

COPY SUPREME COURT COPY



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September 16, 2016

The Honorable Frank A. McGuire
Court Administrator and Clerk of the Court
Supreme Court California
San Francisco Branch
Supreme Court of the State of California
350 McAllister Street
San Francisco, CA 94102-4797

**SUPREME COURT
FILED**

SEP 19 2016

Frank A. McGuire Clerk

Deputy

RE: People v. Angelo Michael Melendez
Supreme Court California S.F., Case No. S118384

Dear Mr. McGuire:

In preparing for oral argument, counsel for respondent discovered that one page of the respondent's brief was missing from the filed copy. This page contained a description of the facts presented during the defense penalty phase and the People's penalty phase rebuttal. Respondent is responsible for this error and apologizes to the Court and opposing counsel for the error.

Respondent submits herein the missing page to this Court and opposing counsel in an effort to give notice of the facts upon which respondent will be relying at oral argument. Respondent also respectfully requests that these facts be considered in the resolution of this appeal. Respondent attaches a declaration in support of this request along with the missing page which states as follows:

grew up, to continue with their education. (17 RT 4425-4427.) Appellant is her "best friend." (17 RT 4427.)

On cross-examination, Gwen Taylor admitted that she and appellant lived together in the beginning of their relationship, but denied that this was when she was 14 years old, because, according to her, appellant was dating women his own age and she was a minor. (17 RT 4427-4428.) She could not recall when or how long she lived with appellant. (17 RT 4428.) She also re-characterized her living situation as "living in his mother's house," but admitted that she was "in a relationship" with appellant at the time. (17 RT 4429.) After

DEATH PENALTY

saying this, she clarified that when she was 14 years old they were just friends, though *she* considered it dating. (17 RT 4430.) According to her, when she turned 20 years old, the relationship became “romantic.” (17 RT 4430.)

A psychiatrist, Sammunkan Surulinathan, PhD, who saw appellant once, several days before he murdered Wilson and shot Richardson, also testified during the penalty phase and offered his diagnosis of appellant. (17 RT 4449.) Dr. Surulinathan diagnosed appellant as suffering from depression and an anti-social personality. (17 RT 4451-4453, 4459.) Appellant reported to Dr. Surulinathan that he has visual hallucinations and hears voices. (17 RT 4452, 4454.) Dr. Surulinathan confirmed appellant’s left eye blindness. (17 RT 4452.)

THE PROSECUTION’S REBUTTAL EVIDENCE

The prosecutor offered a portion of appellant’s 969(b) package to rebut Gwen Taylor’s testimony that she did not have a sexual relationship with appellant when he was an adult and she was as a minor. (17 RT 4466-4467.) The prison record showed that appellant was incarcerated steadily from 1981 through 1991. (17 RT 4467-4468.) Thus, Gwen Taylor’s relationship with him occurred between 1977 to 1981 when she was 14 to 17 years old.

Respondent respectfully requests that these facts be considered in the resolution of this appeal. Again, respondent apologizes for this error.

Sincerely,



A. KAY LAUTERBACH
Deputy Attorney General

For KAMALA D. HARRIS
Attorney General

AKL:

DECLARATION OF SERVICE BY U.S. MAIL

Case Name: **People v. Angelo Michael Melendez**
No.: **S118384**

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 September 16, 2016, I served the attached **Letter to the Court** 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 1300 I Street, Suite 125, P.O. Box 944255, Sacramento, CA 94244-2550, addressed as follows:

Saor E. Stetler
Attorney at Law
P. O Box 2189
Mill Valley, CA 94942

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 September 16, 2016, at Sacramento, California.

B. Noorani

Declarant

Signature