

MDMA CHARGES DISMISSED AFTER PROSECUTION RESTS ON ORIGINAL LEGAL ARGUMENT

FOR IMMEDIATE RELEASE (LOS ANGELES, CALIFORNIA)

April 22, 2009

Once again, using adroit legal tactics, the Law Offices of Ronald Richards and Associates, A.P.C., obtained a dismissal of a criminal complaint for possession of MDMA otherwise known as Ecstasy at a criminal trial yesterday after the prosecution rested its case, at the LAX Court, in Los Angeles, California.

The trial court granted the motion to dismiss after the prosecution rested its case based upon a technical argument that counsel created through stipulations and jury waivers which caused the case to advance rapidly. Those legal maneuvers carefully shielded the true stratagem which was hatched after the People rested.

The defendant had MDMA confiscated from his luggage during a warrantless but lawful border search at CBP (Customs Border Patrol) in Los Angeles, after returning from his Mexican vacation. He was arrested last year and trial was set for April 21, 2009. Mr. Richards waived jury, stipulated to the chemist's report, and stipulated to identity. Once the those factual issues were agreed upon, the case advanced rapidly. Once the People rested, the motion to dismiss pursuant to Penal Code section 1118.1 was made. The Court, after hearing vigorous opposition by the People, granted the motion, discharged the defendant, exonerated his bond, and dismissed the case.

An exact true and correct certified copy of the transcript is attached for your review or a hyperlink to the transcript below.

<http://ronaldrichards.com/media/178.pdf>

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SUPERIOR COURT OF THE STATE OF CALIFORNIA
FOR THE COUNTY OF LOS ANGELES

DEPARTMENT NO. 146 HON. SCOTT T. MILLINGTON, JUDGE

THE PEOPLE OF THE STATE OF CALIFORNIA,)
)
 PLAINTIFF,)
)
 VS.)
)
 JONATHAN [REDACTED])
)
 DEFENDANT (S) .)

NO. 8WA02956

REPORTER'S PARTIAL TRANSCRIPT OF PROCEEDINGS
TUESDAY, APRIL 21, 2009

APPEARANCES :

FOR THE PEOPLE: GISELLE M. FERNANDEZ,
DEPUTY CITY ATTORNEY

FOR THE DEFENDANT: RONALD RICHARDS,
ATTORNEY AT LAW

ZOHRA RAHMAN, RPR
OFFICIAL REPORTER
CSR NO. 11396

1 CASE NUMBER: 8WA02956
2 CASE NAME: PEOPLE VS. JONATHAN MAHBOUBIFARDI
3 LOS ANGELES, CALIFORNIA TUESDAY, APRIL 21, 2009
4 DEPARTMENT 146 HON. SCOTT T. MILLINGTON, JUDGE
5 REPORTER: ZOHRA RAHMAN, CSR NO. 11396
6 TIME: 11:40 A.M.
7

8 APPEARANCES:

9 DEFENDANT, JONATHAN MAHBOUBIFARDI, NOT PRESENT,
10 REPRESENTED COUNSEL, RONALD RICHARDS, ATTORNEY
11 AT LAW; GISELLE FERNANDEZ, DEPUTY CITY ATTORNEY,
12 REPRESENTING THE PEOPLE OF THE STATE OF
13 CALIFORNIA.
14

15 MR. RICHARDS: ARE THE PEOPLE RESTING?

16 THE COURT: ARE YOU RESTING?

17 MS. FERNANDEZ: YES, YOUR HONOR, SUBJECT TO THE
18 INTRODUCTION OF PEOPLE'S 1, PEOPLE REST.

19 THE COURT: ALL RIGHT. IS THERE A WITNESS ON
20 BEHALF OF DEFENSE?

21 MR. RICHARDS: I WANT TO WAIT UNTIL THIS WITNESS
22 LEAVES. I WOULD LIKE TO MAKE AN 1118.1. THE DEFENDANT
23 IS CHARGED WITH VIOLATION OF 11377 OF THE HEALTH AND
24 SAFETY CODE, TO WIT, POSSESSION OF METHYLENEDIOXY
25 METHAMPHETAMINE.

26 THE COURT: LET ME SPELL THAT FOR MY REPORTER.
27 M-E-T-H-Y-L-E-N-E-D-I-O-X-Y.

28 MR. RICHARDS: WE STIPULATED IN THIS CASE THE LAB

1 REPORT OF A SUBSTANCE WAS 3 4 METHYLENEDIOXY
2 METHAMPHETAMINE. THAT'S NOT A -- POSSESSION OF
3 METHYLENEDIOXY METHAMPHETAMINE IS NOT A CRIME UNDER
4 CALIFORNIA LAW. IT'S NOT SCHEDULED IN THE HEALTH AND
5 SAFETY CODE, AND IT'S NOT A VIOLATION OF ANY LAW TO
6 POSSESS IT. IF THE COURT LOOKS AT 11377, IT CROSS
7 REFERENCES --

8 THE COURT: GIVE ME ONE SECOND. DO YOU KNOW IF
9 THAT ITEM IS REFERENCED IN A CERTAIN HEALTH AND SAFETY
10 CODE SECTION?

