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October 21, 2021

Supreme Court of California
 350 McAllister Street, Room 1295
 San Francisco, CA 94102-4797

Re: ***In re William Milton, S259954***
Supplemental Letter Brief Addressing New Authority
 Court of Appeal case no. B297354
 Los Angeles Superior Court case no. TA039953

To the Honorable Chief Justice Tani Gorre Cantil-Sakauye and the Associate Justices of the California Supreme Court:

Petitioner William Milton respectfully requests permission to file the instant supplemental letter brief to address relevant new authority.

On May 17, 2021, the United States Supreme Court issued its opinion in *Edwards v. Vannoy* (2021) ___ U.S. ___ [141 S.Ct. 1547] (*Edwards*). *Edwards* held in part that one of the tests to determine retroactive application of a new rule – whether or not the rule amounted to a “watershed” rule of criminal procedure – is no longer viable. (*Id.* at p. ___ [141 S.Ct. at p. 1560].)

Accordingly, petitioner withdraws the argument that retroactive application of *People v. Gallardo* (2017) 4 Cal.5th 120 (*Gallardo*) is appropriate on grounds that it announced a watershed rule of criminal procedure. (See OBM 50-52.)

Petitioner continues to rely on the remaining arguments for retroactive application of *Gallardo*, including (1) that *Gallardo* is retroactive under the state test for retroactivity because *Gallardo* established a new rule that amounted to a substantive change in the law that alters the range of conduct or the class of persons that the law punishes or, if it was a procedural change in law, affects the integrity of the judicial process and controls the outcome of the case; (2) that the increase in petitioner’s maximum sentence was unauthorized and is therefore subject to retroactive correction on habeas; (3) that, under state and federal tests, *Gallardo* is retroactive to cases that become final after the decision in *Taylor v. United States* (1990) 495 U.S. 575 and/or *Apprendi v. New Jersey* (2000) 530 U.S. 466 because *Gallardo* is derivative of those cases; and (4) that *Gallardo* is retroactive under the federal test for retroactivity because it is a substantive rule that prohibits punishment for a class of defendants and controls the outcome of the case.

Sincerely,

/S/ BRAD KAISERMAN

BRAD KAISERMAN

Cc: Office of the Attorney General
The Honorable Ronald Slick
Los Angeles District Attorney's Office
William Milton

PROOF OF SERVICE

I, the undersigned, declare that I am a resident or employed in Los Angeles County, California; that I am over the age of eighteen years; that my business address is Brad K. Kaiserman, Esq., 5870 Melrose Ave., # 3396, Los Angeles, CA 90038, bradkaiserman@gmail.com, at whose discretion I served the document entitled **Supplemental Letter Brief Addressing New Authority**.

On October 21, 2020, following ordinary business practice, service was completed by placing the above document in a sealed envelope for collection and mailing via United States Mail.

Sherri R. Carter, Clerk of the Court
Los Angeles County Superior Court
(For Retired Judge Ronald J. Slick)
111 North Hill St.
Los Angeles, CA 90012

William Milton, P38650
Correctional Training Facility (CTF)
Facility C, CXW3001L
PO Box 689
Soledad, CA 93960

This proof of service is executed in Los Angeles, California, on October 21, 2020.

I declare under penalty of perjury that the foregoing is true and correct to the best of my knowledge.

/S/ BRAD KAISERMAN

BRAD KAISERMAN

STATE OF CALIFORNIA
Supreme Court of California

PROOF OF SERVICE

STATE OF CALIFORNIA
Supreme Court of California

Case Name: **MILTON (WILLIAM) ON H.C.**

Case Number: **S259954**

Lower Court Case Number: **B297354**

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10/21/2021

Date

/s/Brad Kaiserman

Signature

Kaiserman, Brad (266220)

Last Name, First Name (PNum)

Brad K. Kaiserman, Esq.

