

SUPREME COURT COPY

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LAW OFFICE OF
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January 23, 2015

SUPREME COURT
FILED

JAN 26 2015

Frank A. McGuire Clerk

Deputy

California Supreme Court
350 McAllister Street
Room 1295
San Francisco, CA 94102

Re: Focus Letter for Oral argument in
People v. Paul G. Smith, Jr. S112442
Set for February 4, 2015 at 1:30 p.m.

Dear Clerk:

I intend to focus my argument in *People v. Paul G. Smith, Jr.* on the following issues:

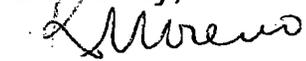
Argument XI: The trial judge committed judicial misconduct by making disparaging gestures during important mitigation testimony by an expert; and compounded the error by refusing a hearing before an impartial hearing, instead deciding his own credibility.

Argument XII: The trial court erred in failing to excuse Juror Number 11 for multiple instances of misconduct during penalty phase deliberations.

As to Argument XI, I call the Court's attention to the recent case of *Hurles v. Ryan* (9th Cir. 2013) 706 F.3d 1021, and *Hurles v. Ryan* (9th Cir. 2014) 752 F.3d 768 ["defective fact-finding because the facts the

state trial judge found involved her own conduct, and she based those findings on her untested memory and understanding of the events.

Sincerely,



KATHY R. MORENO

Attorney for Paul G. Smith, Jr.

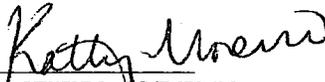
Certificate of Service on Atty General attached

CERTIFICATE OF SERVICE

I, Kathy Moreno, certify that I am over 18 years of age and not a party to this action. I have my business address at P.O. Box 9006, Berkeley, CA 94709-0006. I have made service of the foregoing APPELLANT'S FOCUS LETTER FOR ORAL ARGUMENT in *People v. Paul G. Smith*, S112422 by depositing in the United States mail on January 23, 2015, a true and full copy thereof, to the following:

Atty General
ATTN: Angelo S. Edralin
P. O. Box 944255
Sacramento, CA 94244-2550

Executed under penalty of perjury on January 23, 2015, in Berkeley, CA.


KATHY MORENO