

SUPREME COURT COPY

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In the Supreme Court of the State of California

**THE PEOPLE OF THE STATE OF
CALIFORNIA,**

Plaintiff and Respondent,

v.

JEAN PIERRE RICES,

Defendant and Appellant.

CAPITAL CASE

Case No. S175851

**SUPREME COURT
FILED**

AUG 05 2016

San Diego County Superior Court
Case No. SCE266581
The Honorable Lantz Lewis, Judge

Frank A. McGuire Clerk

Deputy

RESPONDENT'S BRIEF

KAMALA D. HARRIS
Attorney General of California
GERALD A. ENGLER
Chief Assistant Attorney General
JULIE L. GARLAND
Senior Assistant Attorney General
HOLLY D. WILKENS
Supervising Deputy Attorney General
MICHAEL MURPHY
Deputy Attorney General
ALANA COHEN BUTLER
Deputy Attorney General
State Bar No. 200079
600 West Broadway, Suite 1800
San Diego, CA 92101
P.O. Box 85266
San Diego, CA 92186-5266
Telephone: (619) 738-9227
Fax: (619) 645-2012
Email: Alana.Butler@doj.ca.gov
Attorneys for Respondent

DEATH PENALTY



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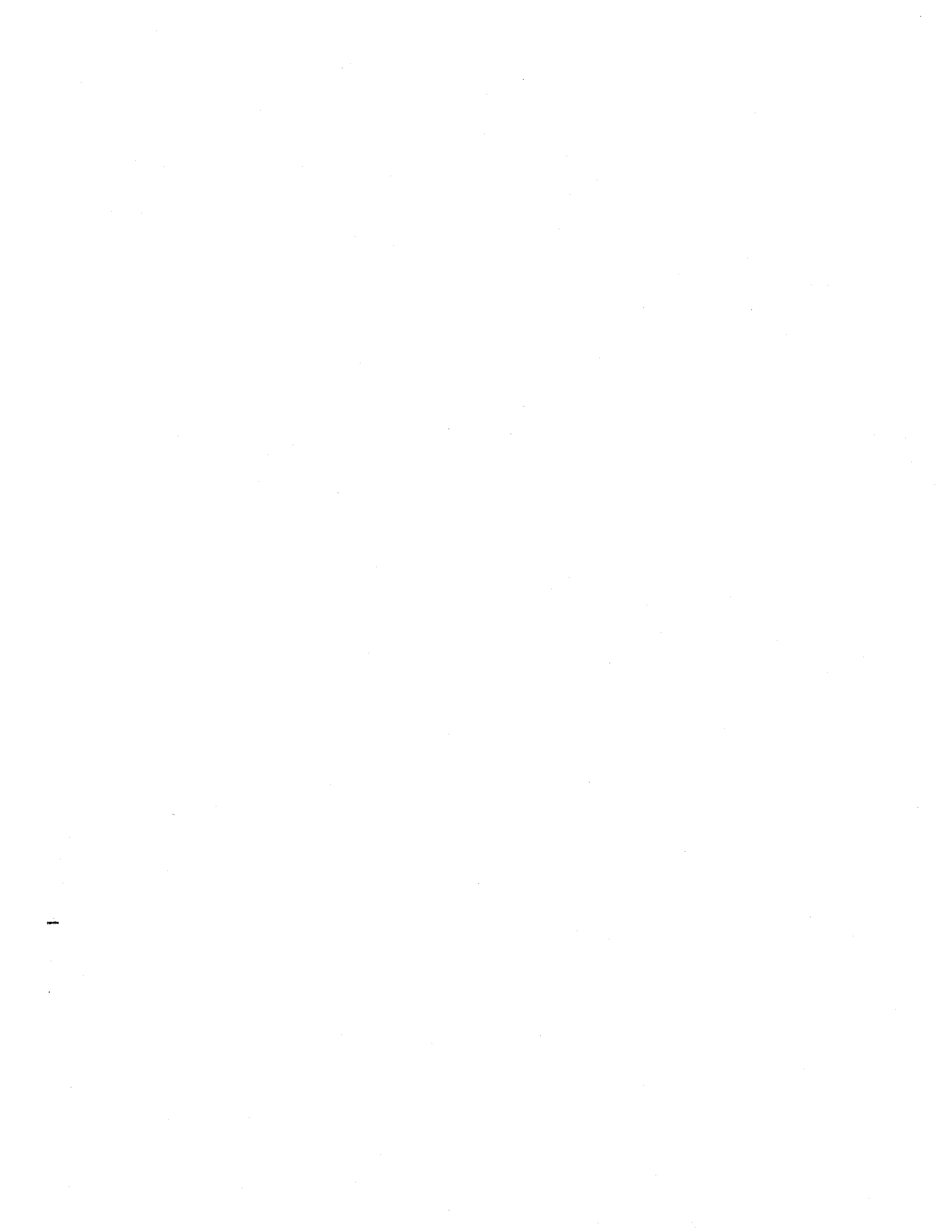
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STATEMENT OF THE CASE

