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Remember 9/11/01; Support Our Troops

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THIS EDITION'S WORDS OF WISDOM:

"*All my life I've wanted to be somebody; I realize now that I should have been more specific*." (Lily Tomlin)

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***ADMINISTRATIVE NOTES*:**

***Probation vs. Parole Searches*:** I've been asked to remind officers that although *all parolees* are subject to Fourth Waiver search conditions, the same *does not* hold true for *probationers*. All parolees, as a condition of their release from prison, are required to submit to warrantless searches by law enforcement despite the lack of any probable cause or even reasonable suspicion. (P.C. § 3067) But

for persons on probation, whether or not they are subject to a Fourth Wavier depends upon the conditions of probation imposed by the sentencing judge. This does not always include a Fourth Wavier. It is the officer's responsibility to first verify that a probationer has in fact waived his Fourth Amendment search and seizure rights. You cannot just assume that a person has waived his Fourth Amendment rights just because he is on probation.

***Transporting Detainees*:** I'm also seeing more and more instances where persons being "*detained*" (as opposed to arrested), and who for whatever reason have become uncooperative, are involuntarily being transported to a police station for questioning. *You cannot do that*!!! If you transport someone without first obtaining their uncoerced consent, you have just *arrested* him. (*Kaupp v. Texas* (2003) 538 U.S. 626.) And if you've arrested him, you better make sure you have probable cause to do so or you've just made an illegal arrest. Any products from an illegal arrest (e.g., his incriminating statements and/or physical evidence found as a result of what he tells you or from searching his person) will likely be suppressed (not to mention the possible civil liability). Just because detainees are transported for questioning all the time on *CSI*, *Law and Order*, and *NYPD Blue*, doesn't make it legal. Note also that you will be making case law if you try to charge an uncooperative detainee with a violation of P.C. § 148 (interfering with an officer in the performance of his duties) or P.C. § 32 (accessory). I personally don't think either charge is appropriate where the person is *passively* being uncooperative, absent some legal duty to cooperate. And I can guarantee you will lose on this issue if the detainee's Fifth Amendment self-incrimination rights are even remotely involved. The case law is quite clear it is *not* a P.C. §§ 148 nor 32 violation to invoke one's constitutional right to silence.

CASE LAW:

***Traffic Stop to Check a Temporary Operating Permit*:**

People v. Hernandez **(Dec. 18, 2006) 146 Cal.App.4th 773** (Ordered published 1/11/07)

Rule: A traffic stop is illegal when based upon no more than an officer's perceived need to check the validity of a DMV temporary operating permit, apparently valid on its face.

Facts: A Sacramento County Sheriff's Deputy noticed that defendant's pickup truck did not have any license plates. As he got closer, however, the deputy could see a red DMV temporary operating permit in the vehicle's window that appeared to be current. Although he didn't have any reason to suspect that this permit wasn't valid, the deputy stopped the vehicle anyway because, as he testified; "temporary operating permits are very often forged." In contacting defendant, who was driving the vehicle, the deputy asked him for his license and registration, and whether he was on probation. Defendant admitted that he was on probation. When the deputy asked defendant to step out of the vehicle, defendant declined. The deputy therefore pepper-sprayed him, and the fight was on. Defendant was eventually subdued. He was subsequently charged with resisting

arrest, being under the influence of methamphetamine, and driving while under the influence of drugs and/or alcohol. Defendant's motion to suppress the deputy's observations was denied, the judge ruling that it is reasonable for an officer to stop and check the validity of the DMV temporary operating permit when the car does not have any license plates. Defendant appealed from his conviction after a jury trial.

Held: The Third District Court of Appeal (Sacramento) reversed, finding the stop to be illegal. A traffic stop is a "*detention*" which requires "articulable facts justifying the suspicion that a crime is being committed." To be lawful, the deputy in this case was obligated to articulate what it was about defendant's vehicle that caused the deputy to believe that the temporary operating permit was not valid. In this case, the deputy could testify to no more than that in his experience, these permits "are very often forged." Aside from the fact that the phrase "*very often*" really doesn't mean anything, the Court ruled that the deputy's personal experience, without some other objective factors indicating that the particular permit in this case (out of all the permits presently in use) was in fact forged, is legally insufficient. Lastly, the Court differentiated the facts in this case from those present in *People v. Saunders* (2006) 38 Cal.4th 1129, where the California Supreme Court upheld a stop to check the validity of a temporary operating permit when the officer also knew that the car had only one license plate. With one license plate missing, the officer in *Saunders* was justified in believing that the driver might be in violation of V.C. § 5200 (both licenses must be displayed). But where the vehicle does not have any license plates, and a visible temporary operating permit appears on its face to be valid, then stopping that car to investigate the mere possibility that it has been forged is an illegal detention. Also, because the stop was illegal, defendant's conviction for resisting arrest (an element of which is that the officer be acting in the performance of his duties) must also be reversed.