11 MR. RICHARDS: IT'S NOT REFERENCED AT ALL.

12 THE COURT: DO THE PEOPLE HAVE A POSITION WHERE
13 IT'S REFERENCED SO I DON'T HAVE TO SCAN THE WHOLE THING?

14 MS. FERNANDEZ: I BELIEVE IT IS. I'LL HAVE TO
15 CHECK.

16 MR. RICHARDS: I CAN REPRESENT --

17 THE COURT: HOLD ON.

18 MS. FERNANDEZ: YOUR HONOR, WHAT HAPPENS IS A LOT
19 OF TIMES SUBSTANCES BREAK DOWN IN THE BODY, AND THERE ARE
20 DERIVATIVES OF THE ORIGINAL SUBSTANCE.

21 THE COURT: RIGHT NOW THE RECORD I HAVE IS
22 SIMPLY -- I DON'T HAVE ANY BREAKDOWN RECORD, ANYTHING TO
23 THAT. THE RECORD THAT I HAVE BEFORE ME IS THAT THIS ITEM
24 THAT IS REFERRED TO IN THE CRIME LAB REPORT IS THE ITEM
25 THAT WAS RECOVERED. THAT'S ALL I'VE GOT. SO DO YOU HAVE
26 A REFERENCE, JUST TO CUT TO THE CHASE -- AND I CAN LOOK
27 IT UP TOO, BUT I'M ASKING, COUNSEL IS REPRESENTING THAT
28 IT'S NOT IN THE CODE SECTION THAT IS REFERRED TO IN

1 11377. I UNDERSTAND YOU'RE NOT THE FILING DEPUTY, BUT
2 YOU'RE THE TRIAL DEPUTY. DO YOU HAVE IT REFERRED TO
3 SPECIFICALLY?

4 MR. RICHARDS: I CAN TELL THE COURT I'VE DONE MANY
5 OF THESE CASES, PROBABLY MORE THAN ANY LAWYER IN THE
6 UNITED STATES NATIONALLY, IT'S NOT SCHEDULED IN
7 CALIFORNIA. UNDER 11054 IT IS NOT SCHEDULED. IT'S NOT
8 SCHEDULED IN CALIFORNIA.

9 MS. FERNANDEZ: WE HAVE 11055 THE WAY IT'S CHARGED.

10 MR. RICHARDS: THAT'S EVEN WORSE.

11 THE COURT: HOLD ON. IT HAS TO BE A SECTION THAT
12 IS REFERRED TO IN 11377 (A), SO WHY DON'T WE DO THIS. I
13 THINK THIS IS THE FASTEST WAY TO DO THIS. I'M GONNA GIVE
14 YOU UNTIL 1:30, AND I'LL LOOK AT IT, AND YOU LOOK AT IT
15 AND COME BACK TO ME, AND I WANT YOU TO POINT TO ME RIGHT
16 AT 1:30 WHERE IT IS IN THE CODE SECTION.

17 MR. RICHARDS: FOR THE RECORD, THE PEOPLE -- THE
18 CUSTOMS MADE THE DECISION TO TURN THIS OVER TO STATE
19 POLICE FOR PROSECUTION. WE DON'T HAVE 3 4 METHYLENEDIOXY
20 METHAMPHETAMINE SCHEDULED IN CALIFORNIA. IT'S ONLY
21 FEDERALLY SCHEDULED, SO THERE'S NO -- THE DRUG
22 PROSECUTIONS ARE VERY TECHNICAL IN NATURE.

23 THE COURT: I UNDERSTAND. I DO THEM EVERY DAY.

24 MR. RICHARDS: IT EITHER NEEDS TO BE PRESCRIBED OR
25 IT'S NOT PRESCRIBED. THE PEOPLE IN THEIR OPENING
26 STATEMENT SAID THAT THEY WERE GOING TO PROVE EVIDENCE OF
27 METHAMPHETAMINE. I DIDN'T WANT TO CORRECT THEM BECAUSE I
28 KNEW THE LAB REPORT WAS 3 4 METHYLENEDIOXY

1 METHAMPHETAMINE, WHICH IS A SPECIFIC ISOMER WITH -- IT'S
2 A VERY, VERY SPECIFIC DRUG. SO ON 11377 TO SIMPLY -- THE
3 CHARGE ON THE COMPLAINT IS POSSESSION OF METHYLENEDIOXY
4 METHAMPHETAMINE. WHEN I SAW THE COMPLAINT, I REALIZED OF
5 COURSE THAT IS NOT ILLEGAL, SO I FIGURED I WOULD TAKE THE
6 CASE TO TRIAL, WAIT UNTIL THE PEOPLE REST.

