

1/5/2023 11:33 AM

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DISTRICT ATTORNEY
2 STATE BAR # 237986
COUNTY OF SAN LUIS OBISPO
3 COURTHOUSE ANNEX, 4TH FLOOR
SAN LUIS OBISPO, CA 93408
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SUPERIOR COURT OF CALIFORNIA
COUNTY OF SAN LUIS OBISPO
DEPARTMENT 6

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10

11 THE PEOPLE OF THE STATE OF
CALIFORNIA

Plaintiff,

COURT CASE NO. 21F-02028

FIRST AMENDED INFORMATION

12

13 vs.

14 **ERNESTO NAVA HERRERA**
DOB: 07/28/1996 ID NO. D000445437
15 AKA ERNESTO N HERRERA

DA CASE NO. 079-662787

16

Defendant.

Appearance Date: January 19, 2023

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19 The District Attorney of San Luis Obispo County, California, hereby accuses the
20 above named defendant of the following criminal offenses:

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Count 1

22 On or about March 27, 2021, in the County of San Luis Obispo, State of California, the
23 crime of Murder in violation of Penal Code Section 187(a), a Felony, was committed in that
24 ERNESTO NAVA HERRERA did unlawfully, and with malice aforethought murder J.C., a
25 human being.

26 NOTICE: The above offense is a serious felony within the meaning of Penal Code Section
27 1192.7(c) and a violent felony within the meaning of Penal Code Section 667.5(c).

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Count 2

On or about March 27, 2021, in the County of San Luis Obispo, State of California, the crime of Gross Vehicular Manslaughter While Intoxicated in violation of PC191.5(a), a Felony, was committed in that ERNESTO NAVA HERRERA did unlawfully, and without malice, kill Jonathan Cruz, a human being, while driving a vehicle in violation of Vehicle Code section 23152 and said killing was the proximate result of the commission of an unlawful act, not amounting to a felony, and with gross negligence; and the proximate result of the commission of a lawful act which might have produced death, in an unlawful manner, and with gross negligence.

NOTICE: The above offense is a serious felony within the meaning of Penal Code Sections 1192.7(c) and 1192.8(a).

Enhancement

VC20001(c): Spec Alleg-Fleeing The Scene Of The Crime

It is further alleged as to Count 1, pursuant to Vehicle Code section 20001(c), that, after committing the above offense, the defendant fled the scene of the crime.

Count 3

On or about March 27, 2021, in the County of San Luis Obispo, State of California, the crime of Driving Under The Influence Of Alcohol Causing Injury in violation of VC23153(A), a Felony, was committed in that ERNESTO NAVA HERRERA did unlawfully, while under the influence of an alcoholic beverage, drive a vehicle and in so driving, concurrently did an act forbidden by law or neglected a duty imposed by law which proximately caused bodily injury to Yasmin Cruz.

Enhancement

VC23558: Spec Alleg-Bodily Injury To More Than One Victim

It is further alleged as to Count 3 that the defendant, in violation of Vehicle Code section 23558, proximately caused bodily injury to Jose Cruz, Jr.

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Enhancement

PC12022.7(a): Spec Alleg-Great Bodily Injury

It is further alleged as to Count 3 that in the commission of the above offense the said defendant, ERNESTO NAVA HERRERA, personally inflicted great bodily injury upon Yasmin Cruz, not an accomplice to the above offense, within the meaning of Penal Code Section 12022.7(a), and also causing the above offense to become a serious felony within the meaning of Penal Code Section 1192.7(c)(8).

NOTICE: This offense is a serious felony and a violent felony within the meaning of Penal Code sections 1192.7(c)(8) and 667.5(c)(8)

Count 4

On or about March 27, 2021, in the County of San Luis Obispo, State of California, the crime of Driving With A .08% Blood Alcohol Causing Injury in violation of VC23153(b), a Felony, was committed in that ERNESTO NAVA HERRERA did unlawfully while having .08 percent and more, by weight, of alcohol in his blood, drive a vehicle and in so driving did an act forbidden by law or neglected a duty imposed by law which proximately caused bodily injury to Yasmin Cruz.

Enhancement

VC23558: Spec Alleg-Bodily Injury To More Than One Victim

It is further alleged as to Count 4 that the defendant, in violation of Vehicle Code section 23558, proximately caused bodily injury or death to Jose Cruz, Jr.

Enhancement

PC12022.7(a): Spec Alleg-Great Bodily Injury

It is further alleged as to Count 4 that in the commission of the above offense the said defendant, ERNESTO NAVA HERRERA, personally inflicted great bodily injury upon Yasmin Cruz, not an accomplice to the above offense, within the meaning of Penal Code Section 12022.7(a), and also causing the above offense to become a serious felony within the meaning of Penal Code Section 1192.7(c)(8).

1 NOTICE: This offense is a serious felony and a violent felony within the meaning of Penal
2 Code sections 1192.7(c)(8) and 667.5(c)(8).

