

SUPREME COURT COPY

STATE OF CALIFORNIA

EDMUND G. BROWN JR., Governor

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November 6, 2015

Supreme Court of California
Office of the Clerk
Automatic Appeals Unit
350 McAllister St.
San Francisco, CA 94102

SUPREME COURT
FILED

NOV - 9 2015

Frank A. McGuire Clerk

Deputy

Re: *People v. Jose Lupercio Casares*, No. S025748
Amended Oral Argument Focus Letter

To the Honorable Tani Cantil-Sakauye, Chief Justice of California, and to the Honorable Associate Justices of the Supreme Court of the State of California:

I am counsel assigned to represent Mr. Casares in the above-referenced appeal, calendared for oral argument on December 1, 2015. In my initial focus letter I omitted a closely related argument to the one mentioned in the letter which I also intend to argue.

I intend to focus my argument on appellant's claim that the evidence adduced at trial was insufficient to support the lying-in-wait special circumstance and that the lying-in-wait jury instruction omitted key elements of the special circumstance and were erroneous, internally inconsistent and confusing. (See Appellant's Opening and Reply briefs, Arguments II and IV.)

Very Truly Yours,

Kathleen Scheidel / *MS*
KATHLEEN M. SCHEIDEL

Assistant State Public Defender

DEATH PENALTY

DECLARATION OF SERVICE

Case Name: *People v. Jose Lupercio Casares*

Case Number: **S025748**

I, Gary Johnston, declare that I am over 18 years of age, and not a party to the within cause. I am employed in the county where the mailing took place. My business address is 1111 Broadway, 10th Floor, Oakland, California 94607. I served a true copy of following document(s):

AMENDED FOCUS LETTER

by enclosing it in envelopes and

/ / **depositing** the sealed envelope with the United States Postal Service with the postage fully prepaid;

/X/ **placing** the envelopes for collection and mailing on the date and at the place shown below following our ordinary business practices. I am readily familiar with this business's practice for collecting and processing correspondence for mailing. On the same day that correspondence is placed for collection and mailing, it is deposited in the ordinary course of business with the United States Postal Service in a sealed envelope with postage fully prepaid.

The envelopes were addresses and mailed on **November 6, 2015**, as follows:

David A. Lowe
Deputy Attorney General
Office of the Attorney General
1300 I Street, #1101
Sacramento, CA 94244-2550

Paula Fog
Habeas Corpus Resource Center
303 Second Street, Suite 400 South
San Francisco, CA 94107

Mr. Jose Casares, #H-29200
CSP-SQ
4-EY-46
San Quentin, CA 94974

California Appellate Project
101 Second Street, Suite 600
San Francisco, CA 94105

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct. Signed this **November 6, 2015**, at Oakland, California.


GARY JOHNSTON