



**ROB BONTA**  
**Attorney General**

**State of California**  
**DEPARTMENT OF JUSTICE**

300 SOUTH SPRING STREET, SUITE 1702  
LOS ANGELES, CA 90013

Public: (213) 269-6000  
Telephone: (213) 269-6092  
Facsimile: (916) 731-2122  
E-Mail: Kim.Aarons@doj.ca.gov

September 24, 2021

Honorable Jorge E. Navarrete, Clerk  
Supreme Court of California  
350 McAllister Street, First Floor  
San Francisco, California 94102-4797

RE: ***People v. William Lee Wright, Jr.***  
California Supreme Court Case No. S107900 (**Capital Case**)  
Notice of Supplemental Authorities

Dear Mr. Navarrete:

Oral argument in the above-captioned case is set for October 5, 2021, at 1:30 p.m. During oral argument, counsel for respondent may discuss the following authorities not cited in the briefs.

Winkler, *Fundamentally Wrong About Fundamental Rights*, 23 Const. Commentary 227 (Summer 2006) is relevant to appellant's claim that the Sixth Amendment right of self-representation triggers the strict scrutiny standard of review. (AOB 43-44 [Claim I.B.3]; ARB 5.) This article observes that only a small subset of rights in the First and Fifth Amendments trigger strict scrutiny review, and nowhere is strict scrutiny found in Sixth Amendment jurisprudence. (Winkler, *Fundamentally Wrong About Fundamental Rights*, *supra*, at pp. 227-228.)

The cases of *People v. Lee* (1987) 43 Cal.3d 666 and *People v. Gonzalez* (2006) 38 Cal.4th 932 are relevant to appellant's claim of error pursuant to *People v. Marsden* (1970) 2 Cal.3d 118. Specifically, *Lee* and *Gonzalez* are relevant to appellant's assertion that respondent incorrectly applied the *Watson* "reasonable probability" test for harmless error rather than the *Chapman* "beyond a reasonable doubt" test, thereby conceding the issue. (See *Chapman v. California* (1967) 386 U.S. 18; *People v. Watson* (1956) 46 Cal.2d 818.) Appellant points to respondent's statement that appellant "failed to show that, absent the alleged error he would have obtained more favorable verdicts" with a citation to *People v. Henning* (2009) 178 Cal.App. 4th 388, 405 [applying Chapman

standard].) (ARB 21-22; see AOB 81-84 [Claim II.D]; RB 53). In *Lee*, this Court used similar language to conclude beyond a reasonable doubt that “the jury would not have reached a more favorable verdict had it been properly instructed.” (*People v. Lee, supra*, at p. 669 [applying *Chapman* test].) In *Gonzalez*, this Court compared the “reasonable probability,” “reasonable possibility,” and “harmless beyond a reasonable doubt” tests and concluded that they were substantially equivalent based on *Chapman*’s analysis of the same issue. *Gonzalez* acknowledged that “[t]here is little, if any, difference . . . about whether there is a reasonable possibility that the evidence complained of might have contributed to the conviction and requiring the beneficiary of a constitutional error to prove beyond a reasonable doubt that the error complained of did not contribute to the verdict obtained.” *People v. Gonzalez, supra*, at p. 961, fn. 6, quoting *Chapman v. California, supra*, 386 U.S. at p. 24, citations and internal quotation marks omitted).

Finally, the recent case of *People v. McDaniel* (2021) 12 Cal.5th 97, 2021 WL 3779752, is relevant to appellant’s penalty phase claims that the jury’s ultimate weighing determination is a factual finding beyond a reasonable doubt pursuant to *Hurst, Ring*, and *Apprendi*; and juror unanimity is required in finding aggravating circumstances (AOB 167-182 [Claim X]; Supp. AOB 19-33 [Claim XII]). (See *Hurst v. Florida* (2016) 577 U.S. 92; *Ring v. Arizona* (2002) 536 U.S. 584, 589; *Apprendi v. New Jersey* (2000) 530 U.S. 466, 494.) *McDaniel* held that the jury’s ultimate weighing determination in selecting the penalty does not constitute a “factfinding” in any relevant sense, 2021 WL 3779752 at p. \*29; and *Hurst, Ring*, and *Apprendi* do not alter the standard of proof at the penalty phase, *id.* at p. \*32. *McDaniel* further held that there is no independent state law principle requiring juror unanimity in finding a circumstance to be aggravating in the face of disputed evidence. *Id.* at p. \*24.