3 Count 5

4 On or about March 27, 2021, in the County of San Luis Obispo, State of California, the
5 crime of Leaving The Scene Of An Accident in violation of VC20001(a), a Felony, was
6 committed in that ERNESTO NAVA HERRERA did unlawfully, and knowingly, being a
7 driver of a vehicle involved in an accident resulting in injury to a person other than himself
8 or death to a person, fail, refuse, or neglect to give to the injured person or to a traffic or
9 police officer at the scene of the accident his name and address, the registration number of
10 his vehicle, or the name of the owner of said vehicle; to exhibit his operator's license; to
11 render reasonable assistance to the injured person; or perform the duties specified in
12 Vehicle Code Sections 20003 and 20004.

13 Count 6

14 On or about March 27, 2021, in the County of San Luis Obispo, State of California, the
15 crime of Driving While License Suspended/Revoked in violation of VC14601.5(a), a
16 Misdemeanor, was committed in that ERNESTO NAVA HERRERA did unlawfully drive a
17 motor vehicle with knowledge that his driver's license was suspended or revoked pursuant
18 to Vehicle Code sections 13353, 13353.1 and 13353.2.

19 Count 7

20 On or about and between March 27, 2021, and March 28, 2021, in the County of San Luis
21 Obispo, State of California, the crime of Possession Of Matter Depicting Minor Engaging In
22 Sexual Conduct in violation of PC311.11(a), a Felony, was committed in that ERNESTO
23 NAVA HERRERA did knowingly and unlawfully possess or control matter, to wit: Child
24 Pornography, the production of which involved the use of a person under the age of 18
25 years, said defendant knowing that the matter depicted a person under the age of 18
26 years, personally engaging in or simulating sexual conduct as defined in Penal Code
27 Section 311.4(d).

1 NOTICE: Conviction of this offense will require you to register pursuant to Penal Code
2 section 290. Willful failure to register is a crime.

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4 It is further alleged pursuant to Penal Code Section 1170(b)(2) that one or more of the
5 following factors in aggravation listed in California Rule of Court 4.421 may apply to the
6 defendant(s) or to conduct of the defendant(s):

7 4.421(a)(1) The crime involved great violence, great bodily harm, threat of great bodily
8 harm, and other acts disclosing a high degree of cruelty, viciousness and callousness.

9 4.421(a)(2) The defendant was armed with or used a weapon at the time of the
10 commission of the crime.

11 4.421(a)(3) The victim was particularly vulnerable.

12 4.421(a)(4) The defendant induced others to participate in the commission of the crime
13 and occupied a position of leadership and dominance of other participants in its
14 commission.

15 4.421(a)(5) The defendant induced a minor to commit and assist in the commission of the
16 crime.

17 4.421(a)(6) The defendant threatened witnesses, unlawfully prevented and dissuaded
18 witnesses from testifying, suborned perjury, and in any other way illegally interfered with
19 the judicial process.

20 4.421(a)(7) The defendant is charged with other crimes for which consecutive sentences
21 can be imposed but for which concurrent sentences shall be imposed.

22 4.421(a)(8) The manner in which the crime was carried out indicates planning,
23 sophistication, and professionalism.

24 4.421(a)(9) The crime involved an attempted or actual taking or damage of great monetary
25 value.

26 4.421(a)(10) The crime involved a large quantity of contraband.

27 4.421(a)(11) The defendant took advantage of a position of trust and confidence to commit
28 the offense.

1 4.421(a)(12) The crime constitutes a hate crime under section 422.55 of the Penal Code
2 and no hate crime enhancements under section 422.75 of the Penal Code shall be
3 imposed and the crime is not subject to sentencing under section 1170.8 of the Penal
4 Code.

5 4.421(b)(1) The defendant has engaged in violent conduct that indicates a serious danger
6 to society.

7 4.421(b)(2) The defendant's prior convictions as an adult and sustained petitions in
8 juvenile delinquency proceedings are numerous and of increasing seriousness.

9 4.421(b)(3) The defendant has served a prior term in prison and county jail under section
10 1170(h).

11 4.421(b)(4) The defendant was on probation, mandatory supervision, post release
12 community supervision, and parole when the crime was committed.

13 4.421(b)(5) The defendant's prior performance on probation, mandatory supervision, post
14 release community supervision, and parole was unsatisfactory.

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1 Contrary to the form, force, and effect of that statute in such cases made and
2 provided and against the peace and dignity of the people of the State of California.

3 Dated: January 4, 2023

4 DAN DOW
5 DISTRICT ATTORNEY

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8 By: _____
9 CRYSTAL SEILER
10 DEPUTY DISTRICT ATTORNEY

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SUMMARY PAGE					
Cnt	Charge	Range	Defendant(s)	Special Allegation	Effect
1	PC187(a)	Check Code State Prison	Ernesto Nava Herrera		
2	PC191.5(a) VC20001(c)	4-6-10 State Prison	Ernesto Nava Herrera		
3	VC23153(A) VC23558, PC12022.7(a)	+16-2-3 State Prison	Ernesto Nava Herrera		
4	VC23153(b) VC23558, PC12022.7(a)	16-2-3 State Prison	Ernesto Nava Herrera		
5	VC20001(a)	16-2-3	Ernesto Nava Herrera		
6	VC14601.5(a)	6 Mo.	Ernesto Nava Herrera		
7	PC311.1(A)	16-2-3 St. Prison/364 Days	Ernesto Nava Herrera		