Note: As the Court pointed out, if it were legal to stop a car to check the validity of the red DMV operating permit just because they are often forged (or, as explained to me by other cops, easily switched from car to car), then every car on the road with a temporary operating permit could be stopped at will. The Courts are never going to allow this. *Saunders*, discussed above, gave us a lot, telling us that it doesn't take much in addition to having a temporary operating permit to allow for a traffic stop. Note also *In re Raymond C.* (2006) 145 Cal.App.4th 1320, where a stop was upheld when the temporary registration on a new car (that small, folded-over white slip of paper) was in the right-front corner of the windshield (where it is supposed to be), but not visible to the officer following the suspect from behind. So count your blessings.

***Suspicionless Parole Searches*:**

United States vs. Lopez **(9th Cir. Feb. 5, 2007) 424 F.3rd 1208**

Rule: A suspicionless Fourth Wavier Search of a Parolee's residence is lawful.

Facts: Defendant was released on parole from a California prison. As with all California parolees, defendant agreed to, and signed a written wavier allowing for the "search and

seizure" of his person, property or residence, without a warrant and without cause, by an agent of the Department of Corrections or any law enforcement officer. (P.C. § 3067(a)) He soon absconded from his parole supervision, becoming a "parolee-at-large" with a warrant for his arrest. Defendant's parole agent received information that he was at a particular residence in Ontario, California. The agent and officers from the Ontario Police Department went to the residence where they observed defendant's mother and brother entering the house. After the brother later left the residence (getting stopped and busted for being under the influence of dope; a violation of his own parole), officers knocked at the front door. Defendant was observed through a window. He eventually (after the officers tried to break down the door) opened the door and submitted to arrest. A "*protective sweep*" of the house for other persons resulted in the discovery of an empty, clear plastic baggie in a bathroom. A complete parole search was done and methamphetamine and three firearms were recovered. Prosecuted in federal court, defendant's motion to suppress the dope and the guns was denied. He appealed from his guilt plea.

Held: The Ninth Circuit Court of Appeal affirmed. Upon his release from prison, defendant agreed to submit his person, property and residence to a warrantless search by law enforcement, with or without cause; i.e., a "*Fourth Waiver*." The purpose of this requirement is to help reduce recidivism, promote public safety, and reintegrate parolees into productive society. The U.S. Supreme Court has held that this provision allows for a search of a parolee's person despite the lack of any reason to believe the parolee is again engaged in criminal activity. (*Samson v. California* (2006) 165 L.Ed.2nd 260.) This has been held to be constitutional because a Fourth Wavier results in the parolee having a diminished "*expectation of privacy*." The Court here saw no reason, based upon the Supreme Court's analysis in *Samson*, not to extend this same rule to a parolee's residence. The suspicionless search of the defendant's residence, therefore, was lawful.

Note: It's nice to get the Ninth Circuit on board with this idea that we don't need any suspicion to justify the search of a parolee; the Ninth Circuit being the Court that has fought this idea for so many years. But the Court never discusses whether or not this was defendant's own residence. Once they see defendant through the window, with him being a "PAL" with an outstanding arrest warrant, they certainly had the right to go in and get him. But the Ninth Circuit's own prior case law tells us that there has to be at least "*probable cause*" to believe the parolee lives there in order to justify the later parole search of the residence itself. (*United States v. Howard* (9th Cir. 2006) 447 F.3rd 1257.) Here, the Court notes only that the parole agent "received information that Lopez was located at a residence on Oakland Avenue . . . ." Then his mother and brother are observed at the house, and he is, of course, subsequently caught inside. It's the legality of the subsequent search of the house itself, resulting in recovery of the dope and guns, that they fail to discuss. With prior cases holding that in order to justify a warrantless parole search of a residence, there has to be probable cause to believe that it was in fact the parolee's residence, you have to wonder why this was not brought up. Note also that this case does not help resolve the issue of whether the rule of *Samson* extends to *probationers* who are on a Fourth Waiver, or whether a higher standard (e.g., a "*reasonable suspicion*") is required. We're still awaiting a resolution of this issue.

