

COPY

KAMALA D. HARRIS  
Attorney General

State of California  
DEPARTMENT OF JUSTICE



455 GOLDEN GATE AVENUE, SUITE 11000  
SAN FRANCISCO, CA 94102-7004

Public: (415) 703-5500  
Telephone: (415) 703-5872  
Facsimile: (415) 703-1234  
E-Mail: Margo.Yu@doj.ca.gov

April 20, 2012

**SUPREME COURT  
FILED**

**APR 20 2012**

**Frederick K. Ohlrich, Clerk**

**Deputy**

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

RE: People v. Tully (Richard C.)  
Supreme Court of the State of California, Case No. S030402

Dear Ms. Jameson:

Oral argument has been scheduled for the afternoon of May 2, 2012. Please advise the Court that counsel for respondent will be prepared to respond to the following nine issues noted by appellant in his letter of April 15, 2012:

- IV. The trial court erred in granting the prosecution challenges to exclude jurors for cause.
- VIII. Trial court error and prosecutorial misconduct resulted in the improper introduction of victim impact evidence at the guilt phase.
- IX. Prosecutorial misconduct during the guilt phase closing arguments.
- XV. The prosecutor committed egregious misconduct during the presentation of victim impact evidence at the penalty phase and the trial court erroneously denied appellant's motions for a mistrial based upon the prosecutor's repeated and flagrant violations of the court's rulings.
- XVI. Prosecutorial misconduct at the penalty phase requires reversal of Mr. Tully's death sentence.
- XVII. Religion, religious arguments and biblical authority permeated the penalty arguments.
- XVIII. The trial court erred in allowing the prosecutor to argue future dangerousness.

XX. The trial court failed to answer the jury's request for "the legal definition of life without the possibility of parole."

XXVI. Death qualification voir dire is unconstitutional.

Respondent also will be prepared to address any other issues on which the Court has questions.

Sincerely,



MARGO J. YU  
Deputy Attorney General

For KAMALA D. HARRIS  
Attorney General

MJY:bw

**DECLARATION OF SERVICE BY U.S. MAIL**

Case Name: **People v. Tully**  
No.: **S030402**

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 April 20, 2012, I served the attached **LETTER TO CALIFORNIA SUPREME COURT RE: ORAL ARGUMENT** 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 455 Golden Gate Avenue, Suite 11000, San Francisco, CA 94102-7004, addressed as follows:

James S. Thomson  
Attorney at Law  
819 Delaware Street  
Berkeley, CA 94710  
(two copies)

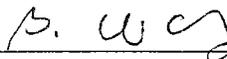
County of Alameda  
Superior Court of California  
1225 Fallon Street, Room 107  
Oakland, CA 94612-4293

The Honorable Nancy O'Malley  
District Attorney  
Alameda County District Attorney's Office  
1225 Fallon Street, Room 900  
Oakland, CA 94612-4203

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 the foregoing is true and correct and that this declaration was executed on April 20, 2012, at San Francisco, California.

\_\_\_\_\_  
B. Wong  
Declarant

\_\_\_\_\_  
  
Signature