Supreme Court of California
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November 16, 2020

Chief Justice Tani Gorre Cantil-Sakauye
and Associate Justices
Supreme Court of California
350 McAllister Street
San Francisco, California 94102

RE: *In re Chelsea Becker on Habeas Corpus*, Case No. S265210
Court of Appeal of the State of California, Fifth Appellate District, Case No. F081362
Letter Supporting Petition for Review (Cal. Rules of Court 8.500, subdivision (g))

Dear Chief Justice Cantil-Sakauye and Associate Justices:

The Attorney General respectfully submits this letter in support of the petition for review filed by appellant Chelsea Becker on October 26, 2020. Becker seeks this Court's review of the decision of the court of appeal to deny her request to review the trial court's ruling imposing bail in the amount of $2 million. (*In re Chelsea Becker on Habeas Corpus* (Oct. 15, 2020, F081362) Order Denying Petition for Writ of Habeas Corpus.)

The Attorney General has also filed an amicus curiae letter supporting Becker's other petition relating to the underlying prosecution. (*Chelsea Becker v. Super. Ct. of Kings County*, S265209.) That petition raises the important question of whether a woman can be charged with murder based on allegations that her drug use during pregnancy caused her own pregnancy loss. As set out in that amicus curiae letter, Penal Code section 187 is not meant to include a woman's own actions that might result in a miscarriage or stillbirth. Becker's other petition requests that this Court either grant and transfer the matter to the court of appeal for consideration of Becker's petition for writ of prohibition on its merits, or grant plenary review to consider the question of the proper interpretation of Penal Code section 187 in the first instance.

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The Attorney General submits this letter in support of Becker's bail petition because the bail amount—$2 million—seems particularly inappropriate in light of the fact that Becker's alleged actions do not constitute murder as a matter of law.[1] Further, the trial court did not have the benefit of considering *In re Humphrey* (2018) 19 Cal.App.5th 1006, review granted May 23, 2018, S247278 because the relevant bail hearings took place on February 20, 2020 and May 20, 2020, before this Court restored the precedential effect of Part III of the court of appeal's decision in *In re Humphrey* on August 26, 2020. (*In re Humphrey* (Aug. 26, 2020, S247278) Order Granting in Part Humphrey's Renewed Request to Restore the Precedential Effect of *In re Humphrey* (2018) 19 Cal.App.5th 1006.) Accordingly, Becker's bail petition should be granted and transferred to the court of appeal, with directions that the matter be remanded to the trial court to consider whether money bail is required and, if so, in what amount, taking into consideration Becker's financial resources, other relevant circumstances, and any less restrictive alternatives.

Sincerely,

RENU R. GEORGE
Senior Assistant Attorney General
DARCIE TILLY
Deputy Attorney General

/s/ Karli Eisenberg

KARLI EISENBERG
Supervising Deputy Attorney General

For XAVIER BECERRA
Attorney General

[1] For the same reason, the fact that Becker might become pregnant if released from custody is not a legally relevant consideration in setting bail. (See Answer at p. 7 [arguing that petitioner should remain in jail because she could "get pregnant again and use illicit drugs during her pregnancy"]; *In re Becker* (petn. for writ of habeas corpus den. without prejudice, Oct. 15, 2020, F081362, petn. for review pending, S265210), petn. for writ of habeas corpus, Ex. 15 at p. 87 [People's Opposition to Defendant's Motion for Release on Own Recognizance (May 14, 2020), arguing that Becker is "young with a high-risk of repeating her crime"].)

DECLARATION OF ELECTRONIC SERVICE AND SERVICE BY U.S. MAIL

Case Name: **In re Chelsea Becker on Habeas Corpus**
Case No.: **S265210**

I declare:

I am employed in the Office of the Attorney General, which is the office of a member of the California State Bar, at which member's direction this service is made. I am 18 years of age or older and not a party to this matter. I am familiar with the business practice at the Office of the Attorney General for collecting and processing electronic and physical correspondence. In accordance with that practice, correspondence placed in the internal mail collection system at the Office of the Attorney General is deposited with the United States Postal Service with postage thereon fully prepaid that same day in the ordinary course of business. Correspondence that is submitted electronically is transmitted using the TrueFiling electronic filing system. Participants who are registered with TrueFiling will be served electronically. Participants in this case who are not registered with TrueFiling will receive hard copies of said correspondence through the mail via the United States Postal Service or a commercial carrier.

On November 16, 2020, I electronically served the attached **Amicus Curiae Letter** by transmitting a true copy via this Court's TrueFiling system. Because one or more of the participants in this case have not registered with the Court's TrueFiling system or are unable to receive electronic correspondence, on November 16, 2020, I placed a true copy thereof enclosed in a sealed envelope in the internal mail collection system at the Office of the Attorney General at 1300 I Street, Suite 125, P.O. Box 944255, Sacramento, CA 94244-2550, addressed as follows:

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I declare under penalty of perjury under the laws of the State of California and the United States of America the foregoing is true and correct and that this declaration was executed on November 16, 2020, at Sacramento, California.

B. Barton	***/s/ B. Barton***
Declarant	Signature

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