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FOR IMMEDIATE RELEASE
Approved by JAK

Press Release 20-32

Re: Judge Michael Dellostritto Strikes Firearm Enhancements In Sentencing Isaiah Marshall; case BF 179287 A. District Attorney Declares “No Confidence” In Judge To Handle Future Criminal Cases

On Thursday June 18, 2020, a Kern County jury found Isaiah Marshall guilty of attempted voluntary manslaughter, shooting from a vehicle, and assault with a firearm for a November 2019 shooting. The jury also found Marshall personally discharged a firearm during the commission of the crimes and caused great bodily injury to the victim. The case was prosecuted by DDA Gina Pearl and DDA Megan Keavney.

On November 15, 2019, at 6:30pm, the victim and his wife were loading groceries into their vehicle in the parking lot of Smart & Final on Mt. Vernon Avenue in East Bakersfield. Marshall approached the victim and his wife while still in his vehicle, and an argument ensued over Marshall wanting a parking spot. During the argument, Marshall suddenly withdrew a handgun from his vehicle and shot the unarmed victim directly in the chest from about five feet away. The victim suffered a through-and-through gunshot wound to the chest and was treated on the scene by nearby California Highway Patrol officers before being transported to Kern Medical Center, where he was treated for the gunshot wound. If not for the presence of CHP officers nearby to immediately respond and provide immediate medical aid, the victim could have died before reaching a hospital.

Immediately after the shooting, Marshall disposed of the gun and the car used during the shooting and fled to Las Vegas, NV. Marshall remained in hiding for approximately two weeks before returning to Bakersfield.

On August 28, 2020, Marshall’s case came to Judge Dellostritto for sentencing based upon the jury’s findings of guilt. Among the charges Marshall was convicted was an enhancement for discharging a firearm during the commission of felony where the discharge of the firearm resulted in great bodily injury to the victim. The prescribed punishment for this enhancement is 25 years to life in addition to

punishment for the underlying felony.

The enhancement, which is the product of Penal Code Section 12022.53(d), originated as legislation to curb the shocking amount of gun violence that California sees every day and remains the law. The imposition of the sentence is mandatory, and until recently judges were not permitted to dismiss the enhancement or fail to impose the required sentence. Recent State legislation, passed in 2017 as Senate Bill 620, gave judges the discretion to completely dismiss the firearm enhancement, but only if doing so is “in the interests of justice.”

Judge Dellostritto’s ruling dismissing the firearms enhancement is a reflection of the Judge’s opinion that it is not in the “interest of justice” for this defendant, who has been proven guilty of shooting an unarmed man at point blank range over a dispute about a parking spot, then fleeing the scene, leaving the man bleeding out on the pavement, to be sentenced to a life term in prison in accord with the law.

Kern County District Attorney Cynthia Zimmer vehemently rebuked the ruling, stating “Isaiah Marshall pulled a gun and shot an unarmed man at point blank range and left him to bleed out in front of his wife because of an argument over a parking spot. If ever there was a case that warrants the imposition of a life sentence for unlawfully injecting firearms into crimes and increasing violence and suffering caused by doing so, this is it. Judge Dellostritto’s refusal to impose an appropriate sentence in this case is an insult to the victims and law enforcement attempts to get the gun violence plaguing Kern County under control. Today’s ruling leaves me no choice but to find no confidence in Judge Dellostritto’s handling of future criminal cases. The law affords the District Attorney the option refuse to accept a judge that is so biased against the People that he cannot be entrusted with fair administration of justice in criminal cases. From today forward, I will use that authority in every case I can to prevent future criminal cases from being heard by Judge Dellostritto.”

Marshall faced 32 years to life in prison for the shooting, and the Probation Department had recommended the full sentence be imposed based on several aggravating factors of the crime outnumbering the mitigating factors. Judge Dellostritto’s final sentence imposed was 18 years, 6 months, and does not include a life term in prison.

Isaiah Marshall:

