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Attorneys for Appellant/
Real Party in Interest
Johnny Morales

IN THE SUPREME COURT FOR THE STATE OF CALIFORNIA

THE PEOPLE OF THE STATE OF CALIFORNIA Petitioner, v. THE SUPERIOR COURT OF CALIFORNIA, COUNTY OF SAN BERNARDINO, Respondent, JOHNNY MORALES, Real Party in Interest.	No. _____ Court of Appeal No. E061754 **Related Death Penalty Appeal Pending** No. S137307

MOTION FOR JUDICIAL NOTICE IN SUPPORT OF PETITION FOR REVIEW

TO THE HONORABLE TANI CANTIL-SAKAUYE, CHIEF JUSTICE, AND TO THE HONORABLE ASSOCIATE JUSTICES OF THE SUPREME COURT OF THE STATE OF CALIFORNIA:

Defendant and appellant and real party in interest, JOHNNY MORALES, through his attorney, Senior Deputy State Public Defender C. Delaine Renard, and pursuant to Evidence Code sections 452 and 459, hereby moves for judicial notice of the following superior court orders on which he relies in his accompanying petition for review:

(1) trial court order granting postjudgment motion to preserve evidence issued on December 6, 2013, in *People v. Robert Ward Frazier*, Contra Costa County Superior Court No. 041700-6 (while related automatic appeal pending in No. S148863);

(2) trial court order granting postjudgment motion to preserve evidence issued on August 3, 2011, in *People v. Robert James Acremant*, Tulare County Superior Court No. 31734 (while related automatic appeal pending in No. S0110804);

(3) trial court orders granting postjudgment motion to preserve evidence, issued on June 22, 2004 and October 6, 2011, in *People v. Larry Kusuth Hazlett, Jr.*, Kern County Superior Court No. BF100925A (while related automatic appeal pending in No. S126387);

(4) trial court order granting postjudgment motion to preserve evidence issued on November 7, 2014, in *People v. Carlos Marvin Argueta*, Los Angeles County Superior Court No. BA261252, (while related automatic appeal pending in No. S150524);

(5) trial court order granting postjudgment motion to preserve evidence issued on June 22, 2012, in *People v. Louis Mitchell, Jr.*, San Bernardino County Superior Court No. FSB051580 (while related automatic appeal pending in No. S147335);

Copies of these orders are attached herein as Exhibit A. Appellate counsel's declaration attesting to the authenticity of the orders is attached herein as Exhibit B.

Evidence Code section 452 provides in relevant part that judicial notice may be taken of the (c) "Official acts of the . . . judicial departments . . . of any state . . ." and "(d) Records of (1) any court of this state . . . ." Evidence Code section 459 provides in relevant part: "(a) . . . the reviewing court may take judicial notice of any matter specified in section 452. . . ." The foregoing court records are thus proper subjects of judicial notice under these provisions.

Moreover, the accompanying petition for review does not cite the foregoing orders for an improper purpose, such as for legal precedent or the truth of any factual findings reflected therein. (See Cal. Rules of Court, rule 8.1115; Evid. Code, § 1200.) Rather, he cites the orders for the appropriate purpose of showing their existence, or the facts that the superior courts issued those orders. (See, e.g., *People v. Hill* (1998) 17 Cal.4th 800, 847-848 & fn. 9 [appropriate to take judicial notice of unpublished opinions in unrelated cases for purpose of recognizing existence of facts reflected therein]; *People v. Woodell* (1998) 17 Cal.4th 448, 455 [evidence code permits taking judicial notice of the "'*existence* of judicial opinions, court documents . . . orders, statements of decision, and judgments,'" but not for truth of the hearsay statements contained therein].)

As set forth in the accompanying petition for review of the appellate court's published decision in *People v. Superior Court (Morales)* (2015) ___ Cal.App.4th ___, 2015 DJDAR 8792), the trial court in this capital case granted Morales's motion, brought after the trial court imposed his death judgment and while that judgment was (and remains) pending on appeal before this Court, to preserve evidence potentially relevant to habeas corpus investigation, in anticipation of the appointment of capital habeas corpus counsel. The People filed in the Court of Appeal for the Fourth Appellate District, Division Two, a petition for a writ of mandamus to vacate the trial court's evidence preservation order for lack of subject matter jurisdiction. In its published opinion, the appellate court granted the People's petition for writ of mandamus.

Morales seeks review of that opinion for a number of reasons, including that the appellate court's opinion is inconsistent with well-settled prerequisites for mandamus relief. As the petitioner seeking mandamus relief, the People bore the burden of establishing that the trial court had a "clear, present . . . duty" (*People v. Picklesimer* (2010) 48 Cal.4th 330, 340; Code Civ. Proc., § 1085) – or put another way, that there was a "clear case to compel" the trial court (*Perrin v. Honeycutt* (1904) 144 Cal. 87, 90; accord, *300 DeHaro Street Investors v. Dept. of Housing and Community Development* (2008) 161 Cal.App.4th 1240, 1255) – to deny Morales's motion for lack of subject matter jurisdiction. (*California Correctional Peace Officers Assn. v. State Personnel Bd.* (1995) 10 Cal.4th 1133, 1153-1155 [petitioner bears burden of pleading and proof on mandamus].)

As set forth in detail in the accompanying petition, the appellate court's published opinion violates these principles because there is no "clear" rule of current law that categorically prohibits trial courts from

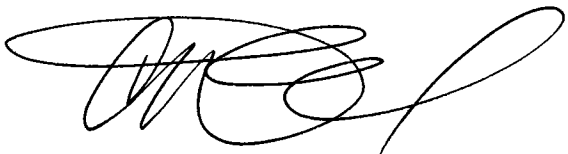
granting any and all such motions for lack of subject matter jurisdiction. The facts reflected by the noticeable court orders that trial courts in several other counties have granted such motions and issued evidence preservation orders in the same procedural posture in which the trial court granted the motion in this case demonstrates the absence of any "clear" rule prohibiting them from doing so.

Hence, because the attached court orders are the proper subject of judicial notice under the Evidence Code and are cited for appropriate purposes relevant to a significant issue raised in the accompanying petition for review, this Court should take judicial notice of them in determining whether to grant review.

Dated: August 18, 2015

Respectfully submitted,

MICHAEL J. HERSEK
State Public Defender



C. DELAINE RENARD
Senior Deputy State Public Defender
Attorneys for Appellant/Real Party
in Interest Johnny Morales

THE PEOPLE OF THE STATE OF CALIFORNIA Petitioner, v. THE SUPERIOR COURT OF CALIFORNIA, COUNTY OF SAN BERNARDINO, Respondent, JOHNNY MORALES, Real Party in Interest.	)	No. _____ Court of Appeal No. E061754 **Related Death Penalty Appeal Pending** No. S137307

DECLARATION OF SENIOR DEPUTY STATE PUBLIC DEFENDER C. DELAINE RENARD IN SUPPORT OF MOTION FOR JUDICIAL NOTICE

I, C. Delaine Renard, declare:

1. I am an attorney licensed to practice law in the State of California am employed by the State Public Defender as a Senior Deputy State Public Defender. The State Public Defender has been appointed to represent Johnny Morales on his automatic appeal pending before this Court. I have been assigned as his counsel on appeal, as well as on the related mandamus proceedings before the appellate court and the resulting petition for review that accompanies this motion.

2. The State Public Defender is also appointed counsel for the defendants in all of the cases that resulted in the evidence preservation orders that are the subject of the instant motion for judicial notice.

Therefore, I obtained copies of those orders as part of the records regularly maintained by my office.

3. Exhibit A contains true and correct copies of those orders.

I declare under penalty of perjury that the foregoing is true and correct and that this declaration was signed on August 18, 2015, in Oakland, California.

C. Delaine Renard

EXHIBIT A

FILED

DEC 06 2010

S. Nash

SUPERIOR COURT OF THE STATE OF CALIFORNIA

Deputy Clerk

IN THE SUPERIOR COURT OF THE STATE OF CALIFORNIA

IN AND FOR THE COUNTY OF CONTRA COSTA

THE PEOPLE OF THE STATE OF CALIFORNIA, Plaintiff and Respondent, v. ROBERT WARD FRAZIER Defendant and Appellant.	Superior Ct. No. 041700-6 (California Supreme Court No. S148863) ORDER TO PRESERVE EVIDENCE PENDING AUTOMATIC APPEAL AND RELATED POST CONVICTION PROCEEDINGS

IT IS THE ORDER OF THIS COURT:

That the Contra Costa County District Attorney, the Contra Costa County Sheriff-Coroner, the Contra Costa County Sheriff's Office, the Contra Costa County Probation Department, the Contra Costa County Behavioral Health Services, the Contra Costa County Information Technology Department, the Contra Costa County Jury Commissioner, the Contra Costa County Sheriff's Criminalistic Laboratory, the City of Concord Police Department, Contra Costa County Custody Services, California Department of Corrections, the Attorney General of California, and their present and former employees, agents, and representatives, preserve files, records, evidence and other related items listed herein pending resolution of this automatic appeal and all related postconviction litigation.

Specifically, the above named parties are ordered to preserve all files, records, evidence and any other items pertaining to the prosecution of this case and relating to the investigation of the death of Kathleen Luise Loreck, also known as Kathleen Aiello Loreck, that occurred on May 13, 2003, in the city of Concord, as well as offenses alleged as other-crimes evidence and as aggravating factors during the guilt and penalty phases of appellant's trial, including, but not limited to, the following:

a. All records, documents, and exhibits, including the reporter's transcript notes of proceedings which pertain to appellant, Robert Ward Frazier, and *People v. Robert Ward Frazier* (Contra Costa County Superior Court Case No. 041700-6), including confidential 987.9 and 987.2 records;

b. All items admitted into evidence, or offered into evidence but excluded or withdrawn in this case, whether at the trial or any pretrial proceeding, whether such items were physical, demonstrative, illustrative, written, tape recorded, videotaped, photographed, or of some other type; and whether in possession of the Contra Costa County Superior Court, the Contra Costa County District Attorney's Office, or any other law enforcement agency, including, but not limited to the Contra Costa County Sheriff's Office, the City of Concord Police Department, and the Contra Costa County Criminalistic Laboratory;

c. All prosecutorial and law enforcement reports, notes, tape recordings, or other memorializations of fruits of law enforcement investigation or witness interviews, all scientific and forensic reports or notes and underlying documentation (including, but not limited to, DNA analysis, laboratory notebooks, bench notes, computer printouts, or other recordings of raw data, in whatever media), all photographs and negatives, dog tracking evidence, and all other items that are in any way related to this capital case and that are in the possession of any of the city, county, or state governmental agencies or officials named above, or their agents or employees, whether in possession of the Contra Costa County Superior Court, Contra Costa County District Attorney's Office, or any other law enforcement agency, including, but not limited to the Contra Costa County Sheriff's Office, the City of Concord Police Department, and the Contra Costa County Criminalistic Laboratory, including private individuals or institutions retained to render services in connection with this capital case;