On August 7, 2007, the San Diego County District Attorney's office filed an information charging appellant, Jean Pierre Rices, and co-defendant, Anthony Miller, with two counts of murder in violation of Penal Code section 187, subdivision (a). The information alleged felony murder and multiple murder special circumstances, within the meaning of Penal Code section 190.2, subdivisions (a)(3) & (17). The information further alleged that appellant personally used a firearm during the commission of the murders (Pen. Code, § 12022.53(d)), had been previously convicted of a serious felony and a strike (Pen. Code, § 667, subs. (a)(1)& (b)-(i)), and had served one prior prison term (Pen. Code, § 667.5, subd. (b)). (1 CT 68-73.) The prosecution elected to seek the death penalty against appellant and an LWOP sentence against Miller. (1 CT 78-79.)

On October 6, 2008, appellant pled guilty to both counts of murder while personally using a firearm and admitted the robbery and multiple murder special circumstance allegations, in addition to admitting the serious felony and strike prior convictions. The People dismissed the burglary special circumstance allegation and the prison prior. (4 CT 716-718.)¹

Two juries were convened, one to determine appellant's penalty, the other to determine Miller's guilt. Appellant's jury was sworn on May 27, 2009. (5 CT 1024.) On June 24, 2009, the jury determined that appellant's

¹ Appellant had two other open cases at the time of his guilty plea. In case number SCD200599, appellant pled guilty to robbery and attempted robbery with gun and prior conviction allegations. (RT 480-492.) The court later sentenced appellant to a term of 30 years to life, plus nine years on that case. (6 CT 1415) In case number CE283573, appellant pled guilty to attempted murder with weapon, great bodily injury, and prior conviction allegations. (RT 493-500.) The court later sentenced appellant to a consecutive term of 34 years and four months on that case. (6 CT 1415.)

punishment should be death. (6 CT 1252.) On August 21, 2009, the trial court denied appellant's motions for new trial and a reduction of penalty, and sentenced appellant to death on the murder convictions. (6 CT 1413-1416.) The court further imposed two additional 25-year-to-life terms of imprisonment on the firearm allegations and five years on the serious felony prior conviction allegation. (6 CT 1416.)

The instant appeal is automatic.

STATEMENT OF FACTS

Heather Mattia, a part-owner of the Granada Liquor Store in El Cajon, and her employee, Firas Eiso, were in the process of closing up shop on March 1, 2006, at approximately 11 p.m. (10 RT 1370, 1426, 11 RT 1632.) Heather and Firas exited the store and were about to leave when approached by appellant and co-defendant, Anthony Miller. (11 RT 1631-1632.) Heather and Firas were ordered to go back into the store, and told to crawl in front of the counter. Miller took money from the cash registers. He then opened the door to exit the store. As he was walking out of the store, appellant shot Heather and Firas in the back of their heads as they lay defenseless on the ground. Appellant then walked out the door with a gun in his hand. (11 RT 1631-1632, 1646.) Throughout the encounter Heather and Firas cooperated with appellant. (12 RT 1915-1916.) Before being killed, Heather pleaded with appellant not to kill her, saying she just wanted to be with her family. Firas also appealed for his life saying, "I'm young. Please don't kill me. Let me live." (12 RT 1959.) From the time Heather and Firas were forced back into the store until appellant was seen walking out the door amounted to just under four minutes. (16 RT 1648.)

Samir Yousef, Heather's cousin, was supposed to meet her for dinner after she closed the store. (10 RT 1370.) When she did not show up or answer his calls, he decided to go by the store. When he arrived, he walked

in the front door. It was dark inside and he did not see anyone. Samir called out Heather's name to no avail. He became scared and decided to go to the neighboring Domino's pizza to see if she was there. (10 RT 1372-1374, 1391.) He did not find Heather there and asked two of the Domino's employees to go back to the liquor store with him. When he returned to the store, accompanied by the two Dominos employees, he walked further inside and saw Heather and Firas lying face down, dead on the floor in a pool of blood. (10 RT 1375, 1379, 1391.) He ran out of the store, got in his car, and called 911. (10 RT 1375.)