Sincerely,

/s/ Kim Aarons

Kim Aarons

Deputy Attorney General

For    ROB BONTA  
          Attorney General

September 24, 2021

Page 3

DECLARATION OF ELECTRONIC SERVICE AND SERVICE BY U.S. MAIL

Case Name: *People v. William Lee Wright, Jr.*

Case No.: S107900

I declare:

I am employed in the Office of the Attorney General, which is the office of a member of the California State Bar, at which member's direction this service is made. I am 18 years of age or older and not a party to this matter. I am familiar with the business practice at the Office of the Attorney General for collecting and processing electronic and physical correspondence. In accordance with that practice, correspondence placed in the internal mail collection system at the Office of the Attorney General is deposited with the United States Postal Service with postage thereon fully prepaid that same day in the ordinary course of business. Correspondence that is submitted electronically is transmitted using the TrueFiling electronic filing system. Participants who are registered with TrueFiling will be served electronically. Participants in this case who are not registered with TrueFiling will receive hard copies of said correspondence through the mail via the United States Postal Service or a commercial carrier.

On September 24, 2021, I electronically served the attached LETTER TO COURT RE: CITATION OF ADDITIONAL AUTHORITIES FOR RESPONDENT by transmitting a true copy via this Court's TrueFiling system. Because one or more of the participants in this case have not registered with the Court's TrueFiling system or are unable to receive electronic correspondence, on September 24, 2021, I placed a true copy thereof enclosed in a sealed envelope in the internal mail collection system at the Office of the Attorney General at 300 South Spring Street, Suite 1702, Los Angeles, CA 90013, addressed as follows:

Alison Bernstein  
Senior Deputy State Public Defender  
1111 Broadway, 10th Floor  
Oakland, CA 94607-4139 (Served via TrueFiling)

Allysa Mellot  
Deputy State Public Defender  
1111 Broadway, 10th Floor  
Oakland, CA 94607-4129 (Served via TrueFiling)

September 24, 2021

Page 4

Sonja Hardy  
Death Penalty Appeals Clerk  
Los Angeles County Superior Court  
210 West Temple Street, Room M-3  
Los Angeles, CA 90012 (Served via U.S. Mail)

The Honorable Norman P. Tarle, Judge  
Los Angeles County Superior Court  
Santa Monica Courthouse  
1725 Main Street, Department J  
Santa Monica, CA 90401-3299 Served via U.S. Mail)

California Appellate Project  
345 California St., Suite 1400  
San Francisco, CA 94104 Served via U.S. Mail)

John Monaghan, Jr.  
Deputy District Attorney  
Los Angeles County District Attorney's Office  
210 West Temple Street, Suite 18000  
Los Angeles, CA 90012 Served via U.S. Mail)

I declare under penalty of perjury under the laws of the State of California and the United States of America the foregoing is true and correct and that this declaration was executed on September 24, 2021, at Los Angeles, California.

\_\_\_\_\_  
Vanida S. Sutthiphong

Declarant

\_\_\_\_\_  
*Isi Vanida S. Sutthiphong*

Signature

LA2002XS0007  
64565044.docx

STATE OF CALIFORNIA  
Supreme Court of California**PROOF OF SERVICE**STATE OF CALIFORNIA  
Supreme Court of CaliforniaCase Name: **PEOPLE v. WRIGHT (WILLIAM LEE)**Case Number: **S107900**

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: **Vanida.Sutthiphong@doj.ca.gov**
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	S107900_Letter_1_People v. Wright.JR
LETTER	S107900_Letter_2_People v. Wright.JR

Service Recipients:

Person Served	Email Address	Type	Date / Time
Alyssa Mellott Office of the State Public Defender 240730	alyssa.mellott@ospd.ca.gov	e-Serve	9/24/2021 2:43:46 PM
Alison Bernstein Office of the State Public Defender 162920	alison.bernstein@ospd.ca.gov	e-Serve	9/24/2021 2:43:46 PM
Attorney Attorney General - Los Angeles Office Kim Aarons, Deputy Attorney General 213480	kim.aarons@doj.ca.gov	e-Serve	9/24/2021 2:43:46 PM

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.

9/24/2021

Date

/s/Vanida Sutthiphong

Signature

Sutthiphong, Vanida (Pro Per)

Last Name, First Name (PNum)

DOJ

Law Firm