***Miranda*; *Invocations, Readmonishments, and the Use of Deception*:**

People v. Smith **(Feb. 5, 2007) 40 Cal.4th 483**

Rule: (1) A suspect making inquiries about future access to an attorney is not an invocation. (2) Reinitiating an interrogation after a 12-hour break does not require a readmonishment of rights so long as the suspect still remembers them. (3) Police deception which is not so coercive so as to produce an involuntary or unreliable statement is not legally improper.

Facts: Defendant was visiting his ex-girlfriend, Michelle Dorsey, and her brother, James Martin, in their Richmond, California, apartment, when he decided it would be a good idea to rob Dorsey. He took Dorsey's .32-caliber semiautomatic pistol from her dresser and, with the assistance of a 14-year old friend, Joseph, confronted Dorsey in her bedroom. Defendant demanded that Dorsey open a safe she kept in her closet. When she refused, defendant shot her once in the chest, killing her. Martin called out from his own room asking what had happened. Defendant and Joseph went to Martin's room where defendant also shot him, mortally wounding him. After taking money from Martin's wallet as he laid there dying, they put Dorsey's safe in the trunk of her car and drove to the home of defendant's brother. The three of them broke open the safe and split the contents. The victims' bodies were discovered the next day by their sister. Defendant and Joseph were later arrested by a Richmond police officer driving Dorsey's car. Defendant was taken to the Richmond Police Station where he was advised of his *Miranda* rights. When asked if he waived his rights, defendant responded; "(*I*)*f I don't talk to you now, how long will it take for me to talk to you 'fore a person sent a lawyer to be here*?" Before the detective could answer, defendant continued: "*I could wait 'til next week sometime*," to which the detective responded equivocally; "*Maybe, yeah*." Defendant then told him; "*I'll talk to you now. I don't got nothing to hide*." Upon being told that he was under investigation for auto theft, defendant claimed that two other men had approached him asking for help to open Dorsey's safe. When later told that he was also a suspect in Dorsey's and her brother's murder, defendant admitted that although he had been present, it was Joseph and the other two men who had killed them. After about six hours of questioning, running into the early morning hours of the next day, defendant was booked for murder. The detective reinitiated the questioning some 12 hours later, first asking defendant whether he remembered being read his *Miranda* rights the day before and whether he was still comfortable talking about the case. Defendant responded that he "*pretty much*" remembered his rights and had no objection to talking further about the case. During this second interview (which lasted an hour and a half), the detective told defendant that he wanted to conduct a "Neutron Proton Negligence Intelligence Test," which would purportedly determine whether defendant had recently fired a gun. Buying this ruse, defendant allowed his hands to be sprayed with a liquid soap and swabbed with a cocaine test kit, turning his hands a distinctive color. Defendant was told that he tested positive. Although still denying that he was the shooter, defendant then admitted that there were no other men involved, claiming that it was Joseph alone who had killed the victims. Tried for two counts of capital murder (along with a pile of other

counts and allegations), defendant was found guilty with special circumstances. Following a sanity trial where the jury found him to be sane, and a penalty phase, the jury voted for death. His appeal to the California Supreme Court was automatic.