d. All biological material gathered in this case, or pertaining to this case, including all evidence containing biological material subject to preservation under Penal Code section 1417.1 [preservation of exhibits] and section 1417.9 [preservation of

biological material], whether in possession of the Contra Costa County Superior Court, Contra Costa County District Attorney's Office, or any other law enforcement agency, including, but not limited to the Contra Costa County Sheriff's Office, the City of Concord Police Department, and the Contra Costa County Criminalistic Laboratory, including private individuals or institutions retained to render services in connection with this capital case, or any other County agency subject to this order. The above named parties are further ordered to store this evidence under conditions to prevent degradation, specifically that this biological material be stored under dry conditions in a freezer.

e. All custodial records relating to appellant, including housing records, classification records, disciplinary records, jail visiting logs and records, records of any medical and/or psychiatric treatment or evaluation occurring during appellant's incarceration, and any audiotapes, videotapes, and any other records pertaining to appellant in possession of any custodial agency involved in this case, including, but not limited to the Contra Costa County Sheriff's Office, the City of Concord Police Department, Contra Costa County Custody Services, the Martinez Detention Facility, and the California Department of Corrections;

f. All writings or other records relating to the decision by the Contra Costa County District Attorney's Office to seek the death penalty in *People v. Robert Ward Frazier* (Superior Court Case No. 041700-6), including, but not limited to all policy manuals, regulations, guidelines, policy statements, internal memoranda and other writings which have been relied upon or promulgated by the Contra Costa County District Attorney's Office pertaining to the procedure by which a decision is made as to whether to charge special circumstances and/or seek the death penalty, and any and all documents, writings, records, memoranda, or notes relating to the decision to allege special circumstances and to seek the death penalty in this capital case as of the date the decision was made in 2004;

g. [omitted];

h. All records or documents maintained or controlled by the Contra Costa

County Jury Commissioner pertaining to the selection of the venire or any other matter involving the case of *People v. Robert Ward Frazier* (Superior Court Case No. 041700-6). Any records, manuals, standard operating procedures, or other documents maintained or controlled by the Contra Costa County Jury Commissioner involving procedures and practices regarding the selection of jury venires, including county-wide jury venires, which were in effect in the years 2003-2005;

i. All jail records and/or the complete jail packet, which includes any "writings" (as defined in Gov. Code § 6252, subd. (g)) which pertain to appellant Robert Ward Frazier (DOB: 07/06/64) that are in the possession or control of the Contra Costa County Sheriff's Office, the City of Concord Police Department, the Contra Costa County Custody Services, and the Martinez Detention Facility;

j. All records maintained or controlled by the Contra Costa County Contra Costa Health Services which pertain to appellant Robert Ward Frazier (DOB: 07/06/64);

k. All records maintained or controlled by the Contra Costa County Probation Department which pertain to appellant Robert Ward Frazier (DOB: 07/06/64);

l. All materials controlled or maintained by the Contra Costa County Sheriff-Coroner's Department (or any private contractor personnel) pertaining to the investigation and autopsy of the death of Kathleen Luise Loreck, also known as Kathleen Aiello Loreck, on or about May 13, 2003;

m. All records, documents, exhibits, investigative reports, and jail records relating to prior investigations or prosecutions of appellant Robert Ward Frazier (DOB: 07/06/64), whether occurring in California, or including but not limited to, those pertaining to the following State of Illinois cases: *People of the State of Illinois v. Robert Frazier,* case number 85-CF-748; *People of the State of Illinois v. Robert Frazier*, case number 86-CF-57; *People of the State of Illinois v. Robert Frazier*, case number 91C5-5059801; *People of the State of Illinois v. Robert Frazier*, case number 91C5-50598; whether in possession or control of the Contra Costa County Superior Court, the Contra Costa County District Attorney's Office, or any other law enforcement agency, including, but not limited

to the Contra Costa County Sheriff's Office or the City of Concord Police Department;

n. All criminal files relating to witnesses appearing in this case including the following people: Gerald Merz, Diane Amodia, Gregory Smyers, Harry Angus Jr., Agripina Wartham, Zachary Fitzsimmons-Wright, Michael Lussier, Walter Backes, Margie Jacobson, Margie Kyle, Debra Gardner, Bryan Schmidt, Marie Zabbo, Bryan Gomez, Shawn Stelman, Gerald Braswell, Jaonnes Loreck, Heinz Loreck, Eduardo Gonzales Mendez, Rita Ann Bomher (also known as Rita Ann Price), Linda Van Dyck (also known as Linda Sagel Chasteen), Anthony Farrell, Tracy Lynn Murray, Richard Randall Sutton, David Hartman;

o. All California Department of Corrections records regarding Robert Ward Frazier, whether in possession of the Department of Corrections, Contra Costa County Custody Services, and/or the Martinez Detention Facility;

p. All hospital records or other records regarding medical treatment rendered to Kathleen Luise Loreck, also known as Kathleen Aiello Loreck (DOB: 08/09/53), whether in possession of, including, but not limited to, American Medical Response, and/or John Muir Hospital on or about May 13, 2003.

