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SUPREME COURT COPY

May 13, 2016

SUPREME COURT
FILED

MAY 13 2016

Frank A. McGuire Clerk

Deputy

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

Re: *People v. Sergio Nelson, et al.*, Case No. S048763
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 Sergio Nelson in the above-referenced appeal, calendared for oral argument on May 27, 2016. This letter timely amends my previous Focus Letter, dated May 12, 2016, in which I stated my intention to focus on claim No. 1, The Court Erred in Refusing to Instruct the Jury on Heat of Passion with Respect to Malice Murder and Voluntary Manslaughter. I also intend to focus on claim No. 8, The Court Erred in Instructing the Jury on a Factually Insufficient Lying-in-wait Theory of First Degree Murder, and Because the Jury Unreasonably Found the Equally Unsupported Lying-in-wait Special Circumstances, the First Degree Murder Verdicts and Lying-in-wait Special Circumstances Must Be Reversed, to the extent it answers respondent's harmless error argument against claim No. 1.

Sincerely,

Joseph E. Chabot
Senior Deputy State Public Defender

DEATH PENALTY

DECLARATION OF SERVICE BY MAIL

Case Name: *People v. Sergio Nelson, et al.*
Case Number: S048763

I, **Neva Wandersee**, declare as follows:

I am over the age of 18, not a party to this 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 copy of the following document(s):

**AMENDED ORAL ARGUMENT
FOCUS LETTER**

by enclosing it in envelopes and

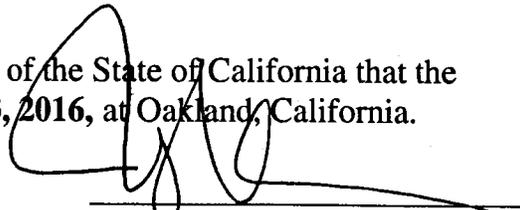
/ / depositing the sealed envelope with the United States Postal Service with the postage fully prepaid;
/X/ placing the envelopes for collection and mailing on the date and at the place shown below following our ordinary business practices. I am readily familiar with this business's practice for collecting 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 addressed and mailed on **May 13, 2016**, as follows:

Tita Nguyen
Deputy Attorney General
Office of the Attorney General
300 South Spring Street
Los Angeles, CA 90013

Sergio Nelson, #J-78400
CSP-SQ
NBN2
San Quentin, CA 94974

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct. Signed on **May 13, 2016**, at Oakland, California.


NEVA WANDERSEE