

Certified Specialist-
Criminal Law

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April 24, 2020

Mr. Jorge E. Navarrete
Clerk/Executive Officer of the Supreme Court of California
350 McAllister Street, Room 1295
San Francisco, CA 94102

Re: Automatic Appeal, *People v. Vargas* (S101247)
Filed via True Filing

Dear Mr. Navarrete:

I am the attorney for appellant, Eduardo Vargas, in his automatic appeal, *People v. Vargas*, No. S101247. This case is calendared for video oral argument on May 5, 2020 at 1:30 p.m.

On April 3, 2020, I wrote to this court requesting that this case not be scheduled for either video or telephonic oral argument until its is safe to conduct live oral argument after the COVID-19 pandemic passes. Over my objection, this court indicated that I had not shown good cause for the postponement of live oral argument.

Appellant is prepared to go forward with oral argument, but he wishes to preserve the objections raised in his letter of April 3, 2020 to the Court.

I intend to focus on the following issue:

APPELLANT SUFFERED ACTUAL PREJUDICE AS A RESULT OF THE GOVERNMENT'S VIOLATION OF HIS RIGHT TO CONSULAR NOTIFICATION AND ASSISTANCE, (presented as the sole argument in Appellant's Supplemental Brief filed on or about March 12, 2013, in Appellant's Supplemental Reply Brief filed on June 1, 2013, and

also briefed as Argument X in Appellant's Opening and Reply Briefs).

Depending on the time remaining, counsel may address the following issue from Appellant's Opening Brief filed on January 17, 2012 and Appellant's Reply Brief filed on March 8, 2013:

I

THE COURT ABUSED ITS DISCRETION IN DENYING APPELLANT'S MOTION TO SUPPRESS EVIDENCE THAT WAS OBTAINED AS A RESULT OF AN UNLAWFUL SEARCH OR SEIZURE.

Very truly yours,
/s/ Russell S. Babcock
Russell S. Babcock
Attorney for VARGAS

PROOF OF SERVICE BY MAIL

(Cal. Rules of Court, rules 1.21, 8.50.)
(*People v. Vargas*, Court of Appeal No. S101247)

I, Russell Babcock, declare that: I am over the age of 18 years and not a party to the case; I am employed in, or am a resident of, the County of San Diego, California, where the mailing occurs; and my business address is 1901 First Avenue, First Floor San Diego, California 92101.

I further declare that I am readily familiar with the business practice for collection and processing of correspondence for mailing with the United States Postal Service; and that the correspondence shall be deposited with the United States Postal Service this same day in the ordinary course of business.

I caused to be served the following document(s): Focus Letter: by placing a true copy of each document in a separate envelope addressed to each addressee, respectively, as follows:

Eduardo Vargas, Appellant
PO Box 85266
San Quentin State Prison
San Quentin, CA 94694

California Appellate Project
345 California Street, #1400
San Francisco, CA 94104

I then sealed each envelope and, with the postage thereon fully prepaid, I placed each for deposit in the United States Postal Service, this same day, at my business address shown above, following ordinary business practices.

PROOF OF SERVICE BY ELECTRONIC SERVICE
(Cal. Rules of Court, rules 2.251(i)(1)(A)-(D) & 8.71(f)(1)(A)-(D).)
(*People v. Vargas*, Supreme Court Case No. S101247)

Furthermore, I, Russell S. Babcock, declare I electronically served the following entities below in the True Filing system:

I electronically served the following entities in the TrueFiling system:

ATTORNEY GENERAL'S OFFICE; mike.murphy@us.doj.ca.gov ;

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

Executed on April 24, 2020.

Server signature

/s/ Russell Babcock
Russell Babcock

STATE OF CALIFORNIA
Supreme Court of California

PROOF OF SERVICE

STATE OF CALIFORNIA
Supreme Court of California

Case Name: **PEOPLE v. VARGAS (EDUARDO DAVID)**

Case Number: **S101247**

Lower Court Case Number:

1. At the time of service I was at least 18 years of age and not a party to this legal action.
2. My email address used to e-serve: **russbab@gmail.com**
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I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

4/24/2020

Date

/s/Russell Babcock

Signature

Babcock, Russell (99130)

Last Name, First Name (PNum)

Law Office of Russell Babcock

Law Firm