Held: Except to reverse and dismiss one of the lesser charges, the Supreme Court unanimously affirmed. Among the issues raised on appeal were several involving defendant's interrogation and his incriminating responses. First was whether defendant was misled when the detective told him; "*Maybe, yeah,*" after defendant asked; "(*I*)*f I don't talk to you now, how long will it take for me to talk to you 'fore a person sent a lawyer to be here*? . . . *I could wait 'til next week sometime*." The Court found no error here in that defendant, after stating that he understood his rights, never specifically asked for the assistance of an attorney nor indicated that he wished to end the interrogation. The detective, in his admittedly equivocal response ("*Maybe, yeah.*"), did not actively mislead the defendant. And there is no authority for the argument that a defendant "cannot properly waive his Fifth Amendment rights (just because) he labors under (a) misapprehension of the mechanics of when and how counsel is appointed." His subsequent clear and unequivocal wavier, which immediately followed the above comments, was therefore valid. Defendant also complained that he should have been readvised of his rights before being interrogated the second time. The Court, however, rejected this argument as well. Whether or not a person needs to be readvised of his *Miranda* rights upon the reinitiation of an interrogation depends upon an analysis of five factors: (1) The amount of time between the two interrogations; (2) any change in the identity of the interrogator or the location of the interrogation; (3) whether the suspect was officially reminded of the prior advisement; (4) the suspect's sophistication or past experience with law enforcement; and (5) any further indicia that the suspect subjectively understands and waives his rights. Here, there was only a 12-hour break between interrogations, with the Court citing a prior case approving a 36-hour break. Both interrogations involved the same officers, and at the same location. Defendant was reminded of the prior *Miranda* advisal and asked if he wanted to hear them again. And while not the sharpest tool in the shed, "defendant, with his prior criminal history, was quite familiar with the criminal justice system." Based upon this, there was no need to readvise defendant of his rights. Lastly, defendant argued that fooling him with the "*deceptive tactic*" of claiming to have conducted a gunshot residue test with a positive result, provoking him into changing his story about who might have committed the murders, made his responses involuntary and inadmissible. The Court rejected this argument as well, noting that police deception does not necessarily invalidate an incriminating statement. The question is whether such a ruse "was so coercive that it tended to produce a statement that was involuntary or unreliable." Here, even after the detective's ruse, defendant continued to deny that he was the shooter. But even so, the trick was not something that was likely to cause defendant to falsely confess. If he had not been the shooter, he wouldn't have believed the ruse.

Note: Good case, with some valuable points on the rules of *Miranda*. But I have two comments. First, whenever a suspect even mentions the "*A*" *word* (i.e., '*Attorney*'), be careful about how you respond. This detective's "*Yeah, maybe*" after the defendant's comments showing some confusion about when he might have access to an attorney will

inevitably be a serious issue when this death penalty case gets up before the Ninth Circuit Court of Appeal. Secondly; although this case is consistent with the rule that "*ruses and subterfuges*" are lawful, at least so long as an interrogating officer doesn't say anything that might cause a false confession, I still don't recommend this tactic. My problem with ruses is simply that *juries don't like them*. The defense attorney will play it up as a "*lie*" you told to the typically unintelligent defendant, and how unfair it was for you to use such an "*unprofessional interrogation trick*." Juries don't like liars and they don't like cops who don't play fair. They will find the fact that you "*lied*" neither clever nor amusing. And if they don't think you were honest and above board in all respects, they will think of some way to rationalize an acquittal or at least some other watered-down verdict. If used at all, ruses and subterfuges should be a "*last resort*" tactic only, and not an everyday part of your interrogation tactic repertoire. Also remember that you *cannot* use such a ruse as a means of obtaining a wavier. A *Miranda* waiver has to be "*free and voluntary*," and "*knowing and intelligent*." This means that you can't trick them into a waiver. A ruse is proper, if at all, only after you have a valid waiver.

***Interrogating an Injured Suspect*:**

***People v. Perdomo* (Feb. 7, 2007) 147 Cal.App.4th 605**

Rule: A suspect's mental impairment does not prevent a valid *Miranda* waiver and admissible statements where the impairment is taken into consideration and allowed for in the handling of the interrogation.

Facts: Defendant and a couple of co-workers went to a bar in Simi Valley to celebrate defendant's 21st birthday, and got roaring drunk in the process. Defendant drove. Heading home at 2:45 a.m. on Highway 101 at about 80 miles per hour with the two co-workers in the car, defendant lost control and hit the center divider, blowing out the left-side tires. The car then swerved across the road and broadsided a tree. Defendant and the front passenger were seriously injured and, after defendant was cut out of the demolished Honda, airlifted to the U.C.L.A. Medical Center for treatment. The rear seat passenger was pronounced dead on arrival at the hospital. Although there was some confusion at the scene, defendant was identified by those present as the driver of the car. Defendant's blood tested at .221% B/A an hour and 15 minutes after the accident. A urine test showed the presence of both alcohol and marijuana in his system. His injuries consisted of several broken ribs and a ruptured spleen that had to be surgically removed. He also had some bleeding in the brain. An inspection of the Honda noted no mechanical defects. A small amount of marijuana was found under the seat. Medical personnel would not let CHP investigators interview defendant until four days later. When finally interviewed, defendant was still in the intensive care unit, in a room filled with other patients and medical personnel, separated only by hanging sheets. Defendant had had a ventilator removed only the day before. He was lying flat on his bed, in obvious pain, still connected to I.V.'s and monitors. Although his last pain medication had been administered five and a half hours earlier, he still appeared to the officers to be under the influence. Interviewed on tape, defendant's speech was slow and deliberate, although not slurred or overly raspy. Defendant was read his *Miranda* rights which he acknowledged

