADULT COURT

Santa Cruz County District Attorney Jeffrey S. Rosell announced today that Superior Court Judge John Salazar found that Adrian "A.J." Gonzalez should remain in Adult Court. Gonzalez is charged with the 2015 murder, kidnapping, and rape of 8-year-old Madyson Middleton. Gonzalez was 15 at the time of the offenses.

Judge Salazar found that Senate Bill 1391 is unconstitutional in that, it is inconsistent with, and fails to further the intent, of voter-approved Proposition 57. Moreover, the Court found that Senate Bill 1391 does not promote public safety as outlined in Proposition 57. In its ruling, the Court stated, "The Legislature may not undo what the people have done."

Please see the Judge's attached written opinion.

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SUPERIOR COURT OF CALIFORNIA
COUNTY OF SANTA CRUZ

THE PEOPLE OF THE STATE OF CALIFORNIA

**No. F28736
STATEMENT OF DECISION**

Plaintiff,

v.

ADRIAN JERRY GONZALEZ

Defendant.

I. INTRODUCTION.

In 2015 the law allowed the district attorney to file charges against a minor directly in criminal court for certain enumerated offenses.

On July 29, 2015 the District Attorney for the County of Santa Cruz, directly filed case F28736 in criminal court. The complaint alleged that on or about July 26, 2015 Adrian Jerry Gonzalez, at the time aged 15 years and nine months, committed First Degree Murder, Kidnapping, Sexual Penetration by Foreign Object, Forcible Lewd Act with a Child, Forcible Rape of a Child, and used a deadly weapon, upon Madyson Jordan Middleton, aged 8 at the time of her death.

On February 25, 2016, the defendant waived his right to a preliminary hearing.

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On June 14, 2016 the defendant was arraigned on the Information.

On November 8, 2016 the voters approved Proposition 57, The Public Safety and Rehabilitation Act of 2016 (The Act) which became effective on November 9, 2016. In addition to other criminal justice reforms, the Act prevented district attorneys from directly filing charges against minors in criminal court, requiring the district attorney to petition the juvenile court to transfer the case to criminal court. Further, if the minor was aged 14 or 15 the district attorney could request a transfer hearing only for specified serious or violent offenses as enumerated in former Welfare and Institutions Code Section 707(b).

On February 8, 2017 in response to the passage of Proposition 57, the District Attorney filed a petition in Juvenile Court and subsequently requested a transfer hearing.

During the months of August, September and October of 2017, this Court presided over a transfer hearing. At the end of this comprehensive hearing, based on the gravity of the alleged offenses, the degree of criminal sophistication exhibited, and the fact the defendant could not be rehabilitated prior to the expiration of the juvenile court's jurisdiction, the Court concluded the defendant was not fit to be adjudicated in the juvenile court and transferred his case back to the criminal court. The Transfer Hearing Decision and Factual Findings are attached for reference.

On May 29, 2018 the defendant filed a petition for writ of mandate in the Sixth District Court of Appeal.

In September of 2018, while awaiting appellate court review and adjudication of this matter in the

1 criminal court, the Governor approved Senate Bill No. 1391 which went into effect January 1, 2019.
2 SB 1391 for all practical purposes eliminated the ability of the district attorney to seek prosecution
3 of 14 and 15-year old offenders in criminal court.

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5 On January 4, 2019 the Sixth District Court of Appeal served an Alternative Writ of Mandate on this
6 Court commanding it to vacate the order transferring the matter to the court of criminal jurisdiction
7 and to reconsider the matter under the current version of Welfare and Institutions Code section 707.
8 Having been advised by the petitioner that this court had set a briefing schedule and a hearing
9 regarding the constitutionality of Senate Bill 1391, the alternate writ was discharged, and the petition
10 for writ of mandate denied as moot. Both parties filed their briefs, and arguments regarding the
11 constitutionality of SB 1391 were heard on May 2, 2019. This decision follows.
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14 **II. THE CONSTITUTIONALITY OF SENATE BILL 1391**

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16 The Constitution of the state of California empowers the people of this state with the right of
17 initiative power. (California Constitution, Article IV, Section 1.) The voters decide whether and
18 how to allow the Legislature to amend an initiative statute. (California Constitution Article II,
19 Section 10).

20 Proposition 57 expressly stated the Act could only be amended if such amendment was “consistent
21 with and furthers the intent of this act by a statute that is passed by a majority vote of the members
22 of each house of the Legislature and signed by the Governor.” (Proposition 57, Section 5.)

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24 As the California Supreme Court held “[t]he purpose of California’s constitutional limitation on the
25 Legislature’s power to amend initiative statutes is to protect the people’s initiative powers by
26 precluding the Legislature from undoing what the people have done, without the electorate’s
27 consent. In this vein, decisions frequently have asserted that courts have a duty to jealously guard
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1 the people’s initiative power, and hence to apply a liberal construction to this power wherever it is
2 challenged in order that the right to resort to the initiative process be not improperly annulled by a
3 legislative body. [Citations.]” (*People v. Kelly* (2010) 47 Cal. 4th 1008, 1025, internal quotation
4 marks omitted).

