

SUPREME COURT COPY

RICHARD C. NEUHOFF
ATTORNEY
CALIFORNIA STATE BAR NO. 54215

(860) 229-0433
FAX: (860) 348-1942

11 FRANKLIN SQUARE
NEW BRITAIN, CONNECTICUT 06051

SUPREME COURT
FILED

May 22, 2015

MAY 22 2015

Frank A. McGuire, Clerk
Supreme Court of California
350 McAllister Street
San Francisco, CA 94102-4797

Frank A. McGuire Clerk

Re: *People v. Nguyen*, S076340: List of additional authorities that
may be cited by appellant's counsel at oral argument.

Dear Mr. McGuire:

In accordance with the Notice to Counsel Appearing for Oral Argument before the Supreme Court of California, I am hereby submitting this list of additional authorities not contained in the papers and briefs on file that I may cite at oral argument in this case.

- **Re Prejudice Analyses**

People v. Wilkins (2013) 56 Cal.4th 333, 350-351: *Chapman* required reversal because “ a reasonable trier of fact could have concluded” in defense favor on the matter to which the error related, and “the jury could have reasonably concluded that the prosecution failed to prove [that matter] beyond a reasonable doubt.” (See also *People v. Mil* (2012) 53 Cal.4th 400, 417-419 [similar].)

People v. Wilkins, supra, 56 Cal.4th at page 351, internal quotation marks and citations omitted: “Under the *Watson* standard, prejudicial error is shown where after an examination of the entire cause, including the evidence, [the reviewing court] is of the opinion that it is reasonably probable that a result more favorable to the appealing party would have been reached in the absence of the error. We have made clear that a ‘probability’ in this context does not mean more likely than not, but merely a reasonable chance, more than an abstract possibility.”

DEATH PENALTY

II.1 The Convictions in Counts 13 and 14 Must Be Set Aside Because the Jury Was Given No Legally Valid Theory That Would Authorize It to Reject Self-Defense and to Find the Killing to Be Unlawful; and Even Assuming Arguendo That Some Legally Valid Theory for Rejecting Self-Defense Was Presented to the Jury, Reversal of Counts 13 and 14 Would Still Be Required Because the Jury Was Given Several Invalid Legal Theories. (AOB 123-197, ARB 71-115)

Burrage v. United States (2014) 134 S.Ct. 881, 892: when a proffered interpretation of a criminal law's scope requires guesswork as to important matters, "[u]ncertainty of that kind cannot be squared with the beyond-a-reasonable-doubt standard applicable in criminal trials or with the need to express criminal laws in terms ordinary persons can comprehend." (See AOB 150-152.)

People v. Chiu (2014) 59 Cal.4th 155, 167, citations omitted: "When a trial court instructs a jury on two theories of guilt, one of which was legally correct and one legally incorrect, reversal is required unless there is a basis in the record to find that the verdict was based on a valid ground."

People v. Leiva (2013) 56 Cal.4th 498, 506-507 (re statutory interpretation).

State v. Hull (Wash. Ct. Apps. no 31078-7-III, Dec. 18, 2014) 2014 WL 7321496 *8-*12: discussing constitutional right to self-defense under Ninth Amendment, Due Process, and Second Amendment.

VII.1 The Judgment Must Be Reversed for Ineffective Assistance of Counsel Arising from the Criminal Derelictions of the Defense Investigator, Daniel Watkins (AOB 297-320, ARB 194-203)

Christeson v. Roper (2015) 135 S.Ct. 891, 894: a lawyer cannot be expected to assert his or her own malfeasance in the course of litigating a client's claim. "Advancing such a claim would have required [counsel] to denigrate their own performance. Counsel cannot reasonably be expected to make such an argument, which threatens their professional reputation and livelihood." (See AOB 317-318, ARB 201.)

USA v. Kentucky Bar Assn. (Ky. 2014) 439 S.W.3d 136, 152-155 (when an attorney's conduct is being questioned, "most lawyers — even those who are acting with the best intentions — are unable consciously to identify many conflicts that exist or to appreciate the corrosive effects that such conflicts may have on decision[-]making."), quoting Eldred, *The Psychology of Conflicts of Interest in Criminal Cases* (2009) 58 U. Kan.L.Rev. 43, 54.) (See AOB 317-318, ARB 201.)

Respectfully Submitted,

Richard C. Neuhoff
Attorney for Appellant
Lam T. Nguyen

PROOF OF SERVICE BY MAIL

I, the undersigned, declare:

I am employed in New Britain, Connecticut. I am an active member of the State Bar of California and not a party to the cause described herein; my business address is 11 Franklin Square, New Britain, CT 06051-2604.

On today's date, I served a copy of:

Appellant's List of Additional Authorities

in *People v. Lam T. Nguyen* (No. S076340) by placing a true copy thereof in a sealed envelope with postage thereon fully prepaid, in the United States mail at New Britain, Connecticut, addressed as follows:

Lam Thanh Nguyen
P.O. Box P-28000
San Quentin State Prison
San Quentin, CA 94974

Christopher P. Beesley
Deputy Attorney General
600 West Broadway, Suite 1800
San Diego, CA 92101
(also served by e-mail at
Christopher.Beesley@doj.ca.gov)

I declare under the penalty of perjury under the laws of the State of California that the foregoing is true and correct, and that this declaration was executed on May 22, 2015, at New Britain, Connecticut

Richard C. Neuhoff