This order for preservation by this Court remains in effect until either: (1) thirty days after execution of sentence, or (2) non-preservation of such items or materials is approved by a court of competent jurisdiction, after at least ninety (90) days written notice of any intention to destroy or allow destruction of such evidence has been given to appellant, appellant's counsel, the Contra Costa County District Attorney, and the Attorney General of California.

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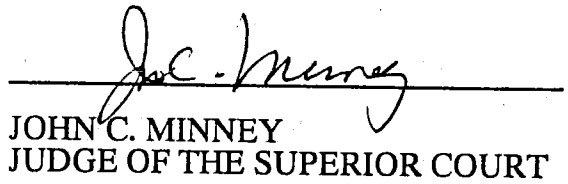
The agencies named in appellant's motion to preserve are directed to inform the Court and appellant's counsel whether any of the items or materials mentioned in the previous orders of the Court or above are in the possession of any other governmental unit, entity, official, employee or former employee, private individual, and are further directed to inform the Court and appellant's counsel whether any of such material has been destroyed.

SO ORDERED.

Dated: 12/6/17



JOHN C. MINNEY
JUDGE OF THE SUPERIOR COURT

IN THE SUPERIOR COURT FOR THE STATE OF CALIFORNIA
FOR THE COUNTY OF TULARE

PEOPLE OF THE STATE OF CALIFORNIA, Plaintiff and Appellee, v. ROBERT JAMES ACREMANT, Defendant and Appellant.	Tulare Co. Superior Court No. 31734 Supreme Court No. S0110804 (PROPOSED) ORDER PRESERVING EVIDENCE

Good cause appearing,

IT IS HEREBY ORDERED that Appellant's Motion to Preserve Evidence is GRANTED. The following evidence shall be preserved until thirty (30) days following the final conclusion of this case, whether after a new trial or through execution of the judgment.

This order applies to the following agencies: the Tulare County District Attorney, the Visalia Police Department, the Tulare County Sheriff's Office, the Tulare County Superior Court, the Tulare County Coroner, the California Department of Justice crime labs, the Tulare County Jury Commissioner, the Attorney General of California, the Tulare County Jail, and their present and former employees, agents, and representatives including private individuals or institutions retained to render services in connection with this case.

These items are ordered preserved:

A. All items admitted into evidence, or offered into evidence but excluded in these cases, whether at the trial or any pretrial proceeding, and whether such items were

physical, demonstrative, illustrative, written, tape recorded, videotaped, photographed, or of some other type;

B. All prosecutorial and law enforcement reports, notes, tape recordings, or other memorializations of fruits of law enforcement investigation or witness interviews, all scientific and forensic reports or notes and underlying documentation (including, but not limited to, laboratory notebooks, bench notes, computer printouts, or other recordings of raw data, in whatever media), all photographs and negatives, and all other items of evidence that are related to this capital case in any way and that are in the possession of any of the state or county governmental agencies or officials or their agents or employees, named above;

C. All custodial records relating to appellant, including housing records, classification records, disciplinary records, jail visiting logs and records, records of any medical and/or psychiatric treatment or evaluation occurring during appellant's incarceration at the Tulare County jail, and any audiotapes, videotapes, and any other records pertaining to appellant;

D. All notes taken by each and every court reporter in this case;

E. Any and all records or documents maintained or controlled by the Tulare County Jury Commissioner pertaining to the selection of the venire or any other jury matter involving the case of *People v. Robert J. Acremant*. Any records, manuals, standard operating procedures, or other documents maintained or controlled by the Tulare County Jury Commissioner involving procedures and practices regarding the selection of jury venires, including county-wide jury venires, which were in effect in 2002;

F. Any and all records maintained or controlled by the Tulare County Probation Department or the Tulare County Department of Mental Health Services relating to Robert J. Acremant;

G. Any and all materials controlled or maintained by the Tulare County Coroner's Office, relating to the investigation of the death and autopsy performed in connection with this case. This includes any private entities or medical professionals

involved in the autopsy in this case;

H. Any and all records maintained or controlled by any county or state Department of Justice crime lab, or any private contractor therewith, relating to the investigation of this case.

This order shall also be served upon the Jackson County, Oregon District Attorney and Jackson County, Oregon Sheriff's Department. This Court requests that these agencies voluntarily comply with this preservation order with respect to the evidence in their possession concerning *State of Oregon v. Robert Acremant,* Jackson County Circuit Court No. 95-5133-C-3.

DATED:

DARRYL FERGUSON
Judge of the Superior Court

DECLARATION OF SERVICE

Re: *People v. Robert James Acremant* No. S0110804
No. VCF 31734

I, GLENICE D. FULLER, declare that I am over 18 years of age, and not a party to the within cause; my business address is 221 Main St., 10th Floor, San Francisco, California 94105; that I served a copy of the attached:

(PROPOSED) ORDER PRESERVING EVIDENCE

on each of the following, by placing same in an envelope (or envelopes) addressed respectively as follows:

Justain Riley
Deputy Attorney General
P.O. Box 944255
Sacramento, CA 94424

Robert James Acremant
Oregon State Prison #11731803
2605 State Prison
Salem, OR 97310

Each said envelope was then, on July 28, 2011, sealed and deposited in the United States mail at San Francisco, California, the county in which I am employed, with the postage thereon fully prepaid.

I declare under penalty that the foregoing is true and correct.

Signed July 28, 2011, at San Francisco, California.

