

Jonathan Grossman 154452
Staff Attorney
Sixth District Appellate Program
95 S. Market Street, Suite 570
San Jose CA 95113
(408) 241-6171
fax (408) 241-2877
jonathan@sdap.org

Attorney for David Owen Rodriguez

IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA
SIXTH APPELLATE DISTRICT

<p>PEOPLE OF THE STATE OF CALIFORNIA, Plaintiff and Respondent, v. DAVID OWEN RODRIGUEZ, Defendant and Appellant.</p>	<p>No. H047932 (Santa Clara County Superior Court No. CC809758)</p>
--	---

Request for Judicial Notice

Appellant David Owen Rodriguez requests that this court take judicial notice pursuant to Evidence Code section 452, subdivision (d), of the opinion on appeal in the previous appeal of this case, *People v. David Owen Rodriguez*, No. H038219.

This motion is based on this notice, the accompanying declaration of counsel and the Memorandum of Points and Authorities which follows.

DECLARATION OF COUNSEL

I, Jonathan Grossman, am a staff attorney with the Sixth District Appellate Program representing the appellant David Owen Rodriguez and request that this court take judicial notice

of the opinion on appeal in the previous appeal in this case, H038219.

Mr. Rodriguez appeals an order denying his motion for resentencing. The procedural and factual background of the case is not included in the available record on appeal but are included in this Court's opinion from his earlier appeal in case no. H038219. Thus, judicial notice is necessary for a complete and adequate record.

The material of which appellant request this Court to take judicial notice was not attached to this motion because it this Court already possessed the material. Because the Office of the Attorney General litigated the previous appeal, it should already possess the material. It is also available at <https://www.courts.ca.gov/opinions/nonpub/H038219.pdf> (as of June 14, 2021).

I declare under penalty of perjury under the laws of the state of California that the foregoing is true and correct.
Executed at San Francisco, California, on June 16, 2021.

/s/ Jonathan Grossman
Jonathan Grossman

MEMORANDUM OF POINTS AND AUTHORITIES

Pursuant to Evidence Code section 459, subdivision (a)(2), a reviewing court may take judicial notice of “any matter specified in section 452.” Section 452, subdivision (d), provides judicial notice may be taken of the records of “any court of this state.” The item requested is part of the records of this Court. Therefore, judicial notice is appropriate.

DATED: June 16, 2021

Respectfully submitted,

By: */s/ Jonathan Grossman*
Jonathan Grossman
Attorney for Appellant
David Owen Rodriguez

IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA
SIXTH APPELLATE DISTRICT

<p>PEOPLE OF THE STATE OF CALIFORNIA, Plaintiff and Respondent, v. DAVID OWEN RODRIGUEZ, Defendant and Appellant.</p>	<p>No. H047932 (Santa Clara County Superior Court No. CC809758)</p>
---	---

Order

Appellant's request for judicial notice of the opinion on
appeal in case no. H038219 is:

___ Granted ___ Denied.

Dated: _____

Presiding Justice
Of the Court of Appeal

DECLARATION OF SERVICE BY E-MAIL

Case Name: *People v. Rodriguez*
Case No.: **H047932**

I declare that I am over the age of 18, not a party to this action and my business address is 95 S. Market Street, Suite 570, San Jose, California 95113. On the date shown below, I served the within ***REQUEST FOR JUDICIAL NOTICE*** to the following parties hereinafter named by:

 X **BY ELECTRONIC TRANSMISSION** - I transmitted a PDF version of this document by electronic mail to the party(s) identified on the attached service list using the e-mail address(es) indicated.

Served electronically via TrueFiling.com:

Attorney General's Office
455 Golden Gate Ave., Ste. 11,000
San Francisco, CA 94102-7004
[attorney for respondent]
SFAGDocketing@doj.ca.gov

I declare under penalty of perjury the foregoing is true and correct. Executed this 16th day of June, 2021, at San Jose, California.

 /s/ Priscilla A. O'Harra
Priscilla A. O'Harra