7 IN ADDITION, THE COURT NEVER HEARD ANY
8 EVIDENCE THAT WHEN THE DEFENDANT WAS ADMITTED INTO THE
9 COUNTRY, HE WAS COMING THROUGH CUSTOMS, SO HE'S
10 TECHNICALLY NOT EVEN IN CALIFORNIA. YOU NEVER HEARD ANY
11 EVIDENCE THAT HE POSSESSED THE DRUG IN CALIFORNIA.
12 YOU'RE NOT IN CALIFORNIA TECHNICALLY WHEN YOU'RE STILL IN
13 CUSTOMS. YOU DIDN'T HEAR ANY EVIDENCE THAT HE WAS
14 ARRESTED. ALL YOU HEARD WAS HE WAS GETTING HIS BAGS.
15 HE'S STILL IN THE CUSTOMS AREA.

16 THE OTHER ARGUMENT IS THAT THEY HAVE NO
17 JURISDICTION TO PROSECUTE THIS CASE, BECAUSE YOU DIDN'T
18 HEAR ANY EVIDENCE THAT THE CITY ATTORNEY HAS A
19 CROSS-LATERALIZED PROSECUTION AGREEMENT WITH THE FEDERAL
20 GOVERNMENT OR ANY SORT OF ASSIMILATED CRIMES ACT. SO IN
21 THIS CASE I DIDN'T WANT TO OPEN UP THE DOOR BECAUSE ALL
22 YOU HEARD WAS THEY SEARCHED HIM GETTING OFF THE PLANE
23 GETTING THE BAGS. HE'S IN THE WHAT WE CALL THE FRONTIER
24 THAT'S WHY YOU DIDN'T NEED THE WARRANTS. YOU DIDN'T HEAR
25 EVIDENCE THAT THE CRIME OCCURRED IN THE COUNTY OF LOS
26 ANGELES --

27 MS. FERNANDEZ: OBJECTION. THAT'S A 1538.5 MOTION.
28 THE COURT: NO, IT'S NOT. HE'S SAYING THAT YOU

1 ASKED 380 WORLD WAY. YOU NEVER SAID WAS THAT IN THE CITY
2 OF LOS ANGELES, ANYTHING TO THAT EFFECT. HE'S SAYING I
3 DON'T HAVE JURISDICTION.

4 MS. FERNANDEZ: CAN THE COURT TAKE JUDICIAL NOTICE
5 THAT 380 WORLD WAY IS THE CITY OF LOS ANGELES?

6 MR. RICHARDS: NOT AFTER THEY'VE RESTED.

7 THE COURT: I CAN ALLOW THEM TO REOPEN.

8 MR. RICHARDS: THAT WOULD BE UNFAIR.

9 THE COURT: I'M NOT GONNA SPLIT HAIRS ON IF I HAVE
10 JURISDICTIONAL ISSUE. I WAS GOING TO ASK THE QUESTION, I
11 DIDN'T THINK IT WAS A BIG QUESTION, IF IT'S IN THE CITY
12 OF LOS ANGELES. IF YOU SAY IT'S NOT, AND YOU WANT TO
13 BREAK THAT UP, THAT WILL BE FINE. I'M NOT GONNA DISMISS
14 IT SIMPLY BECAUSE THE QUESTION WASN'T ASKED IF IT WAS IN
15 THE CITY OF LOS ANGELES.

16 MR. RICHARDS: I'M NOT ASKING --

17 THE COURT: YOU'RE SAYING IT HAPPENED BEFORE
18 CUSTOMS.

19 MR. RICHARDS: I'M SAYING THE INTERCEPTION OF THE
20 SUBSTANCE, OF THE TABLETS, OCCURRED IN THE FRONTIER. HE
21 HADN'T BEEN ADMITTED INTO THE UNITED STATES YET.

22 THE COURT: BRING YOUR WITNESS IN. DO YOU WANT TO
23 REOPEN FOR THAT PURPOSE.

24 MS. FERNANDEZ: THANK YOU.

25 THE COURT: MR. WILLIAM PULLEN, WE'LL ASK YOU TO
26 RETAKE THE STAND. YOU'RE REMINDED YOU'RE UNDER OATH. I
27 HAVE A COUPLE QUESTIONS I'LL ASK.

28

1 WILLIAM PULLEN,
2 CALLED AS A WITNESS BY THE PEOPLE, HAVING BEEN PREVIOUSLY
3 DULY SWORN, WAS EXAMINED AND TESTIFIED FURTHER AS
4 FOLLOWS:
5 BY THE COURT:

6 Q SIR, YOU WERE WORKING CUSTOMS; IS THAT
7 CORRECT?

8 A YES.

9 Q THIS IS AT L.A.X., WHICH IS IN THE CITY OF
10 LOS ANGELES?

11 A YES, YOUR HONOR.

12 Q BUT WHEN THE PERSON COMES THROUGH CUSTOMS,
13 YOU'RE WORKING AN AREA, HAD THE PERSON GONE THROUGH
14 CUSTOMS YET, IN OTHER WORDS, WERE THEY CHECKED THROUGH
15 AND NOW CLEARED TO GO THROUGH, OR WERE YOU STILL
16 INSPECTING, HE HADN'T GONE THROUGH CUSTOMS YET?