Glenice Fuller
DECLARANT

1317

MARK A. ARNOLD, SBN 81485
Public Defender
1315 Truxtun Avenue
Bakersfield, California
(661) 868-4757
James E. Coker
S.B. No. 105563
Dale L. Armitage
S.B. No. 177451
Attorneys for Defendant

FILED
KERN COUNTY

JUN 22 2004

TERRY McNALLY, CLERK
BY [illegible] DEPUTY

SUPERIOR COURT OF CALIFORNIA

COUNTY OF KERN, METROPOLITAN DIVISION

PEOPLE OF THE STATE OF CALIFORNIA, Plaintiff, vs. LARRY KUSUTH HAZLETT JR.,	BF100925A ORDER TO PRESERVE EVIDENCE

IT IS THE ORDER OF THIS COURT:

That the Kern County District Attorney, the Kern County Courts and the Kern County Public Defender and all trial counsel and their present and former employees, agents, and representatives, preserve evidence, exhibits, files, and all related items listed herein which are in their possession, pending resolution of the automatic appeal and possible related state and federal habeas corpus proceedings arising from the judgment of death imposed in this matter. Specifically, the above named parties are ordered to preserve:

All evidence, exhibits, files, and other items relating to the superior court proceedings in this case.

As used in this order, the terms "evidence, exhibits, files, and other items" include, but are not limited to, all of the following:

a. All items admitted into evidence at trial, whether they be physical, demonstrative, illustrative, written, tape recorded, videotaped, photographed, or otherwise;

b. All items offered but excluded from evidence at trial, whether sought to be introduced by the prosecution or the defense;

c. All notes taken by each and every court reporter in this case ;

This Court's order for preservation of the foregoing materials remains in effect until non-preservation of such items or materials is approved by a court of competent jurisdiction, after at least ninety (90) days written notice of any intention to destroy or allow determination of such evidence has been given to appellant, his counsel, the Kern County District Attorney, and the Attorney General of California. All persons having custody of the materials specified in this motion shall permit appellant's counsel or his representative to have reasonable access to the items and materials for inspection and, following reasonable notice to and opportunity to file objections by the Attorney General of California, release said items for testing by defense experts.

The People are directed to inform the Court and appellant's counsel whether any of the items or materials mentioned above are in the possession of any other governmental unit, entity, official, employee or former employee and are further directed to inform the Court and appellant's counsel whether any of such material has been destroyed.

SO ORDERED.

Dated: 6/22/04.

Bush

JUDGE OF THE SUPERIOR COURT

COPY

FILED
SUPERIOR COURT, METROPOLITAN DIVISION
COUNTY OF KERN

OCT - 6 2011

TERRY McNALLY, CLERK
BY_ ENDORSED _____DEPUTY

IN THE SUPERIOR COURT OF THE STATE OF CALIFORNIA

IN AND FOR THE COUNTY OF KERN

PEOPLE OF THE STATE OF CALIFORNIA, Plaintiff and Respondent, v. LARRY KUSUTH HAZLETT, JR., Defendant and Appellant.	Kern County Superior Court No. BF100925A (California Supreme Court No. S126387)

ORDER TO PRESERVE EVIDENCE PENDING AUTOMATIC APPEAL AND RELATED POSTCONVICTION PROCEEDINGS

IT IS THE ORDER OF THIS COURT:

The Kern County Sheriff's Department, the Kern County Coroner, Kern County Foresensic Science Division (Regional Criminalistics Laboratory), the Kern County Superior Court, the Attorney General of California, and their present and former employees, agents, and representatives, preserve all evidence, exhibits, files, and related items listed herein which are in their possession, pending resolution of the automatic appeal and related habeas corpus proceedings arising from the judgment of death imposed in this matter.

Specifically, the above named parties are ordered to preserve all evidence, exhibits,

files, and any other items relating to the prosecution of this case (Kern County Superior Court case number No. BF100925A) and/or relating to the investigation of the death of Tana Woolley, including, but not limited to, the following:

a. All prosecutorial and law enforcement reports, notes, tape recordings, or other memorializations of fruits of law enforcement investigation or witness interviews, all scientific and forensic reports or notes and underlying documentation (including, but not limited to, laboratory notebooks, bench notes, computer printouts, or other recordings of raw data, in whatever media), all photographs and negatives, all materials relating to past convictions or reports of bad acts of appellant that were obtained during the investigation of this case, and all other items of evidence that are in any way related to this capital case and that are in the possession of any of the state or county governmental agencies or officials named above or their agents or employees, including private individuals or institutions retained to render services in connection with this case.

b. Any and all materials controlled or maintained by the Kern County Coroner's Office relating to the investigation and autopsy of the death of Tana Woolley on or about October 24, 1978..

c. All Kern County custodial records relating to appellant, including housing records, classification records, disciplinary records, jail visiting logs and records, records of any medical and/or psychiatric treatment or evaluation occurring during appellant's incarceration, audiotapes, videotapes, and any other records pertaining to appellant;

This Court further orders that all biological material gathered in this case, including all evidence containing biological material subject to preservation under Penal Code section 1417.1 [preservation of exhibits] and section 1417.9 [preservation of biological material] be stored under dry conditions in a freezer to prevent further degradation..

This order does not supercede or limit the Order to Preserve Evidence filed by the Court on June 22, 2004.