Police and paramedics arrived at the store shortly thereafter where they found Heather and Firas dead of apparent gunshot wounds to the head. (10 RT 1412, 1415, 1423.) When Firas' body was moved, a bullet was discovered underneath him. (10 RT 1480.) When no bullet was recovered from Heather's body after the autopsy, police conducted a second search and found a bullet in a stack of beverage cans. (10 RT 1484, 1487.) Investigators surmised that the bullet went through Heather's head, grazed her wrist, struck the floor, then rebounded up to puncture a poster, strike the counter, hit the ceiling, and then finally came to rest in the stack of cans. (10 RT 1492.)

An autopsy revealed that Firas died from a gunshot wound to the head. (11 RT 1617.) The bullet entered the right back side of his head and exited near his right nostril. (11 RT 1598, 1602.) The bullet damaged his central survival functions, incapacitated him, and rendered him unconscious immediately. (11 RT 1606.) He likely only survived three to seven minutes after being shot in the head. (11 RT 1607.) Heather's autopsy revealed she also died from a gunshot wound to the head. (11 RT 1617.) In her case, the bullet entered the side of her head, behind her right ear and exited in front of her left ear. (11 RT 1610.) She had graze wounds to her forearm, wrist, and finger, likely from the same bullet. (11 RT 1612-1613.) An

examination of her lungs suggested she had continued to breathe after being shot for about 15-20 minutes and the location of the gunshot may have resulted in seizures until her brain or heart had shut down. (11 RT 1615.)

In the months following the murders, appellant admitted to several people that he committed the robbery and shot two people in the head. He also provided details, including the fact that Heather had been twitching and her legs shot up in the air after he shot her. (15 RT 2235, 2262-2263, 2265.) After being arrested, he ultimately pled guilty to the murders along with firearm allegations and robbery and multiple murder special circumstances. (15 RT 2309.)

Appellant committed a number of armed robberies both before and after the murders at the Granada Liquor Store. On February 10, 1999, appellant entered a Taco Bell with Milton Sheppard at approximately 7:30 p.m. Initially, the two men seemed to be observing the restaurant and then left. When they came back, Sheppard served as a lookout and appellant walked up to the counter with his hand in his pocket. He walked up to the shift manager, Deborah Carmichael, and said, "Back up bitch, I want the money." (15 RT 2197-2198, 2201.) Although he did not pull out a gun, she saw the butt of a gun in his pocket and its silhouette. She gave him money from the register, probably about \$150. Appellant and Sheppard left the store. (15 RT 2200.) When appellant was later interviewed about the incident, he admitted committing the robbery. (15 RT 2207.)

About a month later, on March 7, 1999, Paul Hillard was sitting in his car in a parking lot at about 10:00 a.m. (15 RT 2208.) Three men approached the car, two stood on the passenger side of the car and appellant stood by the driver's side door. Appellant ordered Hillard to get out of the car and lie on the ground. (15 RT 2209.) Appellant had a gun in his hand and he pointed it at Hillard. One of the men reached in Hillard's back pocket and took his wallet, which contained about \$300. After they took

his wallet, they left in his car. (15 RT 2210.) He called the police immediately, who fortuitously located the car driving off the freeway about 10 minutes after the call came in. Police stopped the car. Appellant was seated in the front passenger seat, where a gun was located underneath. (15 RT 2215, 2217-2219.) Appellant subsequently admitted that he was the person who used the gun against Hillard. (15 RT 2220.) Appellant was convicted of robbery while armed with a firearm in August of 1999, for this offense. (15 RT 2307.)

After having been released from prison, appellant and Rodney Hodges robbed the Bank of America in El Cajon on July 28, 2006, at approximately 10:30 a.m. (15 RT 2223, 2235.) The entered into the bank with shotguns and yelled for everyone to get down. Appellant fired two shots. (15 RT 2225, 2234-2235.) Heather Maxin, a teller at the bank, dropped to the ground, but was able to press her handheld alarm. (15 RT 2226.) She felt terrified to be in such a situation. (15 RT 2230.) Appellant jumped over the teller window but ultimately did not get any money. He and Hodges got in their car and left. (15 RT 2226.) In October 2008, based on this offense, appellant pled guilty to attempted robbery while being personally armed with a firearm . (15 RT 2308.)

A few days later, on July 31, 2006, appellant and Dwayne Hooks, entered the Washington Mutual in Lakeside wearing ski masks and yelled at everyone to “get the fuck down.” (15 RT 2238, 2252.) Appellant, who was armed with a handgun, jumped over the teller counter, and took money from the open drawers. (15 RT 2239, 2252.) When he approached Korrine Williams, a teller whose drawer was locked, he pointed the gun a couple of inches from her head and told her to “get the fuck up, unlock the drawer.” Terrified, she opened the drawer. He then told her to “get the fuck back down,” which she did. (15 RT 2240, 2243-2244, 2247, 2249, 2252-2253.) As appellant was taking the money and jumping back over the counter, he