17 A WE'RE IN THE FEDERAL INSPECTION SECURITY
18 AREA. WHEN A PASSENGER COMES INTO UNITED STATES, THEY
19 HAVE TO GO THROUGH IMMIGRATION FIRST FOR BEING ADMITTED,
20 WHETHER IT'S RETURNING RESIDENT OR UNITED STATES CITIZEN
21 OR VISITOR. ONCE THEY'VE GONE THROUGH IMMIGRATION, THE
22 CAROUSELS THAT CONTAIN BAGGAGE, EVEN IF THEY'RE
23 TRANSFERRING OR CONNECTING FLIGHT, THEY PICK UP THE
24 BAGGAGE, AND BEFORE THEY EXIT THE STERILE AREA, THEY HAVE
25 TO GO THROUGH CUSTOMS. I WAS WORKING THE CUSTOMS SIDE.

26 Q SO THEY GO THROUGH IMMIGRATION FIRST, PICK UP
27 BAGGAGE AT CAROUSEL?

28 A CORRECT.

1 Q AND THEN GO THROUGH THE STERILE AREA?

2 A NO. THEY ARE IN THAT STERILE AREA STILL.
3 THEY'RE STILL -- THEY'RE STILL IN THE FUNCTIONAL
4 EQUIVALENT OF THE BORDER, HAVEN'T REALLY ENTERED THE
5 UNITED STATES UNTIL THEY EXIT CUSTOMS.

6 Q SO I CAN ASK YOU, DO YOU BELIEVE THAT THAT
7 PERSON HAS ENTERED THE CITY OF LOS ANGELES YET?

8 A NO.

9 THE COURT: ALL RIGHT. DO YOU WANT TO ASK
10 QUESTIONS?

11 BY MS. FERNANDEZ:

12 Q IS WORLD WAY CENTER IN THE CITY OF LOS
13 ANGELES?

14 MR. RICHARDS: OBJECTION; RELEVANCE.

15 THE COURT: LET'S GET SPECIFIC. WORLD WAY IS BIG.
16 BY MS. FERNANDEZ:

17 Q LET ME ASK YOU SOMETHING. TO THE BEST OF
18 YOUR KNOWLEDGE, IS SOMEBODY DEEMED TO HAVE STEPPED ON LOS
19 ANGELES SOIL WHEN THEY GO THROUGH THE STERILE AREA, IF
20 YOU KNOW, YOUR TRAINING AND EXPERIENCE AS A CUSTOMS
21 AGENT?

22 MR. RICHARDS: NO FOUNDATION.

23 THE COURT: YOU ALLOWED TO ANSWER THE LAST
24 QUESTION. I'LL TAKE IT FOR WHAT IT'S WORTH.

25 THE WITNESS: BECAUSE -- CAN I ANSWER?

26 THE COURT: GO AHEAD.

27 THE WITNESS: BECAUSE AN AIRPORT CANNOT LAND ON THE
28 BORDER --

1 THE COURT: YOU MAIN AIRPLANE?

2 THE WITNESS: AN AIRPLANE. IT NEEDS AN AIRPORT AND
3 RUNWAY, THERE NEEDS TO BE A FUNCTIONAL EQUIVALENT OF THE
4 BORDER, AND THE PORT OF LOS ANGELES, EVEN THOUGH IT'S
5 MILES AWAY FROM THE ACTUAL BORDER, IS CONSIDERED THE
6 BORDER, AND MY JURISDICTION AND AUTHORITY RESTS WITHIN
7 THAT ZONE OF THE BORDER. I DO NOT HAVE OFFICIAL CAPACITY
8 OUTSIDE OF THAT ZONE.

9 THE COURT: YOU'RE A FEDERAL OFFICER?

10 THE WITNESS: I'M A FEDERAL OFFICER.

11 THE COURT: ONCE THAT PERSON PASSES THROUGH THAT
12 STERILE AREA INTO WHAT YOU SAY CROSSES THE BORDER, YOU NO
13 LONGER HAVE JURISDICTION?

14 THE WITNESS: IT WOULD BE STATE AND LOCAL UNLESS I
15 KEEP AN OBSERVATIONAL BORDER NEXUS SO I CAN MAKE SURE HE
16 HASN'T HAD CONTACT OR RECEIVED OR DROPPED ANYTHING, I CAN
17 STILL BRING HIM BACK IN UNDER BORDER AUTHORITY.

