

1 ANNE MARIE SCHUBERT
District Attorney
2 PARIS COLEMAN (SBN 170282)
Deputy District Attorney
3 901 G Street
Sacramento, CA 95814-1858
4 Telephone (916) 874-6940

5 Attorneys for Plaintiff

6 **SUPERIOR COURT OF CALIFORNIA**
7 **COUNTY OF SACRAMENTO**
8

9 THE PEOPLE OF THE STATE OF CALIFORNIA,) Case No. 17FE012090
10)
11 Plaintiff,)
12 vs.) PEOPLE'S OPPOSITION TO
13) DEFENDANT'S MOTION TO
14 YVETTE FELARCA, MICHAEL WILLIAMS,) DISMISS
15)
16 PORFIRIO PAZ)
17)
18 Defendants.) Department: 63
Date: February 9, 2018
Time: 1:30 p.m.

16
17 I. INTRODUCTION

18 The defense has based their claims on discriminatory prosecution based upon two
19 broad themes, political (or racial) bias and evidentiary weakness. The basis for these
20 "allegations" are misguided because they are based on supposition, lack merit, and are not
21 firmly grounded in either law or fact. In fact, a great deal of the defense claims surrounding
22 political bias have little to no relation to the charges their clients currently face and would
23 be inadmissible in any evidentiary proceeding as "not relevant". Their argument is, in
24 effect, that because there are other perpetrators that committed crimes that have not been
25 charged, it is not fair for these defendants to be held accountable for their actions. Even if
26 the extraordinary allegations of bias and collusion posited by the defense in their motion to
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1 dismiss were true, and they are not, they would have no bearing on the guilt or innocence
2 of the defendants currently before the court.

3 4 II. COLLUSION AND POLITICAL WITCH-HUNT (BIASED PROSECUTION)

5 Throughout their brief the defense repeatedly trumpets, as a fact, that “The fascists
6 walked away” and that the DA has done “nothing to prosecute the fascists”. (P.1; Line 10-
7 11; Line 17).

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9 It should be noted that all parties, including each of these defendants, walked away
10 from the Capitol grounds that day. There were no arrests made until a review of all of the
11 available information could be completed. The CHP reviewed videos from several
12 different sources in an attempt to ascertain both the identities and behaviors of as many of
13 the participants in the day’s events as they could, irrespective of which side anyone
14 participated on. The investigation resulted in the identification of approximately 100
15 individuals participating in a wide variety of illegal activities. The large majority of these
16 offenses were minor in nature and, as such, were not charged. This fact is true and applies
17 equally to participants on both sides of the melee. In this case, the prosecution chose to
18 focus on those individuals who could be positively identified and were captured on video
19 committing felony offenses.

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22 The defense moving papers repeatedly state that the prosecution has not and is not
23 taking measures to prosecute any of the “fascists” who participated in this event. This
24 statement is wholly inaccurate and untrue. The People do not know whether this was a
25 deliberate misstatement by the defense or whether they are simply unaware that there is a
26 currently pending criminal case against TWP affiliate William Planer – docket number
27 17FE011170 – who was extradited from the state of Colorado to face charges in this
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1 jurisdiction. Like the defendants bringing this motion, Mr. Planer was able to be identified
2 after a thorough investigation and faces felony assault charges stemming from the events of
3 6/26/16. Also, like the three defendants bringing this motion, Mr. Planer was captured
4 committing felony conduct on video and faces charges relating to that assault. Video
5 evidence was gathered by law enforcement which clearly shows Mr. Planer assaulting a
6 counter-protestor identified as Alice Summers with a deadly weapon on the Capitol
7 grounds.
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10 Mr. Planer has already been brought to preliminary hearing and was held to answer on
11 his charges. Trial dates will be set in his matter on the next court date. The defense has
12 been provided the discovery relating to Mr. Planer's actions and the prosecution is
13 unaware why Mr. Planer and Ms. Summers are missing entirely from the defense summary
14 of the events, other than the obvious fact that this information does not further their stated
15 agenda of alleging political bias and racial discrimination.
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17 In addition to the prosecution of Mr. Planer that has been ignored by the defense
18 moving papers, the defense also fails to mention that the prosecution has indicated that
19 investigation is still active and ongoing with regard to law enforcements' attempts to
20 identify the perpetrators of the stabbing events that were known to have occurred during
21 the clash on 6/26/16. The People notified the defense in writing of this fact in response to
22 an informal request for discovery several months ago. To allow the court to more fully
23 understand this issue, the prosecution will outline this ongoing investigation in more detail.
24 There were several victims who were stabbed during the events on the Capitol grounds on
25 6/26/16. Items of physical evidence, specifically two knives, were located on Capitol
26 grounds and have been tested for the presence of DNA. Efforts have been made (and
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1 continue to be made) to make contact with these victims in order to bring the perpetrators
2 to justice. Investigators acting on behalf of the DA's Office have reached out to these
3 victims through social media, last known addresses, family addresses, etc. in order to
4 inform them of the status of the investigation and gain their cooperation in helping the
5 investigation. To date, only one of these victims has responded to law enforcements'
6 efforts. Despite the fact that we have not gained the cooperation of these victims, the
7 investigation to hold their attackers responsible continues forward.
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11 III. DEFENSE CLAIM OF INSUFFICIENT EVIDENCE

