

APP-014

ATTORNEY OR PARTY WITHOUT ATTORNEY NAME: Cody Jay Brownstein FIRM NAME: STREET ADDRESS: 1117 City Lights Dr CITY: Aliso Viejo TELEPHONE NO.: 310-874-8743 E-MAIL ADDRESS: me@brownstein.co ATTORNEY FOR (name): Appellant (Respondent in trial court) in pro per		STATE BAR NUMBER: STATE: CA ZIP CODE: 92656 FAX NO.:	FOR COURT USE ONLY
SUPERIOR COURT OF CALIFORNIA, COUNTY OF Orange STREET ADDRESS: 700 W Civic Center Dr MAILING ADDRESS: CITY AND ZIP CODE: Santa Ana 92702 BRANCH NAME: Centra Justice Center			
PLAINTIFF/PETITIONER: People of the State of California DEFENDANT/RESPONDENT: Cody Jay Brownstein OTHER PARENT/PARTY:			
APPELLANT'S PROPOSED SETTLED STATEMENT (UNLIMITED CIVIL CASE)		SUPERIOR COURT CASE NUMBER: 30-2024-01403673-CU-JR-CJC	
Re: Appeal filed on (date): 9/26/2024		COURT OF APPEAL CASE NUMBER (if known): G064719	
Notice: Please read <i>Information Sheet for Proposed Settled Statement</i> (form APP-014-INFO) before completing this form. You must file this form in the superior court, not in the Court of Appeal.			

1. PRELIMINARY INFORMATION

- a. I am appealing (check one): ☐ an order filed on ☒ a judgment entered on (date): 8/6/2024
- b. On (date): 9/26/2024, I filed a notice of appeal. A copy of the judgment or order I am appealing is attached.
- c. On (date): 10/28/2024, (check the one that applies):
- (1) ☒ I filed a notice designating the record on appeal, choosing to use a settled statement.
- (2) ☐ The court sent me ☐ I was served with an order granting my request to use a settled statement.
- d. ☐ On (date): ///, the court ordered me to modify or correct my proposed settled statement.

2. REASONS FOR YOUR APPEAL

(Check all that apply and describe the error or errors you believe were made that are the reasons for this appeal.)

- a. ☐ **No substantial evidence.** There was no substantial evidence that supported the judgment or order that I am appealing.
(Explain why you think the judgment or order was not supported by substantial evidence.)
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☐ [Attachment 2a](#)

- b. ☒ **Errors.** The following error or errors about either the law or court procedure affected the outcome of the case
(Describe each error.)
- The trial court committed prejudicial error by denying the petition of Appellant (Respondent in the trial court) challenging the determination that he's disqualified from being issued a CCW license.
 - The trial court committed prejudicial error by denying Appellant's demurrer / motion for entry of judgment.
 - The trial court committed prejudicial error by denying Appellant's request for a statement of decision.

☐ [Attachment 2b](#)

PLAINTIFF/PETITIONER: People of the State of California	SUPERIOR COURT CASE NUMBER: 30-2024-01403673-CU-JR-CJC
DEFENDANT/RESPONDENT: Cody Jay Brownstein	COURT OF APPEAL CASE NUMBER (if known): G064719
OTHER PARENT/PARTY:	

3. SUMMARY OF THE PARTIES' TESTIMONY AND OTHER EVIDENCE

- a. Did any of the parties testify at the trial or hearing? ☒ No ☐ Yes

(Specify the name of the party who testified and the date on which the party testified. Then write a complete and accurate summary of what each party said that is relevant to the reasons you gave in item 2 for this appeal (for example, what the party said in response to questions asked by the party's own attorney, the other party (or the attorney), and/or the court). Include only what was actually said; do not comment or give your opinion about what was said.)

(1) Name of party: ///

testified on (date): ///

Summary:

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☐ [Attachment 3a\(1\)](#)

- (a) Did a party (or attorney) make an objection to this party's testimony? ☐ No ☐ Yes (Specify in item 3b.)
- (b) During this party's testimony, were any exhibits (documents, records, or other materials) relevant to the appeal presented that the judge allowed to be used as evidence to support or disprove this party's testimony? ☐ No ☐ Yes (Specify in item 3c.)
- (c) During this party's testimony, were any exhibits (documents, records, or other materials) relevant to the appeal presented that the judge *did not* allow to be used as evidence to support or disprove this party's testimony? ☐ No ☐ Yes (Specify in item 3d.)

PLAINTIFF/PETITIONER: People of the State of California	SUPERIOR COURT CASE NUMBER: 30-2024-01403673-CU-JR-CJC
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OTHER PARENT/PARTY:	

3. a. (2) Name of party: ///

testified on (date): ///

Summary:

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☐ Attachment 3a(2)

- (a) Did a party (or attorney) make an objection to this party's testimony? ☐ No ☐ Yes (Specify in item 3b.)
- (b) During this party's testimony, were any exhibits (documents, records, or other materials) relevant to the appeal presented that the judge allowed to be used as evidence to support or disprove this party's testimony? ☐ No ☐ Yes (Specify in item 3c.)
- (c) During this party's testimony, were any exhibits (documents, records, or other materials) relevant to the appeal presented that the judge *did not* allow to be used as evidence to support or disprove this party's testimony? ☐ No ☐ Yes (Specify in item 3d.)

(3) Was there testimony from other parties? ☒ No ☐ Yes

(If you answered yes, fill out and attach to this form Other Party and Nonparty Witness Testimony and Evidence Attachment (form APP-014A).)