18 THE COURT: DO YOU HAVE ANY OTHER QUESTIONS?
19 BY MS. FERNANDEZ:

20 Q ARE YOU SAYING THAT'S NOT CONSIDERED THE CITY
21 OF LOS ANGELES?

22 MR. RICHARDS: OBJECTION; LEADING.

23 THE COURT: IT'S ALL RIGHT.

24 MR. RICHARDS: ARGUMENTATIVE.

25 BY MS. FERNANDEZ:

26 Q IS THAT NOT THE CITY --

27 THE COURT: I THINK THAT'S WHAT HE'S SAYING.

28 MS. FERNANDEZ: IS THAT NOT THE CITY OF LOS

1 ANGELES?

2 THE WITNESS: NO, IT'S NOT. IT'S THE BORDER.

3 THE COURT: SO THAT WOULD BE EQUIVALENT TO SOMEONE
4 CROSSING THE BORDER TO MEXICO, AND YOU'LL SAY HE'S STILL
5 ON THE MEXICO SIDE?

6 THE WITNESS: NO, HE HAS LEFT MEXICO BUT HASN'T
7 ENTERED THE UNITED STATES.

8 THE COURT: SO HE'S IN A NEUTRAL AREA?

9 THE WITNESS: HE'S IN THE NEUTRAL AREA.

10 MR. RICHARDS: I AGREE.

11 THE COURT: HOLD ON. OKAY.

12 ANY OTHER QUESTIONS?

13 BY MS. FERNANDEZ:

14 Q DOES THE UNITED STATES, THE FEDERAL CUSTOMS
15 HAVE CONTROL OVER THAT NEUTRAL AREA?

16 A WE DO, AND THAT'S WHY --

17 THE COURT: UNITED STATES FEDERAL GOVERNMENT.

18 THE WITNESS: THAT'S WHY I EXERCISED MY RIGHT AS A
19 FEDERAL OFFICER TO CONDUCT MY DUTIES OF SEARCH.

20 MS. FERNANDEZ: OKAY. THANK YOU.

21 MR. RICHARDS: NO QUESTIONS.

22 THE COURT: THANK YOU, SIR.

23 OKAY. WE'RE GOING TO RECONVENE AT 1:30. MS.
24 FERNANDEZ, I'LL GIVE YOU UNTIL 1:30 TO COME UP WITH ANY
25 RESEARCH YOU HAVE, ONE, THAT YOU HAVE JURISDICTION, AND
26 TWO, THAT ITEM FALLS WITHIN THE PURVIEW OF 11377. WE'RE
27 IN RECESS. COUNSEL ORDERED TO RETURN AT 1:30.

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(THE NOON RECESS WAS TAKEN UNTIL
1:30 P.M. OF THE SAME DAY.)

1 THE COURT: THIS IS JONATHAN MAHBOUBIFARDI,
2 8WA02956. FOR THE RECORD, DEFENDANT IS NOT PRESENT. HIS
3 COUNSEL IS APPEARING 977, FOR THE RECORD, AND HIS
4 COUNSEL, MR. RICHARDS HAS ASKED TO APPEAR BY TELEPHONIC
5 COMMUNICATION BECAUSE HE HAS AN APPEARANCE IN THE VALLEY.
6 IS THAT WHAT YOU WANT TO DO, MR. RICHARDS?

7 MR. RICHARDS: YES, YOUR HONOR. THANK YOU VERY
8 MUCH.

9 THE COURT: MS. FERNANDEZ ON BEHALF OF THE PEOPLE.
10 MATTER IS HERE FOR FURTHER PROCEEDINGS. COUNSEL, IF YOU
11 CANNOT HEAR ME AT SOME POINT, PLEASE BRING IT TO MY
12 ATTENTION, PLEASE.

13 MR. RICHARDS: NO PROBLEM.

14 THE COURT: ALL RIGHT. IN THIS MATTER IT'S AN
15 1118.1 MOTION WITH REGARDS TO JURISDICTIONAL ISSUE AND
16 WHETHER OR NOT ECSTASY FALLS WITHIN THE PURVIEW OF 11377.
17 SO MS. FERNANDEZ, GO AHEAD.

18 MS. FERNANDEZ: FIRST OF ALL, I'D LIKE TO STATE THE
19 JURISDICTIONAL ISSUE, I'D LIKE TO QUOTE SECTION 782 OUT
20 OF THE PENAL CODE. "OFFENSES ON OR NEAR BOUNDARY OF
21 MULTIPLE JURISDICTIONAL TERRITORIES. WHEN A PUBLIC
22 OFFENSE COMMITTED ON THE BOUNDARY OF TWO OR MORE
23 JURISDICTIONAL TERRITORIES OR WITHIN 500 YARDS THEREOF,
24 THE JURISDICTION OF SUCH OFFENSE IN ANY COMPETENT COURT
25 WITHIN EITHER JURISDICTIONAL TERRITORY."

