SUPREME COURT COPY

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May 13, 2014

Via U.S. Priority Mail

Mary Jameson
Automatic Appeals Unit Supervisor
Supreme Court of California
350 McAllister Street
San Francisco, CA 94102-4797

Re: *People v. Kelvyn Banks* – S080477
Focus Issues for Oral Argument and Request for 45 Minutes for Argument

Dear Ms. Jameson:

The court requested that counsel advise it and opposing counsel by letter of those issues on which counsel expects to focus the argument. I intend to focus on the following issues:

1. The trial court's order overruling the defense *Batson/Wheeler* objection to the prosecutor's peremptory challenges against three Black prospective jurors requires reversal of the convictions. (Appellant's Opening Brief (AOB) 53-75, Arg. I; Respondent's Brief (RB) 63-77; Appellant's Reply Brief (ARB) 2-24.)

2. The trial court's order removing appellant from the courtroom during the entire penalty phase retrial requires reversal of the death judgment. (AOB 194-224, Arg. XV; RB 169-194; ARB 106-113.)

3. The trial court's order preventing appellant from presenting mitigating evidence of institutional failure in support of a life sentence requires reversal of the death judgment. (AOB 225-236, Arg. XVI; RB 194-201; ARB 114-121.)

4. The trial court prejudicially erred by eliciting testimony from defense expert witness Dr. Carl Osborne suggesting future dangerousness, permitting the prosecutor to do the same, and then overruling the defense objection to the prosecutor's argument on future dangerousness, requiring reversal of the death judgment. (AOB 237-247, Arg. XVII; RB 201-209; ARB 122-129.)

DEATH PENALTY

5. The trial court prejudicially erred by ordering appellant to submit to a psychiatric evaluation by prosecution psychiatrist Dr. Ronald Markman and allowing Dr. Markman to undermine the defense case in mitigation by testifying as an expert witness in the prosecution's rebuttal case, requiring reversal of the death judgment. (AOB 259-269, Arg. XIX; RB 223-237; ARB 143-154.)

I am requesting 45 minutes for oral argument.

Sincerely,

Stephen M. Lathrop

Encl. (Proof of Service)

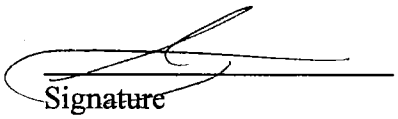
Proof of Service

I am employed in the County of Los Angeles, State of California. I am over the age of 18 and not a party to the within action; my business address is 904 Silver Spur Road #430, Rolling Hills Estates, CA 90274. On May 13, 2014, I served the following document(s) described as **Focus Issues for Oral Argument and Request for 45 Minutes for Argument** on the interested party(ies) in this action by placing _ the original or X a true copy thereof enclosed, in (a) sealed envelope(s), addressed as follows:

Allison H. Chung Deputy Attorney General Attorney General's Office 300 South Spring St., 5th Fl. Los Angeles, CA 90013	Linda Robertson Supervising Attorney California Appellate Project 101 Second Street, Suite 600 San Francisco, CA 94105-3647	Kelvyn Banks CDC# P-47600 1-EB-80 San Quentin State Prison San Quentin, CA 94974

I am readily familiar with the firm's practice for collection and processing of correspondence and other materials for mailing with the United States Postal Service. On this date, I sealed the envelope(s) containing the above materials and placed the envelope(s) for collection and mailing on this date at the address above following our office's ordinary business practices. The envelope(s) will be deposited with the United States Postal Service on this date, in the ordinary course of business. I declare under penalty of perjury under the laws of the State of California that the above is true and correct and that this Proof of Service was executed on May 13, 2014, at Rolling Hills Estates, California.

Stephen M. Lathrop
Printed Name


Signature