

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

THE COURT: This is the continuing matter of the application of Ramon Vasquez.

Counsel, please state your appearances.

MR. LEE: Good morning, Your Honor. Michael Lee appearing for the People.

MR. MUELLER: Thomas Mueller representing Ramon Vasquez. He is present in court.

THE COURT: Good morning. Please have a seat. The Court had the matter calendared -- let me start all of this again. I'm sorry. Thank you to both counsel and Mr. Vasquez for allowing the Court to move up this hearing. I was able to get a -- an evaluation with an orthopedist which conflicted with the original date, so I thank Counsel for their assistance in terms of moving the date.

At the last proceeding, the Court took the matter under submission. The Court advised both Counsel that the Court wanted to do more thinking, and the Court also promised Counsel that the Court would do a written order in this case.

The Court appreciates that the matter was submitted at the last proceeding, but the Court wanted to give Counsel an opportunity, should either of them have any additional comments that they wanted to give to the Court.

MR. MUELLER: Your Honor, I do have one thing that I thought of after the last court. And I'll make it very brief, because the Court has seen everything that there is to present.

1 Last time we talked about the case, I meant to point out
2 to the Court that there was a question in the prosecutor's
3 mind about my client making misstatements at the time that he
4 was first arrested.

5 I wanted to remind the Court that this was two months
6 after the original event happened, and he was being asked to
7 remember what he did on the night of two months prior. And I
8 was trying to think, at the time I looked at the case, how
9 could -- how successful would I be in trying to remember what
10 happened two months before?

11 Anyway, I'll just leave it at that.

12 THE COURT: All right. Thank you. Mr. Lee?

13 MR. LEE: Nothing further, Your Honor. Thank you.

14 THE COURT: Thank you. All right. The Court previously
15 has advised Counsel as well as Mr. Vasquez that the Court was
16 spending a great deal of time not only reading and rereading
17 the case law that both Counsel and the Court itself were able
18 to find, as well as to reread the paperwork and the affidavits
19 that were submitted.

20 The Court has had an opportunity not only to reflect on
21 the, quote, evidence, quote, as well as the legal position of
22 the parties, but also the Court has had an opportunity to
23 reflect a great deal about what in the Court's opinion the
24 Court's role is in terms of not only this particular case, but
25 in general with respect to what is justice and what is the
26 Court's role and the People's role as participants in this
27 system, whether it be criminal or whether it be civil.

28 The recent political events in this county with respect

1 to one of my colleagues has caused this judge to reflect a
2 great deal with respect to the Court's role in terms of not
3 only making correct decisions, but also in terms of the
4 Court's responsibility to seek justice and to also comment
5 when the Court sees injustice and when the Court has concerns
6 with respect to the interest of justice.

7 These situations arise in many different contexts. In
8 some situations they're raised with respect to the charges
9 that an individual faces and the Court's responsibility to
10 respect the executive branch's decisions with respect to the
11 charges that are brought. It also goes to the Court's
12 responsibility with respect to imposing sentences and with
13 respect to respecting legislation and to respecting case law,
14 whether the Court and a particular judge is in agreement or
15 disagreement with what the legislature has done or what the
16 particular appellate courts have done with respect to an
17 issue.

18 It's been this judge's practice throughout my career with
19 respect to judicial decision making to try, to the extent
20 possible, to give reasons for decisions in order to afford the
21 parties the opportunity to appeal decisions that they feel
22 have been issued in error. It would be disingenuous of the
23 Court to suggest that decisions that have been made have never
24 been reversed, because the simple fact is that I and most
25 judges have been reversed. What is sometimes disappointing is
26 when the Court invites the appellate courts to reverse and
27 they don't and when the Court sometimes thinks that it's on
28 firm ground and it is sometimes reversed.

1 It is not the place, in this judge's opinion, for judges
2 to worry about necessarily whether they're going to be
3 reversed or not, but more importantly to be concerned about
4 whether or not they are being true to what they believe the
5 law requires. A number of times this Court has been presented
6 with situations with respect to Romero and with respect to
7 sentencing where, in this judge's opinion, there's been
8 draconian results; but the Court, being true to the purpose of
9 law and to the purpose of legislation, has denied Romeros and
10 has imposed what the Court sometimes thinks is a sentence that
11 is unfair but is mandated by the legislation and by Court
12 decisions.

13 What is troubling to the Court in this particular case is
14 that, in this judge's opinion, Mr. Vasquez should have been
15 granted the relief that he requested by stipulation, without
16 the necessity of full blown litigation in this particular
17 concern. The Court is of the opinion that there was probable
18 cause for Mr. Vasquez to be arrested. That was determined by
19 a prior judge, who read affidavits and the like and decided
20 that there was probable cause to believe that a felony had
21 been committed and that Mr. Vasquez was a participant and
22 issued a warrant. The Court has no quarrel with that.