26 YOUR HONOR, WHAT HAPPENED HERE WAS A SEIZURE
27 OF A DRUG IN THE CUSTOMS AREA, WHICH IS THE FRONTIER OF
28 THE UNITED STATES. HOWEVER, THEY DO HAVE AUTHORITY OVER

1 THAT, AND UNDER THE PENAL CODE SECTION, IT SAYS WHEN A
2 PUBLIC OFFENSE, WHICH IS THE DRUG POSSESSION, IS ON THE
3 BOUNDARY OF TWO OR MORE JURISDICTIONAL TERRITORIES, THE
4 JURISDICTION OF ANY OFFENSE IS COMPETENT WHEN THE
5 COURT -- MEANING HERE WE HAVE THE TWO JURISDICTIONS. WE
6 HAVE THE FEDERAL BORDER. WE HAVE THE CITY OF LOS
7 ANGELES, STATE OF CALIFORNIA NEXT TO IT. THIS IS A
8 COMPETENT COURT THAT THE COURT CAN TAKE JUDICIAL NOTICE
9 IN ONE OF THE JURISDICTIONS. THEREFORE, THE COURT HAS
10 JURISDICTION.

11 AND, YOUR HONOR, AS A PRACTICAL MATTER, IT
12 MAKES SENSE BECAUSE UNDER COUNSEL'S REASONING THAT MEANS
13 ONLY THE FEDERAL GOVERNMENT COULD PROSECUTE ANYBODY
14 COMING IN FROM ANOTHER COUNTRY TO COMMIT A CRIME.

15 THE COURT: DO YOU HAVE ANY CASES OTHER THAN THE
16 CITE TO THE PENAL CODE? I JUST WANT TO KNOW IF YOU HAVE
17 ANY. DO YOU HAVE ANY?

18 MS. FERNANDEZ: NO, I DON'T, YOUR HONOR.

19 THE COURT: MY INCLINATION -- CAN YOU HEAR ME,
20 COUNSEL?

21 MR. RICHARDS: YES.

22 THE COURT: MY INCLINATION IS I DON'T THINK THAT'S
23 WHERE THE ISSUE LIES NECESSARILY. I READ THAT SECTION AS
24 WELL. THERE'S ALSO A SECTION 783 THAT TALKS ABOUT AN
25 OFFENSE COMMITTED ON AN AIRPLANE. I'M ASSUMING HE WAS ON
26 AN AIRPLANE THAT LANDED AT L.A.X., SO MY REAL ISSUE IS
27 WITH 11377. JUST FOR THE RECORD, COUNSEL, MS. FERNANDEZ
28 DID PROVIDE THE COURT WITH REFERENCE TO 782. COUNSEL DID

1 PROVIDE THE COURT WITH REFERENCE TO 782 AS WELL AS
2 REFERENCE TO 11054 SUBDIVISION (D) (6) AND --

3 MS. FERNANDEZ: 11055 (D) (2).

4 THE COURT: CAN YOU HEAR ME OKAY, COUNSEL?

5 MR. RICHARDS: YEAH, I CAN.

6 THE COURT: THIS IS WHAT I THROW OUT TO YOU,
7 MS. FERNANDEZ, IS IT'S THE COURT'S POSITION THAT ECSTASY
8 OR M.D.M.A. IS NOT ONE OF THE SUBSTANCES SPECIFIED AS A
9 CONTROLLED SUBSTANCE UNDER 11377 SUBDIVISION (A) AND
10 11054 SUBDIVISION (D). HOWEVER, IT APPEARS IT MIGHT BE
11 AN ANALOG OF THE CONTROLLED SUBSTANCE METHYLENEDIOXY
12 AMPHETAMINE OR N.D.A. HOWEVER, AND I STRESS HOWEVER, THE
13 COURT HAS READ A CASE --

14 MR. RICHARDS: PEOPLE V. SILVER.

15 THE COURT: HOLD ON, COUNSEL. THAT'S CORRECT,
16 PEOPLE V. SILVER, 230 CAL. APP. 3RD, 389. THAT'S FROM
17 THE SECOND -- I'M SORRY, NO. 230 CAL. APP. 3RD, 389, AND
18 IN THAT CASE THE COURT TALKED ABOUT ECSTASY BEING AN
19 ANALOG OF THE SECTION THAT YOU CITED. HOWEVER, IN THAT
20 CASE THERE WERE PROSECUTION WITNESSES AND DEFENSE
21 WITNESSES THAT TESTIFIED AND DISPUTED WHETHER OR NOT
22 M.D.M.A. OR ECSTASY IS AN ANALOG UNDER HEALTH AND SAFETY
23 CODE SECTION 11401.

24 THAT RECORD IS CLEAR IN THAT CASE BECAUSE
25 THEY HAD EXPERTS TESTIFYING IT'S AN ANALOG. I HAVE
26 NOTHING IN OUR RECORD THAT SAYS IT'S AN ANALOG OF THE
27 SECTIONS YOU'RE CITING. SO MY QUESTION TO YOU IS, I'M
28 NOT GONNA LET YOU REOPEN, SO BASED UPON THE RECORD THAT I

1 HAVE, HOW CAN YOU PROVE THAT THAT IS AN ANALOG OF ONE OF
2 THOSE SECTIONS THAT SPECIFICALLY IS ENUMERATED UNDER
3 11377 AND 11054?

