

# SUPREME COURT COPY

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August 5, 2016

Frank A. McGuire, Clerk of the Court  
California Supreme Court  
350 McAllister St.  
San Francisco, CA 94102

Re: Additional Case Authorities For *People v. Winbush*, S117489:  
Oral Argument: September 8, 2016

SUPREME COURT  
FILED

AUG 08 2016

Frank A. McGuire Clerk  
Deputy

Dear Mr. McGuire:

Now that oral argument has been scheduled, Mr. Winbush provides the following additional case authorities with respect to Arg. II (*Batson* issue):

*Foster v. Chatman* (2016) 578 U. S. \_\_\_, 136 S.Ct. 1737, 195 L.Ed.2d 1 (the striking of black prospective jurors was "motivated in substantial part by discriminatory intent." The "focus on race in the prosecution's file plainly demonstrates a concerted effort to keep black prospective jurors off the jury."); *Shirley v. Yates* (9th Cir. 2015) 807 F.3d 1090, 1103-1113 (defendant met his burden at *Batson*'s step three that a peremptory strike was "motivated in substantial part" by race); *Crittenden v. Chappell* (9th Cir. 2015) 804 F.3d 998, 1010 (*Batson* error when the prosecutor had excused an African-American prospective juror for racial reasons); *People v. Cisneros* (2015) 234 Cal.App.4th 111, 117-122 (the prosecutor failed to adequately respond to defense counsel's prima facie showing of group bias in her exercise of peremptory challenges).

Mr. Winbush provides the following case authority with respect to Arg. III (*Witt* issue):

*People v. Zaragoza* (July 11, 2016) 63 Cal.4th \_\_\_, 2016 WL 3662424 (S097886) (trial court erred by excusing for cause a juror who affirmed she could set aside her personal feelings and follow the law as instructed by the court.)

Mr. Winbush provides the following case authority with respect to Arg. IV (coerced statements):

*In re Elias V.* (2015) 237 Cal.App.4th 568 (coercive interrogation techniques that overborne the juvenile's will required reversal).

DEATH PENALTY

Mr. Winbush provides the following case authority with respect to Arg. X (juvenile acts of violence in penalty phase):

*People v. Gutierrez* (2014) 58 Cal.4th 1354, 1377-1391 (mandatory life without parole for a juvenile is inappropriate); *People v. Banks* (2014) 59 Cal.4th 1113, 1182-1183 (evidence of institutional failure is relevant mitigation.)

Mr. Winbush provides the following case authority with respect to Arg. XII. (defense expert on ADHD cross-examined about whether Winbush was a sociopath):

*In re Richards* (2016) 63 Cal.4<sup>th</sup> 291. (Expert bite mark evidence, subsequently repudiated by the witness and overtaken by new scientific developments, was material false evidence within the meaning of new Penal Code § 1473(e)(1).)

Very truly yours,

  
RICHARD JAY MOLLER

## PROOF OF SERVICE

I, RICHARD JAY MOLLER, declare that I am, and was at the time of the service hereinafter mentioned, at least 18 years of age and not a party to the above-entitled action. My business address is P.O. Box 1669, Redway, CA 95560-1669. I served the foregoing **Additional Case Authorities** on August 5, 2016, by depositing copies in the United States mail at Redway, California, with postage prepaid thereon, and addressed as follows:

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I declare under penalty of perjury that this declaration was executed on August 5, 2016, at Redway, California.

  
\_\_\_\_\_  
RICHARD JAY MOLLER

