

SUPREME COURT COPY



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COPY

June 21, 2012

The Honorable Frederick Ohlrich
California Supreme Court
350 McAllister, 1st Floor
Earl Warren Building
San Francisco, CA 94102

SUPREME COURT
FILED

JUN 25 2012

Frederick K. Ohlrich Clerk

RE: *People v. Smith*, Case No. S112442

Deputy

Dear Mr. Ohlrich:

Counsel for respondent submits the following informal response to this Court's May 23, 2012, order.

Counsel for respondent has received and reviewed the documents provided by this Court, consisting of Reporter's Transcript, volume 19, pages 5931 to 5959. Counsel for respondent did not have these portions of the record when it prepared the respondent's brief.

After review of the additional transcript pages, respondent recognizes that trial counsel for appellant did refuse to stipulate to the challenge for cause of prospective juror Billie Jean Swift. (IXX RT 5232.)

As such, counsel for respondent withdraws his waiver/forfeiture section of its response to argument X.¹ In all other respects, counsel for respondent continues its objections to appellant's argument X as stated therein. (RB 197-204.)

Sincerely,

ANGELO S. EDRALIN
Deputy Attorney General

For KAMALA D. HARRIS
Attorney General

¹ The forfeiture argument is contained in Argument X, subsection B. (RB 199-200.)

DEATH PENALTY

DECLARATION OF SERVICE BY U.S. MAIL

Case Name: **People v. Smith**
No.: **S112442**

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 collection and processing of correspondence for mailing with the United States Postal Service. 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.

On June 22, 2012, I served the attached **LETTER TO CLERK** by placing 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:

Kathy Moreno
Attorney at Law
P.O. Box 9006
Berkeley, CA 94709-0006

Attorney for Appellant – 2 Copies

I declare under penalty of perjury under the laws of the State of California the foregoing is true and correct and that this declaration was executed on June 22, 2012, at Sacramento, California.

Declarant