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23 January 2020

Supreme Court of California
Attn: Mr. Larry Blake, Jr.
Senior Deputy Clerk
350 McAllister Street
San Francisco, CA 94102

Re: People v. Alfred Flores – S116307

Dear Mr. Blake:

I submit this focus letter in advance of the argument set for February 5, 2020. I also list new authority that may be applicable to the issues raised.

1. Defendant's in-custody statements to Detective Kusch were obtained in violation of Miranda, and violated defendant's rights not to incriminate himself, to counsel, to due process, and to a reliable penalty determination under the Fifth, Sixth, Fourteenth, and Eighth Amendments. (Heading IX of the Appellant's Opening Brief, at p. 170.)

2. The striking of a juror who did not favor the death penalty, but who could consider death as a sentence under the circumstances of this case, denied defendant his rights to due process, to an impartial jury taken from a fair cross-section of the community, and to a reliable penalty determination. (Heading I of the Appellant's Opening Brief, at p. 54.)

3. The trial court's failure to apply Witherspoon/Witt even-handedly and impartially violated defendant's rights to due process, to a reliable penalty determination, and to a fair and impartial jury under the Sixth, Eighth, and Fourteenth Amendments to the United

States Constitution and Article I, sections 7, 15, 16, and 17 of the California Constitution. (Heading I of the Appellant's First Supplemental Brief, at p. 1.)

The following cases, decided after the briefing in this case was submitted, bear upon the *Witherspoon* issue raised in the briefs:

People v. Woodruff (2018) 5 Cal.5th 697

People v. Armstrong (2019) 6 Cal.5th 735

People v. Buenrostro (2018) 6 Cal.5th 367

People v. Spencer (2018) 5 Cal.5th 642

Sincerely,

Robert Derham
Attorney at Law

cc: Ms. Heather M. Clark, Deputy Attorney General
California Appellate Project

Certificate of Service

I, Robert Derham, am an attorney admitted to the State Bar of California; I am not a party to this action. My business address is 369-B Third Street # 364 San Rafael CA 94901. My electronic service address is rhderham@gmail.com. On January 23, 2020, I served the attached Letter upon the parties and persons listed below by depositing a true copy in a United States mailbox in San Rafael, a sealed envelope, postage prepaid, and addressed as follows:

Alfred Flores III
P-02321
San Quentin State Prison
San Quentin, CA 94974

On January 23, 2020, I served a PDF version of this document by TrueFiling to the electronic mail addresses on file:

Heather Clark, Office of the Attorney General

California Appellate Project

I declare under the penalty of perjury that the foregoing is true and correct. Executed on January 23, 2020, in San Rafael, California.

/s/
Robert Derham

STATE OF CALIFORNIA
Supreme Court of California

PROOF OF SERVICE

STATE OF CALIFORNIA
Supreme Court of California

Case Name: **PEOPLE v. FLORES (ALFRED)**

Case Number: **S116307**

Lower Court Case Number:

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

1/23/2020

Date

/s/Robert Derham

Signature

Derham, Robert (99600)

Last Name, First Name (PNum)

Robert Derham, Attorney at Law

