

IN THE SUPREME COURT
OF THE STATE OF CALIFORNIA

THE PEOPLE OF THE STATE)	S165998
OF CALIFORNIA,)	
)	Orange County Case No.
Respondent,)	01HF0193
)	
v.)	
)	
NOEL JESSE PLATA)	
AND RONALD TRI TRAN,)	
)	
Appellant.)	
_____)	

APPELLANT’S SUPPLEMENTAL REPLY BRIEF

Appeal From The Judgment Of The Superior Court
Of The State Of California, Orange County

Honorable William R. Froeberg, Judge

CATHERINE WHITE
(State Bar No. 193690)
4833 Santa Monica Avenue
P.O. Box 70220
San Diego, California 92107
Tel: (619) 980-3867
white193690@gmail.com

Attorney for Appellant
Ronald Tri Tran

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ARGUMENT

I. MR. TRAN JOINS PLATA’S REPLY TO RESPONDENT’S ARGUMENT THAT THERE WAS SUFFICIENT EVIDENCE THAT THE CRIME WAS COMMITTED FOR THE BENEFIT OF, AT THE DIRECTION OF, OR IN ASSOCIATION WITH A “CRIMINAL STREET GANG,” AS DEFINED BY SECTION 186.22.

Pursuant to Rule 8.200 of the California Rules of Court, Mr. Tran hereby joins in Argument I of co-appellant Plata’s reply brief. (*See* Plata’s Appellant’s Reply Brief (“PARB”) 13-21.) In Argument VIII of his supplemental opening brief, Plata contended that the phrase “criminal street gang” in the first prong of section 186.22, subdivision (b)(1), has a different meaning than the phrase “gang members” in the second prong of section 186.22, subdivision (b)(1). (Plata’s Appellant’s Supplemental Opening Brief (“PSAOB”) 26-31.) Plata further contended that “there was no evidence other than the expert’s unsupported generalized conclusions that Mr. Plata or Tran relied on their gang membership and the apparatus of the VFL in committing the robbery and murder of Linda Park.” (PSAOB 31-35.)

In Argument I of his supplemental opening brief, Mr. Tran joined Argument VIII of Plata’s supplemental opening brief. (Supplemental Opening Brief (“SAOB”) 4.) In response to Mr. Tran’s supplemental opening brief, respondent “incorporates by reference Argument VII in Respondent’s Brief (RB 121-128) and Argument[] XV . . . in Respondent’s Supplemental Brief filed on August 31, 2018 (RSB 5-[10]).” (Respondent’s [Second] Supplemental Brief (“RSSB”) 2.) In Argument I of its reply

brief, Mr. Plata responded to all respondent's relevant arguments raised in Respondent's Brief and Respondent's Supplemental Brief. (*See* PARB 13-21.) The facts and law underlying these arguments apply equally to Mr. Tran.

II. MR. TRAN JOINS PLATA’S REPLY TO RESPONDENT’S ARGUMENT THAT THE IMPOSITION OF THE DEATH PENALTY FOR CRIMES COMMITTED BY 20 YEAR OLDS DOES NOT VIOLATE DUE PROCESS AND THE EIGHTH AMENDMENT PROHIBITION AGAINST CRUEL AND UNUSUAL PUNISHMENT.

Pursuant to Rule 8.200 of the California Rules of Court, Mr. Tran hereby joins in Argument XIII of co-appellant Plata’s reply brief. (See PARB 54-70.) In Argument IX of his supplemental opening brief, Plata contended that the imposition of the death penalty for crimes committed by 18 to 20 year olds violates the Eighth Amendment’s prohibition against cruel and unusual punishment, principally relying on *Roper v. Simmons* (2005) 543 U.S. 551. (PSAOB 36-74.) In *Roper*, the United States Supreme Court banned the execution of persons under 18 years old at the time of their crimes. (543 U.S. at pp. 578-579.)

