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dated 4-8-11

Court of Appeal Case No. B120734
(Appellate Div. Case No. BR048012)
(Trial Court Case No. BI 20734)
(Citation No. B120734)

IN THE COURT OF APPEAL OF CALIFORNIA
SECOND APPELLATE DISTRICT
DIVISION SEVEN

People of the State of California

Plaintiff and Respondent,

v.

Annette B [REDACTED]

Defendant and Appellant.

Appeal from the Appellate Division of the Superior Court for
Los Angeles County,
Justices Wasserman, Dymant and Kumar

**APPELLANT'S MOTION TO DENY THE CONTINUANCE
REQUESTED BY THE CITY OF BEVERLY HILLS TO FILE
"RESPONDENT'S BRIEF" AND THE REMOVAL OF THE
CITY OF BEVERLY HILLS AS A PARTY TO
THIS CRIMINAL APPEAL**

Annette B [REDACTED], Esq. (224143)

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Cases

Dix v. Superior Court (1991) 53 Cal.3d 4423

In re Marriage Cases (2008) 43 Cal4th7571

People v. Punzalan (2003) 112 Cal.App.4th 13073

Statutes

Government Code §1002

Penal Code § 6842

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ARGUMENT

I.

THE CITY OF BEVERLY HILLS IS NOT A PARTY TO THE ACTION AND THEREFORE LACKS STANDING TO FILE RESPONDENT'S BRIEF

On April 7, 2011, the City of Beverly Hills, through their attorney, the private law firm of Dapeer, Rosenblit & Litvak, LLP served an Application for Extension of Time to file Respondent's Brief.

The City of Beverly Hills is not the Respondent in this action. The Respondent here is the People of the State of California.

Appellant is therefore, respectfully requesting that the Court deny the request for a continuance submitted by the City of Beverly Hills and remove them as a party in this criminal matter.

Penal Code is § 684, provides: "A criminal action is prosecuted in the name of the people of the State of California, as a party, against the person charged with the offense." (See also Government Code § 100.) By law, the People are thus the real party in interest in every criminal prosecution. "In criminal matters, the parties are the defendant and the People of California. The arresting law enforcement agency is not a party." (*People v. Punzalan* (2003) 112 Cal.App.4th 1307, 1310.) The adverse party in these criminal proceedings is the People of the State of California, not a third party. Not even a victim of crime has standing to

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challenge judicial determinations made with regard to a criminal defendant. (*Dix v. Superior Court* (1991) 53 Cal.3d 442, 454.) Specifically in *Dix*, the Court stated “[W]e conclude at the outset that petitioner, who is not a party to Bradley’s criminal case, has no standing to challenge the application of section 1170(d) to Bradley’s sentencing. This extraordinary writ proceeding falls within the general rule that neither a crime victim nor any other citizen has a legally enforceable interest, public or private, in the commencement, conduct, or outcome of criminal proceedings against another.” (*id* at p. 450)

There is simply no theory of standing, under which the City could possibly be deemed the Respondent. Otherwise, the possibility of serious traffic collisions resulting from violation of various Vehicle Code provisions would seemingly suffice to confer standing upon numerous governmental and nongovernmental entities to appear routinely as the Respondent or real party in interest in traffic infraction cases involving a variety of offenses in addition to § 21453. Neither the Legislature nor the Judicial Council has authorized such third party participation, and there is no compelling reason for this court to do so.

On March 2, 2011, the Superior Court of California for the County of Los Angeles struck the brief filed by Dapeer, Rosenblit & Litvak firm, filed on behalf of the City of Beverly Hills in another similar case *People v. McGinnis*, BR048471, finding that “[T]here is no real party in interest in a criminal appeal.

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(Cal. Rules of Court, rules 8.804(12) & (13), 8.882(a).)” A true and correct copy of this Order in case no BR048471 is attached hereto as Exhibit “1.”

CONCLUSION

Appellant respectfully requests that based on the foregoing, the City of Beverly Hills should be removed as a party to this criminal appeal and their request for extension to file “Respondent’s Brief” be denied.

Respectfully submitted,

Dated: April 8, 2011

By: 
Annette B. , Esq.

FILED
SUPERIOR COURT OF CALIFORNIA
COUNTY OF LOS ANGELES

cl MAR 02 2011

John A. Clarke, Executive Officer/Clerk
By *Connie L. Hudson* Deputy
CONNIE L. HUDSON

APPELLATE DIVISION OF THE SUPERIOR COURT
STATE OF CALIFORNIA, COUNTY OF LOS ANGELES

11	PEOPLE OF THE STATE OF CALIFORNIA,)	No. BR 048471
12	Plaintiff and Respondent,)	Beverly Hills Trial Court
13	v.)	No. B123663
14	RYAN McGINNIS,)	
15	Defendant and Appellant.)	ORDER

Appellant's motion to strike the brief filed by Dapeer, Rosenblit & Litvak, LLP, on behalf of the City of Beverly Hills as the "Real Party in Interest," is granted. There is no real party in interest in a criminal appeal. (Cal. Rules of Court, rules 8.804(12) & (13), 8.882(a).)

J. Dymant
Dymant, J.

P. McKay
P. McKay, P.J.