PLAINTIFF/PETITIONER: People of the State of California	SUPERIOR COURT CASE NUMBER: 30-2024-01403673-CU-JR-CJC
DEFENDANT/RESPONDENT: Cody Jay Brownstein	COURT OF APPEAL CASE NUMBER (if known): G064719
OTHER PARENT/PARTY:	

3. b. **Objections to a party's testimony relevant to the appeal**

(Indicate which party's testimony was objected to and specify the objection. Also indicate whether the court "sustained the objection" (prevented the party from saying something) or "overruled the objection" (allowed the party to make a statement) and include any explanation given by the court.)

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☐ [Attachment 3b](#)

- c. **Exhibits (documents, records, or other materials) relevant to the appeal allowed to be used as evidence to support or disprove a party's testimony.** *(Write a complete and accurate summary of the exhibits presented by each party. Include any objections and the court's ruling on those objections. Do not comment or give your opinion about the exhibits.)*
Appellant believes Respondent (Petitioner in the trial court) introduced various documents and records, under seal, including, but not limited to, a copy of the domestic violence temporary restraining order obtained against Appellant in the Orange County Superior Court case entitled Burger v. Brownstein, case no. 22V00721.

Appellant didn't object to the admission of any exhibits into evidence.

Appellant didn't offer any exhibits into evidence in the trial court.

☐ [Attachment 3c](#)

- d. **Exhibits (documents, records, or materials) relevant to the appeal not allowed to be used as evidence to support or disprove a party's testimony.** *(Write a complete and accurate summary of the exhibits. Include any objections and the court's ruling on those objections. Do not comment or give your opinion about the items.)*

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☐ [Attachment 3d](#)

PLAINTIFF/PETITIONER: People of the State of California	SUPERIOR COURT CASE NUMBER: 30-2024-01403673-CU-JR-CJC
DEFENDANT/RESPONDENT: Cody Jay Brownstein	COURT OF APPEAL CASE NUMBER (if known): G064719
OTHER PARENT/PARTY:	

4. SUMMARY OF NONPARTY WITNESS TESTIMONY AND OTHER EVIDENCE

Was there testimony from another party or nonparty witnesses that is relevant to the reasons for the appeal?

- ☒ No (skip to Item 5) ☐ Yes (Fill out and attach to this form Other Party and Nonparty Witness Testimony and Evidence Attachment (form APP-014A))

5. TRIAL COURT'S FINDINGS

- a. Did the judge make findings at the hearing or trial in the case? ☐ No ☒ Yes (Complete item 5b.)
(A judge makes a "finding" when the judge decides that something is a fact, is true, or is relevant.)

- b. What are the findings that the judge made that are relevant to the reasons for the appeal?
The trial court judge found that a domestic violence temporary restraining order was entered against Appellant on March 30, 2022, in the Orange County Superior Court case entitled Burger v. Brownstein, case no. 22V00721. The trial court judge found that the temporary restraining order expired on May 3, 2022.

☐ [Attachment 5](#)

6. SUMMARY OF MOTIONS

- a. Are any of your reasons for appeal based on your disagreement with the court's ruling on a motion or motions?
☒ Yes (Fill out b.) ☐ No (Skip to item 7.)
- b. Describe the motion. (State which party made the motion. Then, write a complete and accurate summary of what was said (any testimony and arguments) and what the court decided (whether the court granted or denied the motion).)
Appellant filed a demurrer or, alternatively, a motion for entry of judgment under the trial court's inherent power (referred to below simply as "demurrer"). Appellant's demurrer was heard on the same day as the hearing on Appellant's petition challenging the determination that's he's disqualified from being issued a CCW license (hearing challenging determination). The trial court denied Appellant's demurrer on the ground that in the case there's no complaint alleging causes of action. Further, the trial court announced that it won't exercise its discretion to treat Appellant's demurrer as a motion for entry of judgment under the trial court's inherent power. At the conclusion of the hearing challenging determination, Appellant requested a statement of decision, which was denied on the ground that the hearing lasted less than 8 hours.

☐ [Attachment 6](#)

7. SUMMARY OF JURY INSTRUCTIONS

- a. Are any of your reasons for appeal based on your disagreement with the court's ruling on a jury instruction or instructions?
☐ Yes (Fill out b.) ☒ No (Skip to item 8.)
- b. Identify the jury instruction and the party that requested it. (Summarize what the parties said (arguments or objections) and what the court decided (whether the court gave the instruction to the jury, refused to give the instruction to the jury, or modified it before giving it to the jury). Describe any modifications the court made to the instruction.)
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☐ [Attachment 7](#)


8. ORDER OR JUDGMENT YOU ARE APPEALING

Attach a copy of the order or judgment you are appealing.

Date: October 31, 2024

Cody Jay Brownstein

(TYPE OR PRINT NAME)


(SIGNATURE OF PARTY OR ATTORNEY)

**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.

DATE: 08/06/2024

MINUTE ORDER

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DEPT: C65

Calendar No.

PROOF OF SERVICE

I, Akram Musleh, am over the age of 18 years and am not a party to this cause. My business address is 12405 Venice Boulevard #403, Los Angeles, California 90066.

On October 31, 2024, I served the parties listed below with the documents listed below by enclosing and sealing a copy of the documents in a separate envelope for each party, postage fully prepaid, then depositing the envelopes in a mailbox regularly maintained by the United States Postal Service at Aliso Viejo, California.

Documents:

Appellant's Proposed Settled Statement
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Parties:

Ray Gennawey, Deputy District Attorney Todd Spitzer, District Attorney PO Box 808 Santa Ana CA 92702	Attorneys for Respondent (Petitioner in the trial court), People of the State of California
Office of the Attorney General PO Box 944255 Sacramento CA 94244-2550	Nonparty (Cal. R. Ct. 8.29(c)(1))

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

Dated: October 31, 2024

/s/ Akram Musleh_____
Akram Musleh