

LAW OFFICES OF

**LATHROP & VILLA**

A PARTNERSHIP

904 SILVER SPUR ROAD #430

ROLLING HILLS ESTATES, CALIFORNIA 90274

TELEPHONE (310) 237-1000 FACSIMILE: (310) 237-1010 E-MAIL: Stephen.Lathrop@cox.net

February 13, 2019

*Via TrueFiling*

Supreme Court of California  
Attn: Mr. Jorge E. Navarrete  
Court Administrator and Clerk of the Supreme Court  
350 McAllister Street  
San Francisco, CA 94102-4797

Re: *People v. Cuitlahuac Tahua Rivera*, No. S153881  
Focus Issues for Oral Argument

Dear Mr. Navarrete:

The Court requested counsel advise it and opposing counsel by letter of those issues on which counsel expects to focus the argument. I intend to focus on the following issues:

1. Whether the jury was instructed on an invalid theory in connection with the special circumstance allegation of murder to prevent arrest or escape from lawful custody (Pen. Code, § 190.2, subd. (a)(5)), requiring that the true finding thereon be vacated. (AOB, Arg. 5.)
2. Whether the true findings on the gang enhancement in connection with counts 1 and 2 must be vacated because the evidence is insufficient to prove that the shooting was both gang related and committed with the specific intent to promote, further, or assist in any criminal conduct by gang members. (AOB, Arg. 7.)
3. Whether the trial court erroneously admitted evidence that appellant sustained juvenile adjudications and was committed a ward of the juvenile court at ages 15 and 16, requiring reversal of the death judgment. (AOB, Arg. 13.)

Respectfully submitted,

s/Stephen M. Lathrop  
Stephen M. Lathrop

Attorney for Defendant/Appellant  
Cuitlahuac Tahua Rivera

**Proof of Service**

I am employed in the County of Los Angeles, State of California. I am over the age of 18 and not a party to the within action; my business address is 904 Silver Spur Road #430, Rolling Hills Estates, CA 90274. On February 13, 2019, I served the following document(s) described as **Focus Issues for Oral Argument** on the interested parties in this action by placing a true copy thereof enclosed, in a sealed envelope, addressed as follows:

Cuitlahuac Tahua Rivera (#T-35975)  
CSP-SQ; 5 E/Y 44  
San Quentin, CA 94974

I am readily familiar with the firm's practice for collection and processing of correspondence and other materials for mailing with the United States Postal Service. On this date, I sealed the envelope containing the above materials and placed the envelope for collection and mailing on this date at the address above following our office's ordinary business practices. The envelope will be deposited with the United States Postal Service on this date, in the ordinary course of business.

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 February 13, 2019, at Rolling Hills Estates, California.

/s/ Stephen M. Lathrop  
Declarant

STATE OF CALIFORNIA  
Supreme Court of California

**PROOF OF SERVICE**

STATE OF CALIFORNIA  
Supreme Court of California

Case Name: **PEOPLE v. RIVERA (CUITLAHUAC TAHUA)**  
Case Number: **S153881**  
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: **lathrop126813@gmail.com**
3. I served by email a copy of the following document(s) indicated below:

Title(s) of papers e-served:

Filing Type	Document Title
LETTER	Focus Issues for Oral Argument

Service Recipients:

Person Served	Email Address	Type	Date / Time
Attorney General - Sacramento Office Darren Indermill, Deputy Attorney General SAG	darren.indermill@doj.ca.gov	e-Service	2/13/2019 11:21:48 AM
AG-AWT Sac/Fresno E-Service DOJ Sacramento/Fresno AWT Crim AG-00001	sacawttruefiling@doj.ca.gov	e-Service	2/13/2019 11:21:48 AM
eService California Appellate Project California Appellate Project 000000	filing@capsf.org	e-Service	2/13/2019 11:21:48 AM
Stephen Lathrop Stephen Lathrop 126813	lathrop126813@gmail.com	e-Service	2/13/2019 11:21:48 AM
Stephen Lathrop Lathrop & Villa 126813	stephen.lathrop@cox.net	e-Service	2/13/2019 11:21:48 AM

This proof of service was automatically created, submitted and signed on my behalf through my agreements with TrueFiling and its contents are true to the best of my information, knowledge, and belief.

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

2/13/2019

Date

/s/Stephen Lathrop

Signature

Lathrop, Stephen (126813)

Last Name, First Name (PNum)

Stephen Lathrop

Law Firm

---