23 The law is, however, that the Court is to consider the
24 totality of the circumstances known at that time and
25 subsequently what has been developed by investigation and new
26 circumstances. What is clear to this Court, based upon the
27 arguments and the questions that the Court had at the last
28 proceeding, is that Mr. Vasquez, to the best of the

1 information that was provided to the Court, has never been
2 associated or participated in any type of a gang, did not know
3 any of his codefendants, and it would appear to this judge
4 that there really was insufficient information to believe when
5 the day is done that he was in any way implicated with respect
6 to the charge that he was initially facing.

7 This Court is not in any way making any findings or
8 suggestions with respect to the appropriateness or the
9 inappropriateness of Mr. Vasquez's continued detention. That
10 is not a subject before this Court, and this Court does not in
11 any way comment on it.

12 The Court is of the opinion that Mr. Vasquez has more
13 than demonstrated that he is in fact factually innocent of
14 these particular charges and he is entitled to regain his good
15 name. And this Court is in a position, at least with respect
16 to an order, to attempt to do that for him.

17 The Court recognizes that the People are sometimes placed
18 in awkward situations politically because of their unique
19 situation and relationship with the police, in terms of trying
20 to mitigate potential situations that they themselves --
21 "they" being the police -- might find themselves in with
22 respect to potential litigation. And the Court recognizes the
23 unique relationship between them.

24 The Court recognizes the awkwardness sometimes in terms
25 of friction between the People's responsibility to do justice
26 to all and still to maintain a relationship between those that
27 they frequently encounter in professional relationships.
28 There certainly is at times tension, but in the Court's view,

1 the People have to, as the judge does, to transcend those
2 relationships and to do what is required to achieve our
3 ultimate responsibility, which is to do justice to all who
4 appear before us.

5 The defense attorney has a different role and a different
6 place, both legally and culturally. The defense attorney is
7 an advocate for his client and has the responsibility to do
8 the best that the attorney can with respect to that
9 representation. So the defendant's role -- or rather,
10 Counsel's role in that environment is different than the role
11 of the People and different than the role of the Court.

12 The Court has concerns with respect to culturally what
13 has been happening in the Court's opinion for some time with
14 respect to litigation. Not just criminally, but also civilly,
15 within our legal community. And the Court is of the opinion
16 that, unfortunately, as a result of time and size, perhaps,
17 and a change in values that things have become extremely more
18 litigious. Counsel in all different environments are less
19 likely to be more candid. Judges are less likely to be more
20 candid and to be more concerned about not upsetting different
21 factions of different communities for fear that they might
22 face contested elections in the future, and the Court
23 certainly understands those concerns.

24 But upon a review myself of almost twenty years of
25 service, I wonder not so much how many times the Court has
26 made or I, as a judge, have made incorrect decisions. Because
27 the reality is as a result of being human, I have no doubt
28 that I have made incorrect decisions, probably many of them

1 that have not been addressed by appellate courts, and that
2 certainly is a burden that I carry and regrettably will
3 continue to carry. But the other concern that I have is how
4 many times have I seen injustice and have not spoken out about
5 it, to the extent that I might not be able to correct it, but
6 at least I think I have a responsibility to address injustice
7 when I see it.

8 I believe that that is something that is commanded of
9 judges based upon the office that we hold, the trust that we
10 have with respect to our communities, and the responsibility
11 that we have to the public. It's also something that I
12 believe is incumbent upon all of us, regardless of our faith,
13 because every religion that I'm aware of teaches its
14 principles in terms of those kinds of responsibilities. In
15 this Court's opinion, also in terms of my legal training,
16 having been received at Santa Clara University, a Jesuit
17 institution, it is this Court's opinion that those principles
18 require that lawyers and judges speak out when they see
19 injustice.

20 I'm not as concerned in terms of what colleagues might
21 think of my decisions, nor am I as concerned in terms of what
22 lawyers who appear before me think of my judgments, as I am
23 concerned in terms of am I being true to what I was taught as
24 a law student. Am I being true as to the tenants of my faith
25 in terms of how I was raised by that faith? Although I have
26 not practiced my faith for many, many years. Still, I have
27 found as a result of this career for almost twenty years that
28 I have reviewed my teachings at various times in terms of

1 reviewing that faith, in terms of hopefully providing me with
2 the courage to do what was right.

3 In reviewing the most recent political issues that have
4 come to bear in our county, I look to my colleague, who is now
5 a subject of much public debate and in some quarters ridicule,
6 and wonder whether or not if I had faced similar
7 circumstances, whether or not I would have the courage to do
8 what I thought was right. I am not commenting on whether I
9 think the decision that was rendered by that judge is correct.
10 I have no idea. I have not reviewed the record. I did not
11 hear the evidence. I did not see the witnesses.