4 MS. FERNANDEZ: YOUR HONOR, THERE'S 110552. IT
5 SAYS METHAMPHETAMINE, SALTS, ISOMERS AND SALTS OF THE
6 ISOMERS, UNDER 11054 IT MENTIONS METHYLENEDIOXY
7 AMPHETAMINE 3 4 AND, AGAIN, UNDER THE (D) SECTION WHICH
8 SAYS ISOMERS OR ITS DERIVATIVES. I THINK THE CODE
9 SPECIFIES IT, IF THE COURT IS WILLING TO LOOK AT THE
10 WHOLE CODE, I THINK IT SHOWS BECAUSE IT'S AN ISOMER AS
11 THE DERIVATIVE OF IT.

12 THE COURT: HOW DO I KNOW THAT? THERE'S NOTHING ON
13 THE RECORD. I'LL BE CANDID WITH YOU. I DON'T KNOW IF
14 THIS IS THE APPROPRIATE WORD OR PHRASE, BUT I THINK YOU
15 WERE SANDBAGGED IN A WAY. I THINK COUNSEL KNEW IT AND
16 STIPULATED TO THE, AND IT'S WITH NO DEROGATORY MEANING,
17 BUT I THINK COUNSEL KNEW IT WAS AN ANALOG AND STIPULATED
18 TO THE CHEMIST REPORT AND WAS TAKING A GAMBLE THAT YOU
19 DIDN'T RESEARCH THAT.

20 MS. FERNANDEZ: YOUR HONOR, THE CODE MENTIONS A LOT
21 OF DIFFERENT THINGS. A LOT OF TIMES IT'S NOT GONNA BE
22 THE SUBSTANCE ITSELF BUT IT TALKS ABOUT DERIVATIVES,
23 TALKS ABOUT ISOMERS.

24 THE COURT: IF YOU LOOK AT 11401, IT TALKS ABOUT
25 WHAT YOU HAVE TO PROVE TO PROVE SOMETHING IS AN ANALOG,
26 AND ONE OF THE WAYS TO PROVE IT IS TO PROVE THE CHEMICAL
27 STRUCTURE IS SUBSTANTIALLY SIMILAR TO THE CONTROLLED
28 SUBSTANCE. I HAVE NONE OF THAT. I DON'T HAVE A CHEMIST

1 OR ANY EXPERT TESTIFYING TO THAT, AND IN THE CASE I READ,
2 SILVER, IT APPEARS THAT IN THAT CASE THEY KNEW THEY WERE
3 GOING TO HAVE TO PROVE IT WAS AN ANALOG TO FIT UNDER THAT
4 CODE SECTION. THAT'S WHY THEY CALLED THOSE WITNESSES. I
5 DON'T HAVE THAT IN THIS CASE.

6 MS. FERNANDEZ: IF I CAN HAVE A MOMENT, YOUR HONOR.

7 THE COURT: COUNSEL, DO YOU WANT TO SAY ANYTHING?

8 MR. RICHARDS: YES, YOUR HONOR. I WAS GONNA TELL
9 YOU THAT SILVER IS THE CONTROLLING AUTHORITY, AND I
10 ABSOLUTELY KNEW SHE WAS MISSING AN ELEMENT OF HER BURDEN
11 OF PROOF, BECAUSE YOU HAVE TO PUT ON EVIDENCE IF IT WAS
12 THE ANALOG AND THE CONTROLLED SUBSTANCE THAT M.D.M.A. IS
13 SUBSTANTIALLY SIMILAR TO UNDER 11401 OF THE HEALTH AND
14 SAFETY CODE. SO BY STIPULATING TO THE CHEMIST REPORT
15 THAT IT WAS M.D.M.A., THAT DOESN'T PROVE THAT IT'S A
16 VIOLATION OF 11377 BECAUSE IT'S A -- SHE WOULD HAVE HAD
17 TO PUT ON EVIDENCE AND DESIGNATE WHAT ANALOG SHE WAS
18 REFERRING TO, AND THEN YOU LOOK AT THE TRIER OF FACT TO
19 DETERMINE WHETHER OR NOT -- THE TRIER OF FACT WOULD THEN
20 DETERMINE WHETHER THERE'S PROOF BEYOND A REASONABLE DOUBT
21 THAT THE M.D.M.A. IS AN ANALOG OF THE SPECIFIED
22 CONTROLLED SUBSTANCE.

