

S291092

IN THE
SUPREME COURT OF CALIFORNIA

CALVARY CHAPEL SAN JOSE; and
MIKE MCCLURE, an individual

Petitioners,

v.

THE PEOPLE OF THE STATE OF CALIFORNIA, COUNTY OF
SANTA CLARA; and SARA H. CODY, M.D., in her official capacity as
Health Officer for the County of Santa Clara

Respondents.

ANSWER TO PETITION FOR REVIEW

AFTER A DECISION BY THE COURT OF APPEAL,
SIXTH APPELLATE DISTRICT
CASE NO. H051860
Santa Clara County Super. Ct. No. 20CV372285
The Honorable Evette D. Pennypacker

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California Rules of Court

Rule 8.500.....*passim*

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ANSWER TO PETITION FOR REVIEW

Pursuant to California Rules of Court, rule 8.500(a)(2), the People of the State of California, the County of Santa Clara, and Sarah L. Rudman, the Acting Health Officer for the County of Santa Clara¹ (collectively, “the People”), submit this Answer to the Petition for Review filed on behalf of Calvary Chapel San Jose and Mike McClure (collectively, “Petitioners”) on May 27, 2025, seeking review of the April 15, 2025 unpublished decision of the Court of Appeal of the State of California, Sixth Appellate District, in *People of the State of California, et al. v. Calvary Chapel San Jose, et al.*, No. H051860 (Santa Clara County Super. Ct. No. 20CV372285) (“Unpublished Opinion”).

STATEMENT OF THE ISSUES

The People do not believe that there are any issues that merit review of the unanimous Unpublished Opinion by this Court.

BACKGROUND

This matter arises from a civil enforcement proceeding to abate Petitioners’ ongoing violations of the public health orders implemented by the County of Santa Clara and the State of California during the early stages of the COVID-19 pandemic in order to protect the community at a time before effective treatments and vaccines were widely available. Specifically at issue here are Petitioners’ intentional and repeated failures to comply with then-current face covering requirements that were lifted almost four years ago on June 21, 2021.

In the Unpublished Opinion that Petitioners ask this Court to review, a three-justice panel of the Court of Appeal unanimously upheld the trial court’s grant of summary adjudication for the People, in which the trial

¹ Sarah L. Rudman is the current Acting Health Officer and is named herein in her official capacity.

court found that Petitioners had indisputably violated the public health orders enacted to abate the COVID-19 pandemic by refusing to require or enforce the wearing of face coverings from November 9, 2020 through June 21, 2021; and the trial court held that Petitioners were appropriately fined \$1,228,700 for their more than seven months of ongoing violations.

The Court of Appeal affirmed that there was no triable question of fact regarding Petitioners’ violations of the public health orders, as Petitioners admitted in the trial court proceedings that they “never complied with any of the public health orders requiring face coverings.” (Unpub. Op. at p. 36.) The Court of Appeal further affirmed that the fines imposed were appropriate under County ordinance (*id.* at pp. 33-34) and not grossly disproportionate given that Petitioners had “intentionally and repeatedly failed to comply with any of the public health orders requiring face coverings to be worn” after receiving more than a dozen notices, and despite the fact that COVID-19 is a highly contagious disease that was causing severe illness and death during the global pandemic, including a “serious outbreak” at Petitioners’ own school and COVID-19 cases among their congregants (*id.* at pp. 36-37). The Court of Appeal also affirmed the trial court’s determination that Petitioners’ constitutional defenses were without basis. (*Id.* at pp. 22-37.)

ARGUMENT

Petitioners do not identify the specific statutory grounds supporting review of the Unpublished Opinion, and, in fact, the Petition does not present any of the grounds for review specified in rule 8.500, subdivision (b). First, Petitioners have not identified any split of authority or disagreement among the Courts of Appeal that would require this Court’s review to settle an important question of law. (See Cal. Rules of Court, rule 8.500, subdivision (b)(1).) While Petitioners do ask this Court to

“settle” the issues they have identified (e.g., Pet. at p. 14), their individual interest in further review after losing at trial and on appeal is distinct from this Court’s interest in securing uniformity among Court of Appeal decisions. Second, the Unpublished Opinion was unanimous and joined by all three justices on the panel—again, weighing against the need for review. (See *id.*, subdivision (b)(3).) Third, and finally, there is no jurisdictional issue or need to transfer the matter to the Court of Appeal. (See *id.*, subdivisions (b)(2) and (4).)

Additionally, Petitioners’ arguments concerning a November 2, 2020, temporary restraining order issued by the trial court (Pet. at pp. 9 [Issue 3], 37-43) were not raised by the Petitioners on summary adjudication, nor were they asserted as a basis for Petitioners’ appeal to the Court of Appeal and, thus, they have long since been waived. In any event, this argument is a red herring, as Petitioners could have abated their ongoing violations of the face covering requirements—and stopped accruing fines—at any time simply by coming into compliance with those specific requirements. The validity of other, different requirements of the COVID-19 public health orders—i.e., certain capacity restrictions and the contempt sanctions imposed on Petitioners for their ongoing violations of those requirements—is not relevant to the face covering violations at issue here.

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CONCLUSION

For the foregoing reasons, this Court should deny the Petition for Review.

Dated: June 16, 2025

Respectfully submitted,

TONY LOPRESTI
County Counsel

By: /s/ Robin M. Wall
ROBIN M. WALL
Lead Deputy County Counsel

Attorneys for Respondents
THE PEOPLE OF THE STATE OF
CALIFORNIA, COUNTY OF SANTA
CLARA, and SARAH L. RUDMAN, M.D.

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CERTIFICATE OF COMPLIANCE

I, Robin M. Wall, certify that, pursuant to Rule 8.504(d)(1) of the California Rules of Court, the attached Answer to Petition for Review has a typeface of 13 points or more, and contains 827 words, as determined by a computer word count.

Dated: June 16, 2025

Respectfully submitted,

TONY LOPRESTI
County Counsel

By: /s/ Robin M. Wall
ROBIN M. WALL
Lead Deputy County Counsel

Attorneys for Respondents
THE PEOPLE OF THE STATE OF
CALIFORNIA, COUNTY OF SANTA
CLARA, and SARAH L. RUDMAN, M.D.

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PROOF OF SERVICE

CALVARY CHAPEL SAN JOSE, et al. v. THE PEOPLE OF THE STATE OF CALIFORNIA, COUNTY OF SANTA CLARA, et al.
S291092

I, Camie Bowling, say:

I am employed in the County of Santa Clara, State of California. I am over the age of 18, and not a party to the within action. My business address is 70 West Hedding Street, East Wing, 9th Floor, San José, California 95110-1770.

I hereby certify that on **June 16, 2025**, I electronically filed **ANSWER TO PETITION FOR REVIEW** with the Clerk of the California Supreme Court by using the appellate TrueFiling system.

Participants in the case who are registered TrueFiling users and the Clerk of the California Courts of Appeals for the Sixth District will be served by the respondent in the TrueFiling system.

In addition, I caused to be delivered via U.S. Mail addressed to:

Honorable Evette D. Penny Packer
Santa Clara County Superior Court
191 North First Street, Dept. 6
San José, CA 95113
Case No. 20CV372285

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct. Executed on **June 16, 2025**, at San José, California.

/s/ Camie Bowling
Camie Bowling