and waived. A 20-minute interview, punctuated by numerous pauses, was slow, subdued and deliberate. Defendant's answers were responsive to the officers' questions. Defendant admitted during the interview to being drunk, to having ingested some marijuana, and to being the driver of the car. Charged in state court with felony vehicle manslaughter while intoxicated (P.C. § 191.5(a)) and various felony drunk driving violations (i.e., V.C. §§ 23153(a) and (b)), defendant's motion to suppress his statements was denied. At trial, he testified that although he was drunk as a skunk, he couldn't remember whether he was the driver or not. His testimony was impeached by evidence of his admissions made to the CHP investigators. The surviving passenger couldn't remember anything either after getting drunk at the bar. Convicted by a jury on all counts (and sentenced to 6 years in prison), defendant appealed, arguing that his statements made to the CHP investigators should not have been admitted into evidence in that, given his physical condition at the time, "his will (was) overcome by the two officers who exploited his debilitated physical and mental conditions through psychological coercion."

Held: The Second District Court of Appeal (Div. 7) upheld his conviction. A statement will be held to be "*involuntary*" (a 14th Amendment "*due process*" issue) whenever it is not the product of the defendant's rational intellect and free will. Where psychological coercion is claimed, the issue is "whether the influences brought to bear upon the accused were such as to overbear (defendant's) will to resist and bring about confessions not freely self-determined." A defendant's incriminating statements must be "*causally linked*" to some coercive police activity in order to justify the suppression of those statements. In support of his argument, defendant cited the U.S. Supreme Court case of *Mincey v. Arizona* (1978) 437 U.S. 385. In *Mincey*, the defendant was subjected to a 3-hour interrogation within hours of having been shot by police. He was in the intensive care unit of the hospital with tubes down his throat and nose, in extreme pain, and periodically lapsing into unconsciousness. The officer in *Mincey* ignored repeated requests by the defendant to halt the interrogation and for the assistance of an attorney. In contrast, defendant's interrogation in the present case occurred some four days after his injuries. While still under the influence of his pain medications, defendant was alert, oriented, and could obey commands. His answers to questions were "remarkably detailed." The interrogation was subdued, in a conversational and non-threatening tone, with the officers posing their questions in a calm, deliberate manner. At no time did the defendant attempt to halt the questioning or request the assistance of an attorney. "In short (contrary to what occurred in *Mincey*), the record is devoid of any suggestion the officers resorted to physical or psychological pressure to elicit statements from (defendant)." His statements, therefore, were not involuntary and were properly admitted into evidence against him.

Note: I'm periodically asked by law enforcement officers whether there is any point in attempting to get a *Miranda* waiver out of a suspect with mental issues, whether it's as a result of injuries, such as in this case, or because of drug influence, mental retardation, or some other impediment to his ability to understand what is going on. My answer is always; "*Well, yeah*!!! *Why not*? *Nothing ventured, nothing gained*!!!" If you don't interview him, we've automatically lost the prosecutorial benefit of having his

statements. You just need to recognize the mental issues right up front and handle the interview accordingly. When you do, chances are excellent that those statements will be admissible against him. In this case, for instance, his mental and physical problems were very well documented by the officers with a complete record made at trial. The officers used every effort to conduct the interview at his pace, taking into account his mental and physical issues at the time, insuring that he understood what was going on. Had they not obtained his admissions, all we would have had at trial is his testimony that he didn't know who was driving and some uncertain evidence from witnesses at the accident scene as to which of the bloodied bodies was the one found behind the wheel of the wrecked Honda. That is "*reasonable doubt*."

***Money Laundering, per P.C. § 186.10*:**

People v. Mays **(Feb. 28, 2007) 148 Cal.App.4th 13**

Rule: Money Laundering, per P.C. § 186.10(a), requires proof that over $5,000 in dirty money, disregarding any commingled clean money, is transacted through a financial institution in any seven-day period.