12 The defense does not deny that each of the three defendants named in the complaint
13 before the court were, in fact, captured on video committing behaviors that can only be
14 characterized as assaultive in nature. Nevertheless, the defense apparently contends that the
15 images they've seen in the videos is somehow inadmissible because they haven't been
16 "authenticated". These assertions are incorrect on several levels.
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18 First, Counsel cites Evidence Code section 250 as the legal basis for their position.
19 Counsel should, perhaps, also read Evidence Code section 1410, et. seq. which states "Nothing
20 in this article shall be construed to limit the means by which a writing may be authenticated or
21 proved." Sections 1410-1421 of the Evidence Code provide for various available means to
22 authenticate writings. *Writings are authenticated, or not, in court.* The people are confident that
23 the witnesses presented at any evidentiary hearing to authenticate the videos will survive the
24 appropriate measure of legal scrutiny.
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26 Secondly, defense counsel asserts that the "DA's 'evidence' consists entirely of
27 unsubstantiated, biased accounts by CHP lead investigator Officer Ayres (who was not present
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1 on ground that day)". Additionally, "Ayres was not present on the ground at the State Capitol
2 June 26, 2016. [Pg. 22, lines 1-2] and [Pg. 25, lines 4-6]. Again, the defense, in stating their
3 assumption as fact, is simply wrong. Officer Ayres was, in fact, on the capitol grounds that day
4 and personally witnessed the events unfold.
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6 Finally, as to all the other allegations set-forth in the Defense motion, the simplest and
7 most direct way to test the soundness of the evidence against their clients is to have a preliminary
8 hearing as soon as possible. If the People's case is as lacking as the defense motion suggests,
9 then People would be hard pressed to get a judge to issue a holding order and the case against
10 their client's would be discharged. The People asked to set a preliminary hearing date on this
11 case on November 8, 2017, nearly three months ago. Instead, defense counsel has only sought to
12 delay these proceedings with a motion that, even on its face, was drafted only to satisfy their
13 desire to make a political statement.
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15 I. CONCLUSION

16 Every assertion made in defendants' motion is either inaccurate or fabricated. The
17 People's only objective is to have the facts of this case heard in a court of law by an impartial
18 judge and jury from the community, and not through Facebook, YouTube, chanting on street
19 corners, or through the press. The evidence in this case will demonstrate that there were bad
20 actors on all sides of the conflict on the very steps of our State Capital. However, no one is
21 above the law, and no one is beneath the protection of the law, no matter how repugnant his or
22 her rhetoric or misguided his or her ideals. The evidence the People are prepared to present is
23 admissible and will fully demonstrate the defendant's guilt on all of the allegations currently
24 before the court.
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1 Dated: _____

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Respectfully submitted,

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ANNE MARIE SCHUBERT,
DISTRICT ATTORNEY

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PARIS COLEMAN
Deputy District Attorney

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CASEY SINCLAIR
Deputy District Attorney

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