This Court's order for preservation of the foregoing materials remains in effect until either (1) thirty days after execution of sentence, or (2) non-preservation of such items or materials is approved by a court of competent jurisdiction, after at least ninety (90) days written notice of any intention to destroy or allow destruction of such evidence has been given to appellant, appellant's counsel, the Kern County District Attorney, and the Attorney General of California.

The People are directed to inform the Court and appellant's counsel whether any of the items or materials mentioned above are in the possession of any other governmental unit, entity, official, employee or former employee and are further directed to inform the Court and appellant's counsel whether any of such material has been destroyed.

SO ORDERED.

Dated: OCT 06 2011

MICHAEL G. BUSH

MICHAEL G. BUSH
JUDGE OF THE SUPERIOR COURT

COPY

CONFORMED COPY
ORIGINAL FILED
Superior Court of California
County of Los Angeles

NOV 07 2014

Sherri R. Carter, Executive Officer/Clerk
By Lynnie Montero Deputy
Lynnie Montero

IN THE SUPERIOR COURT OF THE STATE OF CALIFORNIA
IN AND FOR THE COUNTY OF LOS ANGELES

PEOPLE OF THE STATE OF CALIFORNIA, Plaintiff and Respondent, v. CARLOS MARVIN ARGUETA, Defendant and Appellant.	Los Angeles County Sup. Ct. No. BA261252 (Cal. Supreme Ct. No. S150524) **ORDER TO PRESERVE EVIDENCE**

GOOD CAUSE BEING SHOWN, it is the order of the Court:

That the Los Angeles County District Attorney, the Los Angeles Police Department, the Los Angeles County Sheriff's Office, the Los Angeles County Superior Court, the Los Angeles County Probation Department, the Los Angeles County Coroner, the Los Angeles County Jury Commissioner, the California Department of Justice, and their present and former employees, agents, representatives, and counsel to preserve all evidence, exhibits, files, and other related items listed herein pending resolution of this automatic appeal and all related habeas corpus proceedings.

By his motion appellant has requested preservation of all evidence, exhibits, files,

and any other items relating to the prosecution of this case[1] and/or relating to the investigation of the deaths of Jorge Lua and Gregory Gabriel, including all such items related to the prosecution of co-defendant Enrique Gonzalez, aka Enrique Heredia, and including but not limited to the following:

a. All items admitted into evidence, or offered into evidence but excluded in this case, whether at the trial or any pretrial proceeding, and whether such items were physical, demonstrative, illustrative, written, tape recorded, videotaped, photographed, or of some other type, including confidential Penal Code section 987.9 and 987.2 records, and including all evidence admitted, or offered into evidence but excluded, in the separate trial of co-defendant Enrique Gonzalez;

b. All notes taken by each and every court reporter in this case, including at the trial of co-defendant Enrique Gonzalez;

c. All prosecutorial and law enforcement reports, notes, tape recordings, or other memorializations of fruits of law enforcement investigation or witness interviews, all scientific and forensic reports or notes and underlying documentation (including, but not limited to, reports of the Scientific Investigations Division of the Los Angeles Police Department, laboratory notebooks, bench notes, computer printouts, or other recordings of raw data, in whatever media), all photographs and negatives, and all other items of evidence that are related to this case in any way and that are in the possession of any of the agencies or officials named above or their agents or employees, including private individuals or institutions retained to render services in connection with this case (Investigation Nos. 04-1200520, 04-1207882);

d. All custodial records in possession of the Los Angeles County Sheriff's Department, relating to appellant (Argueta, Jr., Carlos Marvin, DOB May 5, 1985, CII A25212973, Booking No. 8029375, Los Angeles County Criminal History Attached) including housing records, classification records, disciplinary records, jail visiting logs

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[1] Even where not expressly stated, "this case," as used in this order, includes the investigation, prosecution and trial of co-defendant Enrique Gonzalez.

and records, records of any medical and/or psychiatric treatment or evaluation occurring during appellant's incarceration in this case, and any audiotapes, videotapes, and any other records pertaining to appellant, and all such records relating to co-defendant Enrique Gonzalez (Gonzalez, Enrique, DOB May 10, 1985. CII A21497744, Booking No. 8029494, aka Heredia, Enrique, Los Angeles County Criminal History Attached);

e. All writings or other records relating to the decision by the Los Angeles County District Attorney's Office to seek the death penalty in this case, including, but not limited to, all policy manuals, regulations, guidelines, policy statements, internal memoranda and other writings which have been relied upon or promulgated by the Los Angeles County District Attorney's Office pertaining to the procedure by which a decision is made as to whether to charge special circumstances and/or seek the death penalty, and any and all documents, writings, records, memoranda, or notes relating to the decision to allege special circumstances and to seek the death penalty in this case;

f. Any and all records or documents maintained or controlled by the Los Angeles County Jury Commissioner pertaining to the selection of the venire or any other jury matter involving this case and any records, manuals, standard operating procedures, or other documents maintained or controlled by the Los Angeles County Jury Commissioner involving procedures and practices regarding the selection of jury venires, including county-wide jury venires, which were in effect in 2006;

g. Any and all records maintained or controlled by the Los Angeles County Probation Department relating to appellant;

h. Any and all records maintained or controlled by the Los Angeles County Probation Department relating to co-defendant Gonzalez;

i. Any and all materials controlled or maintained by the Los Angeles County Coroner's Office, relating to the investigation of the death and autopsy of Jorge Lua and Gregory Gabriel (Coroner Nos. 04-01311, 04-01340);

j. All records, documents, exhibits, investigative reports, and jail records relating to prior investigations or prosecutions of appellant, including:

