

## Office of the State Public Defender

770 L St., Suite 1000

Sacramento, California 95814-3362

Telephone: (916) 322-2676

Fax: (916) 327-0459

SUPREME COURT COPY



May 18, 2017

Jorge E. Navarrete, Clerk  
 Supreme Court of the State of California  
 350 McAllister Street  
 San Francisco, CA 94102

SUPREME COURT  
 FILED  
 MAY 19 2017  
 Jorge Navarrete Clerk  
 Deputy

Re: *People v. Kiongozi Jones*, Case No. S075725  
 Supplemental Letter Brief Citing New Authority

Dear Mr. Navarrete:

Appellant submits this letter brief pursuant to rules 8.520, subdivision (d) and 8.630, subdivision (d) of the California Rules of Court.

In his opening brief, appellant challenged the California death penalty scheme on grounds that this Court has rejected in previous decisions holding that the California law does not violate the federal Constitution. (AOB 135-150.) Recently, the United States Supreme Court held Florida's death penalty statute unconstitutional under *Apprendi v. New Jersey* (2000) 530 U.S. 466 and *Ring v. Arizona* (2002) 536 U.S. 584 because the sentencing judge, not the jury, made a factual finding, the existence of an aggravating circumstance, that is required before the death penalty can be imposed. (*Hurst v. Florida* (2016) \_\_\_ U.S. \_\_\_ [136 S.Ct. 616, 624] [hereafter "*Hurst*").) *Hurst* provides new support to appellant's claims in Argument VII of his opening brief. (AOB 187-189, 195-196.) In light of *Hurst*, this Court should reconsider its rulings that imposition of the death penalty does not constitute an increased sentence within the meaning of *Apprendi* (*People v. Anderson* (2001) 25 Cal.4th 543, 589, fn. 14); does not require factual findings within the meaning of *Ring* (*People v. Merriman* (2014) 60 Cal.4th 1, 106); and does not require the jury to find unanimously and beyond a reasonable doubt that the aggravating circumstances outweigh the mitigating circumstances before the jury can impose a sentence of death (*People v. Prieto* (2003) 30 Cal.4th 226, 275).

Sincerely,

JESSICA K. MCGUIRE

Assistant State Public Defender

DEATH PENALTY

**DECLARATION OF SERVICE**

Case Name: **People v. Kiongozi Jones**  
Case Number: **Supreme Court No. S075725**  
**Los Angeles County Superior Court Case No. NA-031990-01**

I, **Marsha Gomez**, declare as follows: I am over the age of 18, not a party to this cause. I am employed in the county where the mailing took place. My business address is 770 L Street, Suite 1000, Sacramento, California 95814. I served a copy of the following document(s):

**SUPPLEMENTAL LETTER BRIEF  
CITING NEW AUTHORITY**

by enclosing it in envelopes and

*/ /* **depositing** the sealed envelope with the United States Postal Service with the postage fully prepaid;

*/X /* **placing** the envelopes for collection and mailing on the date and at the place shown below following our ordinary business practices. I am readily familiar with this business's practice for collecting and processing correspondence for mailing. On the same day that correspondence is placed for collection and mailing, it is deposited in the ordinary course of business with the United States Postal Service in a sealed envelope with postage fully prepaid.

The envelopes were addressed and mailed on **May 18, 2017**, as follows:

Kiongozi Jones, P-21100  
CSP-SQ  
3-EB-23  
San Quentin, CA 94974

Viet H. Nguyen, Deputy Attorney General  
Office of the Attorney General  
300 S. Spring Street, Suite 1702  
Los Angeles, CA 90013

California Appellate Project  
101 Second Street, Suite 600  
San Francisco, CA 94105

Geraldine S. Russell  
Attorney at Law  
P.O. Box 2160  
La Mesa, CA 91943-2160

Ronald S. Matthias  
Senior Assistant Attorney General  
Office of the Attorney General  
455 Golden Gate Avenue, #11000  
San Francisco, CA 94102-3664

I declare under penalty of perjury that the foregoing is true and correct. Signed on **May 18, 2017**, at Sacramento, California.

  
**MARSHA GOMEZ**