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IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA

SECOND APPELLATE DISTRICT

DIVISION FOUR

HERNANDO CORTEZ JONES,

Petitioner,

v.

THE SUPERIOR COURT OF LOS
ANGELES COUNTY, APPELLATE
DIVISION

Respondent;

THE PEOPLE,

Real Party in Interest.

No. B257720

(Los Angeles County
Super. Ct. Nos. 3AV06746/
BR4051672)

ORIGINAL PROCEEDINGS in mandate. Patti J. McKay and Sanjay T. Kumar,
Judges. Petition granted.

Ronald L. Brown, Public Defender, and Albert J. Menaster, Deputy Public
Defender, for Petitioner.

No appearance for Respondent.

Jackie Lacey, District Attorney of Los Angeles County, Phyllis Asayama and
Roberta Schwartz, Deputy District Attorneys for Real Party in Interest.

The court has read and considered the petition filed by petitioner and the response filed by the People, real party in interest. The submissions reflect an agreement that petitioner is entitled to the relief requested in the petition for writ of mandate (filed July 23, 2014), i.e., that petitioner's notice of appeal (filed May 5, 2014) be deemed constructively timely filed pursuant to *In re Benoit* (1973) 10 Cal.3d 72. We issued notice to the parties of our intention to grant the peremptory writ in the first instance and gave the real party the opportunity to file plenary opposition. The People expressed no objection to issuance of a peremptory writ in the first instance.

Accordingly, the court finds good cause to issue a peremptory writ in the first instance. (*Ng. v. Superior Court* (1992) 4 Cal.4th 29, 35; *Palma v. U.S. Industrial Fasteners, Inc.* (1984) 36 Cal.3d 171, 180.)

DISPOSITION

Let a peremptory writ of mandate issue directing respondent appellate division to vacate its June 17, 2014 order denying petitioner's motion to file a late notice of appeal and to issue a new order directing the clerk of the superior court to accept the May 5, 2014 notice of appeal as timely filed.

Pursuant to California Rules of Court, rule 8.493(a)(1), no costs are awarded.

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EPSTEIN, P. J.

We concur:

MANELLA, J.

COLLINS, J.