In Argument II of his supplemental opening brief, Mr. Tran joined Argument IX of Plata’s supplemental opening brief. (SAOB 5-6.) In response to Mr. Tran’s supplemental opening brief, respondent “incorporates by reference . . . Argument[] XVI . . . in Respondent’s Supplemental Brief filed on August 31, 2018 (RSB [11]-21).” (RSSB 2.) In Argument XIII of its reply brief, Mr. Plata responded to all respondent’s relevant arguments raised in Respondent’s Supplemental Brief. (See PARB 54-70.) The facts and law underlying these arguments apply equally to Mr. Tran.

CONCLUSION

For all these reasons, and for the reasons stated in Mr. Tran’s opening and reply briefs, and the briefing of his co-appellant in which Mr. Tran joined pursuant to California Rule of Court 8.200, reversal and/or remand is required.

DATED: August 16, 2019

Respectfully submitted,

 /s/ Catherine White
Catherine White
Attorney for Appellant
Ron Tri Tran

CERTIFICATE OF COMPLIANCE

I certify that the accompanying non-redacted brief is double spaced, that a 13-point proportional font was used, and that there are 532 words in the brief.

Dated: August 16, 2019

 /s/ Catherine White
Catherine White

CERTIFICATE OF SERVICE

I, Catherine White, the undersigned, declare as follows:

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Orange County Superior Court
Central Justice Center
700 Civic Center Drive West
Santa Ana, California 92701

Ronald Tri Tran : Appellant
CDC Number: G-30920
San Quentin State Prison
San Quentin, California 94974

and upon the parties named below by submitting an electronic copy through TrueFiling or email (as indicated):

Attorney General - San Diego Office
Holly Wilkens, Capital Case Coordinator
P.O. Box 85266
San Diego, CA 92186
Holly.Wilkens@doj.ca.gov

Ms. Jolie Lipsig
Deputy Public Defender
770 L Street, Suite 1000
Sacramento, California 95814
Jolie.lipsig@ospd.ca.gov

California Appellate Project (via e-mail)
101 Second Street, Suite 600
San Francisco, California 94105
Filing@capsf.org

Wesley VanWinkle, Esq.
P.O. Box 5216
Berkeley, California 94705
Tacitus@pacbell.net

Christine Y. Friedman
Deputy Attorney General
600 West Broadway, Suite 1800
San Diego, California 92101
Christine.Friedman@doj.ca.gov

Office of the District Attorney (via e-mail)
401 W. Civic Center Drive
Santa Ana, California 92701
appellate@da.ocgov.com

I declare under penalty of perjury that the foregoing is true.

Executed on August 16, 2019, in San Diego, California.

/s/ Catherine White

Declarant

STATE OF CALIFORNIA
 Supreme Court of California

PROOF OF SERVICE

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 (RONALD)**

Case Number: **S165998**

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Susan Weaver Department of Justice, Office of the Attorney General-San Diego	Susan.Weaver@doj.ca.gov	e-Serve	8/16/2019 4:26:54 PM
Maria Soria Department of Justice, Office of the Attorney General-San Diego	maria.soria@doj.ca.gov	e-Serve	8/16/2019 4:26:54 PM
Office Of The State Attorney Office Of The State Attorney General Court Added	sdag.docketing@doj.ca.gov	e-Serve	8/16/2019 4:26:54 PM
Karen Hamilton Office of the State Public Defender	karen.hamilton@ospd.ca.gov	e-Serve	8/16/2019 4:26:54 PM
Jolie Lipsig Office of the State Public Defender	jolie.lipsig@ospd.ca.gov	e-Serve	8/16/2019 4:26:54 PM
Attorney General - San Diego Attorney General - San Diego Office Holly Wilkens, Supervising Deputy Attorney General	Holly.Wilkens@doj.ca.gov	e-Serve	8/16/2019 4:26:54 PM
Christine Friedman Office of the Attorney General	Christine.Friedman@doj.ca.gov	e-Serve	8/16/2019 4:26:54 PM

Office Of The State Public Office Of The State Public Defender-Sac
Timothy J. Foley, Sr. Deputy State Public Defender

docketing@ospd.ca.gov

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Date

/s/Catherine White

Signature

White, Catherine (193690)

Last Name, First Name (PNum)

Law Office of Catherine White, APC

Law Firm