12 But what I do know, having faced similar kinds of
13 challenges with respect to the determination as to whether or
14 not those that are testifying before me are being truthful, is
15 that it is extremely difficult to make findings of -- with
16 respect to an attorney, a police officer, and with respect to
17 anyone who has some type of licensure that he or she is being
18 not truthful, with the recognition that by the Court making
19 such a finding, that that particular person's career and
20 licensure, potentially, is at serious, serious risk for
21 administrative action of some form.

22 But it is not in this judge's opinion the responsibility
23 of the Court to worry about those kinds of concerns. It's the
24 responsibility to hear the facts and to render a judgment that
25 is as true to the law as is humanly possible, and that's what
26 I have attempted to do here today.

27 I regret, Mr. Vasquez, that you had to face the months of
28 incarceration that you faced. Obviously, you can't get that

1 time back, no matter -- no matter what ultimately you do in
2 the future. However, I'm hoping that at least this judge can
3 be a conduit for the beginning of the healing process for you,
4 and that in some way at least I'm able to participate in terms
5 of giving you back your name.

6 Over the years, I have faced many situations where
7 lawyers accuse other attorneys, colleagues at the bar in terms
8 of being dishonest and things of that nature. Usually, the
9 environment is defense attorneys accusing prosecutors somehow.
10 I've always taken those charges very seriously. I've always
11 required that they be able to prove those accusations beyond a
12 reasonable doubt, and, if not, I refuse to permit that kind of
13 name calling to persist. Because the bottom line is, at the
14 end of the day, the most important thing that any of us own,
15 to the extent we own something -- we don't own families, we
16 don't own spouses, we don't own children, but we do own our
17 name. And I can think of nothing to me, at least, that's more
18 important than my good name. A person who disparages me,
19 disparages me. But if I, within the course and scope of law,
20 lose my name, then as far as I'm concerned, I have nothing to
21 live for.

22 On the basis of law, and not on the basis of any
23 emotional feeling on my part, the Court feels that the defense
24 has met their burden. The Court grants the petition, and the
25 Court is at this particular point signing the order. The
26 Court, as I stated previously, is giving to each party a copy
27 of the Court's decision, which does not contain any of the
28 Court's political commentary but is rather a statement of

1 facts as the Court determines them and the law as the Court
2 understands it.

3 Mr. Lee, I have the utmost respect for you in terms of
4 being a colleague at the bench and bar. I certainly am not
5 offended should your office decide to appeal this decision.
6 That is certainly within your right as -- or your office's
7 right.

8 In any event, I don't know whether with respect to our
9 particular future we will meet again in the course and scope
10 of litigation. If so, I welcome the opportunity to see you.
11 You are in this Court's opinion a credit to your office. I
12 believe that you have appeared in this particular case
13 honestly and openly, and I -- it is insufficient in this
14 judge's opinion to say that that is what is expected, because
15 my experience has been that that is not always the case. So I
16 certainly have appreciated your candor.

17 Mr. Mueller, you have been a colleague for many years. I
18 certainly remember being a new attorney and trying cases with
19 you or preliminary examinations, fighting the good fight,
20 being down more times than not. But in any event, you too are
21 exceedingly honest and candid. I remember the first day that
22 you appeared in this particular case when I asked for your
23 opinions with respect to certain issues, and you were, I
24 believe, also equally candid with the Court and did not
25 overstate your case.

26 And, Mr. Vasquez, you've had a tireless advocate on your
27 behalf with respect to Mr. Mueller, who believed in your case
28 from day one, certainly in terms of appearing before me. And

1 politely and firmly, Mr. Mueller shepherded your case before
2 me. In all candor, when your case first arrived, I wasn't
3 very optimistic in terms of what the outcome would be, but as
4 I promised Mr. Mueller at that time, I would keep an open mind
5 and examine the record, not from the viewpoint of advocacy,
6 but from the viewpoint of openness and doing what I believe my
7 duties require of me to do.

8 I wish you every success in the future. The Court has
9 signed the orders, and the clerk will conform them and give
10 each of the parties copies. Good luck to all of you.

11 MR. MUELLER: Judge, could I say a few things?

12 THE COURT: Yes.

13 MR. MUELLER: First of all, thank you very much for your
14 remarks and your decision. It's very much appreciated.

15 I also wanted to state my opinion that as far as
16 Mr. Louie's handling of this case, he couldn't have handled it
17 in a more professional manner than he did, and I appreciate
18 that.

19 MR. LEE: Thank you, Your Honor. Thank you, Mr. Mueller.

20 THE COURT: All right. Good luck.

21 (Concluded.)
22
23
24
25
26
27
28