Facts: Defendant (who calls himself "*Allmighty* (sic) *Supreme Mayo*:" No ego issues here) ran an escort service in San Diego, charging customers from $150 to $300 for a one-hour "private dance." Sexual favors were also available, the fees for which ranged from an additional $50 to $1,500 depending on the services provided. The majority of defendant's customers requested sexual services. The women who worked for defendant as escorts were expected to provide sexual favors when asked. The escorts gave defendant all their earnings for which he provided their living expenses including rent, food, and the cell phones used in the escort/prostitution business. Defendant also owned a number of other businesses for which he rented separate suites. However, despite defendant's claims to the contrary, there was no evidence that any of these businesses were used for anything other than to further his escort business, adding no legitimate funds to his income. Defendant also maintained bank accounts with at least three separate banking institutions. An investigation by San Diego Police Department led to charges of "*Pimping*," per P.C. § 266h(a), and eight counts of "*Money Laundering*," per P.C. § 186.10. The money laundering charges were based upon evidence that on eight separate occasions between May, 2002, and July, 2003, defendant deposited sums of cash from his escort business in one or two deposits within a seven-day period, each totaling over $5,000, into one of his bank accounts. Until such deposits were made, each account contained a relatively minimal (i.e., a couple hundred dollars) amount of money. Shortly thereafter, defendant wrote checks on each respective account, depleting the funds just deposited, to cover rents owed for the various business suites and for a residence where he housed the escorts. Convicted on each charged count and sentenced to prison for four years and eight months, the *now-not-so Allmighty Supreme Mayo* appealed.

Held: The Fourth District Court of Appeal (Div. 1) affirmed in a thorough and well-written opinion of "*first impression*," discussing the crime of "*money laundering*." The crime of "money laundering," enacted in 1986 to help control the profits from drug

trafficking in California, can be committed in two different ways. As described in subdivision (a) of P.C. § 186.10, "*money laundering*" is defined as: "Any person who conducts or attempts to conduct a transaction or more than one transaction within a seven-day period involving a monetary instrument or instruments of a total value exceeding five thousand dollars ($5,000) . . . through one or more financial institutions (1) with the specific intent to promote, manage, establish, carry on, or facilitate the promotion, management, establishment, or carrying on of any criminal activity, *or* (2) knowing that the monetary instrument represents the proceeds of, or is derived directly or indirectly from the proceeds of, criminal activity, is guilty of the crime of money laundering." A "*transaction*" includes a deposit into, or withdrawal from, a financial institution. (P.C. § 186.9(c)) The purpose of this statute is to penalize the depositing of dirty money, derived from a criminal enterprise, into a bank account and then using the deposited, now-laundered funds for other lawful or unlawful purposes. The primary issues in this case were; (1) whether the statute requires that the necessary $5,000-plus deposited into a bank had to be all dirty money (as opposed to totaling over $5,000 only after it is commingled with other legitimate [i.e., "clean"] income), and (2) if so, whether the evidence in this case supports the conclusion that over $5,000 was all dirty money. The Appellate Court answered both these questions in the affirmative. The Court rejected the Attorney General's argument that it was the Legislature's intent to criminalize any $5,000-plus deposit (or multiple deposits within any seven-day period) into a financial institution even if only a part of the $5,000 came from illegitimate sources. The wording of the statute itself is clear. "(I)t is not sufficient to show that the transaction involved over $5,000 and some portion of this amount derived from criminal activity; there must be a showing that at least $5,000 of the amount involved in the transaction is related directly or indirectly, to criminal activity." In this case, there was no evidence (other than the defendant's testimony, which the jury was entitled to reject) that any of the $5,000-plus deposits came from any legitimate source. The record was devoid of any credible evidence that any lawful money was produced by the various business fronts defendant had set up. Also, the evidence established that the subsequent transfers out of each bank account, used to pay the rent on these business fronts and the residence where defendant housed his escorts, exceeded whatever clean money might have already been in each respective account. The evidence, therefore, was sufficient to sustain defendant's convictions on the eight alleged money laundering counts under either or both of the alternate ways of proving a section 186.10(a) violation.

Note: The Court analyzed in detail the federal money laundering statutes (18 U.S.C. §§ 1956, 1957), which also provide alternate ways of proving the charge, and noted that California's statute is a combination of both. For anyone who is tasked with investigating, or prosecuting, a money laundering case, this decision is must-reading. Actually, this decision needs to be *studied*; not just read. My simplistic description, above, hardly does the Court's well-researched analysis justice. Also, note that both subdivision (a) and (b) of section 186.10 provide for greater punishments as the amount of money that is laundered increases. This is a dynamite section to use in the right case, although it can admittedly be difficult to prove in a paper case where the defendant's whole purpose was to mask his use of funds derived from an illegitimate business. Don't count on everyone being quite as stupid as the "*Allmighty Supreme Mayo*."