1. January 15, 2004, arrest for violation of Penal Code section 496(a); and

2. Los Angeles County Superior Court No. LAXSA05128902, violation of Penal Code Section 12020(a)(1).

k. All records, documents, exhibits, investigative reports, and jail records relating to prior investigations or prosecutions of co-defendant Gonzalez, including:

1. Los Angeles County Superior Court No. LACBA25560201, conviction for possession for sale.

l. Any information that is possessed by the Los Angeles County Sheriff's Department or the Los Angeles Police Department relating to appellant and any alleged gang activity involving "T.C.A." or "A.C.T." for the period January 1, 2002 to January 1, 2007;

m. All arrest reports, field interview or interrogation cards, criminal case files, declination forms, card files or other documents relating to the detention, investigation or prosecution for the period January 1, 2002 to January 1, 2007 of the following individuals who testified as witnesses in this case:

Francisco Amezcua - DOB February 25, 1982, SSN 570-89-6968, LNA (Last Known Address) 235 E. 84th Place, Los Angeles, CA 90003;

Roberto Carillo - (aka Roberto Carrillo) DOB November 3, 1984, SSN 551-89-0653, LNA 2621 S. Curson Avenue, Los Angeles, CA 90016;

Rene Jimenez - DOB March 22, 1977 (CLETS History Attached);

Jesus Molina - DOB April 17, 1980, SSN 566-61-0298, LNA 2621 S. Curson Avenue, Los Angeles, CA 90016; Orange County Superior Court No. 03CM06846; San Bernardino Superior Court No. 1378152JM;

Carlos Zepeda (Jr.) - DOB December 9, 1980, (Los Angeles County Criminal History attached).

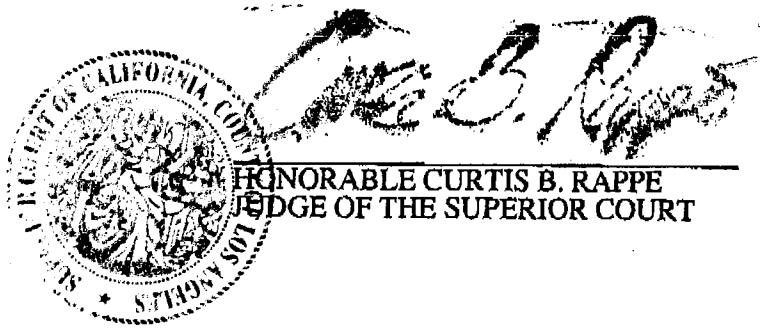
This order for preservation remain in effect until either: (1) thirty (30) days after execution of the death sentence, or (2) non-preservation of such items or materials is

approved by a court of competent jurisdiction after at least ninety (90) days written notice of any intention to destroy or allow destruction of such evidence has been given to appellant, his counsel, the Los Angeles County District Attorney, and the Attorney General of California.

The above-named agencies are further ordered to disclose to appellant whether any of the items or materials mentioned above are in the possession of any other governmental unit, entity, official, employee or former employee and/or whether any of said items or materials have been destroyed.

SO ORDERED.

Dated: 11-17, 2014



HONORABLE CURTIS B. RAPPE
JUDGE OF THE SUPERIOR COURT

FILED
SUPERIOR COURT OF CALIFORNIA
COUNTY OF SAN BERNARDINO
SAN BERNARDINO CIVIL DIVISION
JUN 2 2 2012
BY JESSICA HAZEL DEPUTY

IN THE SUPERIOR COURT OF THE STATE OF CALIFORNIA

IN AND FOR THE COUNTY OF SAN BERNARDINO

THE PEOPLE OF THE STATE OF CALIFORNIA, Plaintiff and Respondent, v. LOUIS MITCHELL, JR., Defendant and Appellant.	Superior Ct. No. FSB 031580 (California Supreme Court No. S147335) ORDER TO PRESERVE EVIDENCE PENDING AUTOMATIC APPEAL AND RELATED POST CONVICTION PROCEEDINGS

IT IS THE ORDER OF THIS COURT:

That the San Bernardino County District Attorney, the San Bernardino County Sheriff-Coroner, the Colton City Police Department, the San Bernardino Police Department (including the San Bernardino Police Department Crime Lab), the San Bernardino County Sheriff's Department (including the San Bernardino County Sheriff's Scientific Investigations Division), the San Bernardino County Probation Department, the San Bernardino County Department of Behavioral Health, the San Bernardino County Superior Court, the San Bernardino County Jury Commissioner, the San Bernardino County Information Services Department, the San Bernardino County Jail, West Valley Detention Center, California Department of Corrections, Arrowhead Regional Medical Center, Loma Linda University Medical Center, the Attorney General of California, and their present and former employees, agents, and representatives preserve all files, records, evidence and related items listed herein which are in their possession, pending resolution of the automatic appeal and related post conviction litigation arising from the judgment of death imposed in this matter.

