

SUPERIOR COURT OF CALIFORNIA,
COUNTY OF ORANGE
CENTRAL JUSTICE CENTER

MINUTE ORDER

DATE: 08/06/2024

TIME: 09:38:00 AM

DEPT: C65

JUDICIAL OFFICER PRESIDING: Mena Guirguis

CLERK: R. Juarez

REPORTER/ERM:

BAILIFF/COURT ATTENDANT:

CASE NO: 30-2024-01403673-CU-JR-CJC CASE INIT.DATE: 06/04/2024

CASE TITLE: People of the State of California vs. Brownstein

CASE CATEGORY: Civil - Unlimited CASE TYPE: Judicial Review - Other

EVENT ID/DOCUMENT ID: 74354904

EVENT TYPE: Chambers Work

APPEARANCES

There are no appearances by any party.

The Court, after fully considering the arguments of the parties, both written and oral, as well as the evidence presented, ruled as follows:

The People have met their burden by a preponderance of the evidence that the applicant is a disqualified person in accordance with Section 26202 of the Penal Code. The applicant is advised of their right to file a subsequent application for a license no sooner than two years from the date of the hearing.

The People presented evidence and argued that the applicant is a prohibited person pursuant to Penal Code section 26202(a)(3) because he was the subject of a restraining order within the past 5 years. The applicant argued that because he was only subject to a temporary restraining order that was issued ex parte, he is not being afforded due process. The Court took judicial notice of the domestic violence family law case (22V000721) in which the temporary restraining order was issued. Specifically, the Court considered that: (1) a temporary restraining order was granted against the applicant on March 30, 2002; (2) that a temporary restraining order protecting the applicant was denied on April 1, 2002; (3) that a domestic violence restraining order hearing was held on May 3, 2002; (4) that the protected party and applicant both testified under oath at the hearing; and (5) that after the hearing there was found to be insufficient evidence to substantiate by a preponderance of the evidence that domestic violence occurred. The restraining order against the applicant therefore expired on May 3, 2002.

The Court understands that the applicant was subject to an ex parte temporary restraining order that was later denied when he had a chance to present his side. The applicants argument that an ex parte restraining order, whether domestic violence or civil harassment, may be issued based on false allegations is well taken. The Court completely understands the applicant's due process and constitutional arguments.

This appears to be a case of first impression and the Court relies on a strict reading of the statute. The statute does not make a distinction for temporary restraining orders. Therefore, because a valid restraining order was issued against the applicant within the last 5 years, he is disqualified.

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Page 1

Calendar No.

SUPERIOR COURT OF CALIFORNIA, COUNTY OF ORANGE

Central Justice Center
700 W. Civic Center Drive
Santa Ana, CA 92702

SHORT TITLE: People of the State of California vs. Brownstein

**CLERK'S CERTIFICATE OF MAILING/ELECTRONIC
SERVICE**

CASE NUMBER:
30-2024-01403673-CU-JR-CJC

I certify that I am not a party to this cause. I certify that a true copy of the above Minute Order dated 08/06/24 has been placed for collection and mailing so as to cause it to be mailed in a sealed envelope with postage fully prepaid pursuant to standard court practice and addressed as indicated below. This certification occurred at Santa Ana, California on 8/6/24. Following standard court practice the mailing will occur at Sacramento, California on 8/7/24.

CODY JAY BROWNSTEIN
1117 CITY LIGHTS DRIVE
ALISO VIEJO, CA 92656

Clerk of the Court, by:

R. Juarez

, Deputy

I certify that I am not a party to this cause. I certify that the following document(s), Minute Order dated 08/06/24, was transmitted electronically by an Orange County Superior Court email server on August 6, 2024, at 9:42:43 AM PDT. The business mailing address is Orange County Superior Court, 700 Civic Center Dr. W, Santa Ana, California 92701. Pursuant to Code of Civil Procedure section 1013b, I electronically served the document(s) on the persons identified at the email addresses listed below:

DISTRICT ATTORNEY
OCDAPOSTCONVICTION@OCDAPA.ORG

Clerk of the Court, by:

R. Juarez

, Deputy

CLERK'S CERTIFICATE OF MAILING/ELECTRONIC SERVICE

SUPERIOR COURT OF CALIFORNIA
ORANGE COUNTY
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