23 THE COURT: DO YOU ALSO WANT TO MAKE ANY STATEMENT
24 FOR THE RECORD WITH REGARDS TO THE JURISDICTIONAL ISSUE?

25 MR. RICHARDS: I DON'T BELIEVE THE PEOPLE PROVED
26 WHERE THE BOUNDARY WAS. I THINK THEY'RE CONFUSING TWO
27 ITEMS. THE ISSUE FOR THE JURISDICTIONAL WAS WHETHER THE
28 FEDERAL GOVERNMENT SECEDED WHERE THE POSSESSION OCCURRED,

1 AND YOU HEARD IT OCCURRED IN A CAROUSEL. YOU DON'T KNOW
2 HOW FAR AWAY THAT WAS FROM THE -- THERE WAS NO TESTIMONY
3 TAKEN AS TO WHERE THE BORDER OF THE CITY OF L.A. STARTED,
4 AND THERE WAS NO EVIDENCE PRESENTED THAT THERE WAS SOME
5 JOINT PROSECUTION AGREEMENT BETWEEN THE PARTIES. 782, I
6 BELIEVE, REFERS TO BORDERS BETWEEN STATES. I DON'T
7 BELIEVE THAT THE STATE OF CALIFORNIA COULD EVER ASSUME
8 JURISDICTION OVER A PROSECUTION ON FEDERAL GROUNDS, BUT I
9 CAN CERTAINLY PULL UP 782, BUT I DON'T CARE HOW I GET TO
10 THE 1118.1. I JUST THREW OUT BOTH ARGUMENTS FOR THE
11 RECORD.

12 THE COURT: MS. FERNANDEZ.

13 MR. RICHARDS: THE THEORY ABOUT ISOMERS AND
14 DERIVATIVES IS GROUNDLESS BECAUSE YOU HEARD NO TESTIMONY
15 ABOUT DERIVATIVES, AND THE SILVER CASE ACCURATELY
16 OUTLINES WHAT IS REQUIRED IN M.D.M.A. PROSECUTION. THAT
17 CASE IS EXACTLY ON POINT, AND I WAS GOING TO CITE THE
18 CASE WHEN THE COURT ASKED ME BEFORE THE BREAK IS THERE
19 ANY CASES YOU WANT TO CITE. I WOULD HAVE CITED THAT CASE
20 TO YOU, EXCEPT I DIDN'T WANT TO DO ANYTHING THAT WOULD
21 PREJUDICE MY CLIENT BASED ON THE FACT THAT AS PLED, THE
22 SPECIFIED SUBSTANTIVE ISSUE IS NOT ILLEGAL.

23 THE COURT: IT WOULD HAVE ASSISTED THE COURT
24 INSTEAD OF THE COURT HAVING TO RESEARCH IT.

25 MR. RICHARDS: I'M SORRY. I COULDN'T HAVE CITED
26 THAT TO THE COURT WITHOUT ASSISTING THE PROSECUTION AT
27 THE SAME TIME.

28 THE COURT: ALL RIGHT. MS. FERNANDEZ, DO YOU WANT

1 TO BE HEARD FURTHER?

2 MS. FERNANDEZ: NO, YOUR HONOR. I HAVE NOTHING
3 FURTHER TO SAY.

4 THE COURT: THEN BASED UPON THE CASES THAT I STATED
5 IT IS MY POSITION THE PEOPLE HAVE FAILED TO PROVE THAT
6 METHYLENEDIOXY METHAMPHETAMINE IS AN ANALOG OF ENUMERATED
7 CONTROLLED SUBSTANCES IN 11054. THE COURT IS GOING TO
8 GRANT THE 1118.1 MOTION. THE CASE IS DISMISSED.

9 MR. RICHARDS: I'D MOVE TO EXONERATE THE BOND, YOUR
10 HONOR.

11 THE COURT: BOND IS EXONERATED IN THIS MATTER.

12 MR. RICHARDS: THANK YOU.

13 THE COURT: THANK YOU, COUNSEL.

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15 (PROCEEDINGS CONCLUDED.)

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SUPERIOR COURT OF THE STATE OF CALIFORNIA
THE COUNTY OF LOS ANGELES

DEPARTMENT NO. 146 HON. SCOTT T. MILLINGTON, JUDGE

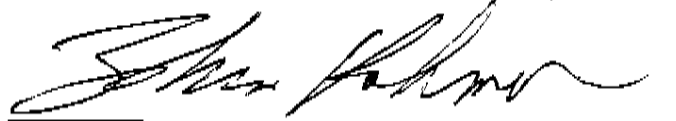
THE PEOPLE OF THE STATE OF CALIFORNIA,)
)
 PLAINTIFF,)
)
 VS.)
)
 JONATHAN MAHBOUBIFARDI)
)
 _____)
 DEFENDANT (S) .)

NO. 8WA02956
REPORTER'S
CERTIFICATE

STATE OF CALIFORNIA)
)
 COUNTY OF LOS ANGELES)

I, ZOHRA RAHMAN, OFFICIAL REPORTER OF THE
SUPERIOR COURT OF THE STATE OF CALIFORNIA, FOR THE COUNTY
OF LOS ANGELES, DO HEREBY CERTIFY THAT THE FOREGOING
PAGES, 1 THROUGH 18, INCLUSIVE, COMPRISE A FULL, TRUE AND
CORRECT TRANSCRIPT OF THE PROCEEDINGS HELD IN THE
ABOVE-ENTITLED MATTER ON TUESDAY, APRIL 21, 2009.

DATED THIS 21ST DAY OF APRIL, 2009.



ZOHRA RAHMAN, RPR
OFFICIAL REPORTER
CSR 11396