



FUTTERMAN DUPREE  
DODD CROLEY MAIER<sup>LLP</sup>

May 4, 2020

Jorge E. Navarrete  
Clerk and Executive Officer  
California Supreme Court  
350 McAllister Street  
San Francisco, CA 94102

Re: People v. Paul Nathan Henderson-- S098318  
Focus Letter and Submission of Additional Authorities  
Oral Argument: May 20, 2020, 9:00 a.m.

Dear Mr. Navarrete:

In response to your letters, dated February 6, 2020 and April 29, 2020, and the Notice to Counsel, served on April 29, 2020, I write to submit issues on which I will focus during oral argument and to provide the Court with additional citations relevant to certain of such issues.

### 1. Issues to Be Focused Upon During Oral Argument

In addition to the *Miranda/Edwards* issue (Argument VI in Appellant's Opening Brief ["AOB"]) which is the subject of your April 29, 2020 letter on behalf of the Court, time permitting I intend also to focus on the following issues:

- a. AOB, Argument V: "The Trial Court Permitted The Prosecutor To Exercise A Peremptory Challenge In Violation Of The Defendant's Rights Protected By *Batson/Wheeler*." (See also Appellant's Reply Brief ("ARB), Argument V.)
- b. AOB, Argument IX: "The Trial Court Abused Its Discretion And Violated Mr. Henderson's Constitutional Right To Present A Defense When It Excluded Expert Testimony That Would Have Assisted The Jury In Determining That Mrs. Baker's Failure To Identify Mr. Henderson As The Perpetrator Was Reliable." (See also ARB, Argument IX.)
- c. Appellant's Supplemental Brief ("ASB"): "Dr. Cohen Improperly Conveyed To The Jury Case-Specific Hearsay Evidence From The Autopsy Report As To Which No Hearsay Exception Applied." (See also Appellant's Supplemental Reply Brief ["ASRB"].)

### 2. Submission of Additional Authorities Pertaining To Focus Issues

- a. AOB, Argument V; ARB, Argument V:

*People v. Rhoades* (2019) 8 Cal.5th 393, 432 n. 17, stating that "juror comparisons can play a role at the first stage of the *Batson-Wheeler* analysis" and *id.*, pp. 456-470 (Liu, J., dissenting); and,



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*Flowers v. Mississippi* (2019) \_\_U.S.\_\_, 139 S. Ct. 2228, 2241, stating that “[t]he [Batson] Court stressed a basic equal protection point: In the eyes of the Constitution, one racially discriminatory peremptory strike is one too many.”

**b. ASB and ASRB**

*People v. Perez* (2020) 9 Cal.5<sup>th</sup> 1, 4 (holding that, in case tried before *People v. Sanchez* (2016) 63 Cal.4<sup>th</sup> 665, failure to object to expert’s recitation of case-specific hearsay does not forfeit a claim on appeal based on Sanchez).

Respectfully submitted,



Martin H. Dodd  
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cc: (All via U.S. Mail)

Ron A. Jakob, Esq.  
Michael A. Snedeker, Esq.  
California Appellate Project  
Nisha Shah, Staff Attorney – Habeas Corpus Resource Center  
Paul Nathan Henderson

**CERTIFICATE OF SERVICE**

The undersigned hereby certifies as follows:

I am an employee of the law firm of Futterman Dupree Dodd Croley Maier LLP 601 Montgomery Street, Suite 333, San Francisco, CA 94111. I am over the age of 18 and not a party to the within the action. I am readily familiar with the business practice of Futterman Dupree Dodd Croley Maier LLP for the collection and processing of correspondence.

On May 4, 2020, I served a copy of the following document(s):

**PEOPLE V. PAUL NATHAN HENDERSON – S098318**  
**FOCUS LETTER AND SUBMISSION OF ADDITIONAL AUTHORITIES**  
**ORAL ARGUMENT: MAY 20, 2020, 9:00 A.M.**

- VIA U. S. MAIL:** I caused such envelope(s) to be deposited in the mail at my business address, addressed to the addressee(s) designated. It is deposited with the United States Postal Service on that same day in the ordinary course of business.

Paul Nathan Henderson  
P.O. Box T-19123  
San Quentin, CA 94974

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- VIA ELECTRONIC SERVICE:** I caused such document(s) to be served by email through court-approved electronic service provider TrueFiling to the address(es) designated below.

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Portland, OR 97214

I declare under penalty of perjury under the laws of the State of California that the above is true and correct. Executed on May 4, 2020, in California.



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Kristine Kahey

STATE OF CALIFORNIA  
Supreme Court of California**PROOF OF SERVICE**STATE OF CALIFORNIA  
Supreme Court of CaliforniaCase Name: **PEOPLE v. HENDERSON (PAUL NATHAN)**Case Number: **S098318**

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.

5/4/2020

Date

/s/Kristine Kahey

Signature

Dodd, Martin (104363)

Last Name, First Name (PNum)

Futterman Dupree Dodd Croley Maier LLP

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Law Firm