

# SUPREME COURT COPY

LAWRENCE A. GIBBS

ATTORNEY

September 23, 2016

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

Re: *People v. Andrew Mickel*, No. S133510  
Oral Argument - New Authorities

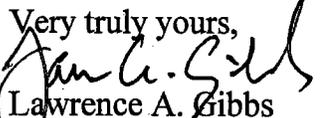
Dear Mr. McGuire,

I represent appellant Andrew Mickel in the above-referenced capital appeal, currently scheduled for argument on October 5, 2016. I am writing to inform the Court of new authority that was not available at the time the briefs were filed

*People v. Gutierrez* (2014) 58 Cal.4th 1354, 1391 [holding that where trial court was unaware of its discretion in ruling on a particular issue, the appropriate remedy is to remand to permit the court to exercise that discretion, unless the record “clearly indicate[s] that the trial court would have reached the same conclusion, even if it had been aware that it had such discretion.”].

This decision is relevant to the argument, briefed in Appellant’s Opening Brief, Argument IV, at pages 92-116, that the trial court was unaware of the its discretion in ruling on the motion for self-representation, and the appropriate remedy in such a case.

Thank you for communicating this authority to the Court.

Very truly yours,  
  
Lawrence A. Gibbs  
Attorney for Appellant

DEATH PENALTY

LAWRENCE A. GIBBS

ATTORNEY

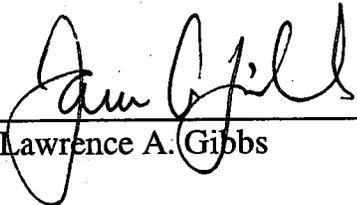
**PROOF OF SERVICE**

I declare that I am employed in the County of Alameda. I am over the age of eighteen years and not a party to this cause. My business address is P.O. Box 7639, Berkeley, California. Today, I served the foregoing **Letter to the Honorable Frank A. McGuire, dated September 23, 2016, regarding new authorities**, on all parties in this cause by placing a true copy thereof enclosed in a sealed envelope with postage fully prepaid, in the United States mail at Berkeley, CA, addressed as follows:

Robert Nash  
Office of Attorney General  
1300 I St., #1100  
P.O. Box 944255  
Sacramento, CA 94244-2550

Scott Kauffman  
CAP  
101 Second St., #600  
San Francisco, CA 94105

I declare under penalty of perjury that the foregoing is true and correct. Executed on September 26, 2016, in Berkeley, California.

  
Lawrence A. Gibbs