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7 The general intent of The Public Safety and Rehabilitation Act (Proposition 57) was to “focus
8 resources on keeping dangerous criminals behind bars, while rehabilitating juvenile and adult
9 inmates and saving tens of millions of taxpayer dollars.” (Ballot Pamphlet, General Election
10 (November 8, 2016) argument in favor of Proposition 57, p. 58).

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12 The expressly stated “purpose and intent” of Proposition 57 was to:

- 13 1. *Protect and enhance public safety.*
- 14 2. Save money by reducing wasteful spending on prisons.
- 15 3. Prevent federal courts from indiscriminately releasing prisoners.
- 16 4. Stop the revolving door of crime by emphasizing rehabilitation, especially for juveniles.
- 17 5. *Require a judge, not a prosecutor, to decide whether juveniles should be tried in adult court.*

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19 (Proposition 57, Section 2, emphasis added).

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22 It is clear that SB 1391 is not simply a refinement of Proposition 57. The Act as originally proposed
23 in 2015 would have *prevented* 14 and 15-year old offenders from being transferred to criminal court.
24 (*Brown v. Superior Court* (2016) 63 Cal.4th 335, 340). The Act was amended to *allow* transfer to
25 criminal court of 14 and 15-year olds charged with serious and violent offenses, with the official title
26 and summary of the proposition modified to include this language: “Provides juvenile court judges
27 shall make determination, upon prosecutor motion whether juveniles age 14 or older should be
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1 prosecuted and sentenced as adults for specified offenses.” SB 1391 restores the original language
2 that was previously removed from the Act in order to gain voter approval, and this conflicts with the
3 Act.

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6 The Act permitting district attorneys to petition the court to transfer minors 14 and over to criminal
7 court necessitated a juvenile court judge deciding in which court the minor would be tried. Further,
8 for 14 and 15-year olds the district attorney could request a transfer hearing only for specified
9 serious or violent offenses as enumerated in former Welfare and Institutions Code Section 707(b).

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11 Pursuant to Welfare and Institutions Code Section 707, a juvenile court judge was required to
12 consider the following factors in making this determination:

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1) The degree of criminal sophistication exhibited by the minor.

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2) Whether the minor can be rehabilitated prior to the expiration of the juvenile court’s
16 jurisdiction.

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3) The minor’s previous delinquent history.

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4) Success of previous attempts by the juvenile court to rehabilitate the minor.

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5) The circumstances and gravity of the offense alleged in the petition to have been
21 committed by the minor.

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23 This Court agrees that Senate Bill 1391 attempted to generally further the intent of Proposition 57,

24 because the vast majority of 14 and 15-year old offenders can be rehabilitated. Rehabilitating *most*

25 14 and 15-year-old offenders thereby leads to increased public safety. But this was already

26 effectuated by the limit in the Act on which offenses could lead to transfer. What renders SB 1391

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28 unconstitutional is that it goes too far. The voting public never agreed to allow extremely violent and

dangerous individuals to be returned to the general public without first being rehabilitated. And in

1 fact, the public was promised protection from these individuals. Senate Bill 1391 completely
2 eviscerated the district attorney's ability to petition the court to "keep dangerous criminals behind
3 bars" if that individual committed their crime when they were under 16 years of age. Regardless of
4 their amenability to rehabilitation. Regardless of their callous and complete disregard for the life of
5 another. Regardless of the undeniable risk they would pose when released back into the community.
6 This key safeguard was plainly and convincingly promised to the voters of this state when they were
7 asked to approve Proposition 57. The words "Public Safety" were drilled into the minds of the
8 voters and their meaning cannot be ignored. Allowing **all** 14 and 15-year olds accused of first-
9 degree murder and other violent offenses to remain in the juvenile court is not promoting public
10 safety, because not all of them can be safely rehabilitated prior to the expiration of the juvenile
11 court's jurisdiction. The facts of the death of Madyson Jordan Middleton as revealed in the transfer
12 hearing findings of this court exemplify why SB 1391 does not promote public safety.
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16 Further, voters explicitly voted to have a judge determine whether a 14-15 year-old was amenable to
17 rehabilitation. SB 1391 conflicts with this provision because it eliminates that determination
18 altogether. In this significant regard, Senate Bill 1391 is inconsistent with and fails to further *The*
19 *Public Safety and Rehabilitation Act's* purpose to protect and enhance public safety and is therefore
20 unconstitutional. The Legislature may not undo what the people have done. The defendant shall
21 remain in criminal court.
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24 DATED: May 16, 2019
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JOHN S. SALAZAR

Judge of the Superior Court of California
County of Santa Cruz

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