Specifically, the above named parties are ordered to preserve all files, records, evidence and any other items relating to the prosecution of this capital case pertaining to

1 the investigation of the deaths of Patrick Mawikere, Mario Lopez and Susano Torres, and
2 the attempted murders of Jerry Payan, Juan Marcello Bizzotto and Armando Torres that
3 occurred on or about August 8, 2005, as well as offenses alleged as other-crimes evidence
4 and as aggravating factors during the guilt and penalty phases of appellant's trial, *People v.*
5 *Louis Mitchell, Jr.* (San Bernardino Superior Court Case No. FSB 051580), including, but
6 not limited to, the following:
7 a. All records, documents, and exhibits, including the reporter's transcript
8 notes of proceedings which pertain to appellant, Louis Mitchell, Jr., and *People v. Louis*
9 *Mitchell, Jr.* (Superior Court Case No. FSB 051580), including confidential 987.9 and
10 987.2 records;
11 b. All items admitted into evidence, or offered into evidence, whether at the trial
12 or any pretrial proceeding, whether such items were physical, demonstrative, illustrative,
13 written, tape recorded, videotaped, photographed, or of some other type; and whether in
14 possession of the San Bernardino County Superior Court, San Bernardino County District
15 Attorney's Office, or any other law enforcement agency, including, but not limited to the
16 Colton Police Department, the San Bernardino Police Department, and the San Bernardino
17 County Sheriff's Department; the San Bernardino County District Attorney's Office is to
18 maintain its file and any documents related to this case in its possession inviolate.
19 c. All prosecutorial and law enforcement reports, notes, tape recordings, or
20 other memorializations of fruits of law enforcement investigation or witness interviews, all
21 scientific and forensic reports or notes and underlying documentation (including, but not
22 limited to, laboratory notebooks, bench notes, computer printouts, or other recordings of
23 raw data, in whatever media), all photographs and negatives, exhibits, and all other items
24 that are in any way related to this capital case, including, but not limited to: police report
25 numbers 05-35815 [San Bernardino Police Department]; 05-35652 [San Bernardino Police
26 Department]; and 910509183 [Colton Police Department] that are in the possession of any
27 of the state or county governmental agencies or officials named above or their agents or
28 employees, whether in possession of the San Bernardino County Superior Court, San

Bernardino County District Attorney's Office, or any other law enforcement agency, including, but not limited to the Colton Police Department, the San Bernardino Police Department, and the San Bernardino County Sheriff's Department, and including private individuals or institutions retained to render services in connection with this capital case; the San Bernardino County District Attorney's Office is to maintain its entire file and/or Bureau of Investigation file.

d. All custodial records relating to appellant, including housing records, classification records, disciplinary records, jail visiting logs and records, records of any medical and/or psychiatric treatment or evaluation occurring during appellant's incarceration, and any audiotapes, videotapes related therein, and any other records pertaining to appellant in possession of any custodial agency involved in this case, including, but not limited to the San Bernardino County Sheriff's Department;

e. All writings or other records relating to the decision by the San Bernardino County District Attorney's Office to seek the death penalty in *People v. Louis Mitchell, Jr.* (Superior Court Case No. FSB 051580), including, but not limited to all policy manuals, regulations, guidelines, policy statements, internal memoranda and other writings which have been relied upon or promulgated by the San Bernardino County District Attorney's Office pertaining to the procedure by which a decision is made as to whether to charge special circumstances and/or seek the death penalty, and any and all documents, writings, records, memoranda, or notes relating to the decision to allege special circumstances and to seek the death penalty in this capital case as of the date the decision was made in 2005;

f. All electronic data pertaining to *People v. Louis Mitchell, Jr.* (Superior Court Case No. FSB 051580) in the possession of or maintained by the San Bernardino County Information Services Department, including any email communications;

g. All records or documents maintained or controlled by the San Bernardino County Jury Commissioner pertaining to the selection of the venire or any other matter involving the case of *People v. Louis Mitchell, Jr.* (Superior Court Case No. FSB 051580). Any records, manuals, standard operating procedures, or other documents maintained or

1 controlled by the San Bernardino County Jury Commissioner involving procedures and
2 practices regarding the selection of jury venires, including county-wide jury venires, which
3 were in effect in the years 2004-2006;
4 h. All jail records and/or the complete jail packet, which includes any
5 "writings" (as defined in Gov. Code, § 6252, subd. (g)) which pertain to appellant Louis
6 Mitchell, Jr. (DOB: 2/25/70) that are in the possession or control of the San Bernardino
7 County Sheriff's Department;
8 I. All records maintained or controlled by the San Bernardino County
9 Department of Behavioral Health Services which pertain to appellant Louis Mitchell, Jr.
10 (DOB: 2/25/70) from August, 1988 to December, 2006;
11 j. All records maintained or controlled by the San Bernardino County Probation
12 Department, to the extent they have not already been destroyed, which pertain to appellant
13 Louis Mitchell. Jr. (DOB 2/25/70); Roman Williams or Romen Williams, aka "Chrome"
14 (DOB 2/28/88), Tracy Lee Ruff (DOB 8/20/87), Armando Torres, aka "Mando" (DOB
15 3/17/86), Valerie Hernandez (DOB 11/12/84), and Robert Grayson (DOB 6/09/86).
16 k. All materials controlled or maintained by the San Bernardino County Sheriff-
17 Coroner's Department (or any private contractor personnel) pertaining to the investigation
18 and autopsies of the deaths of Patrick Mawikere, Mario Lopez and Susano Torres on or
19 about August 8, 2005;
20 l. All records, documents, exhibits, investigative reports, and jail records
21 relating to prior investigations or prosecutions of appellant, including but not limited to
22 those pertaining to the following San Bernardino County Cases: Docket No. FSB 266527;
23 FWV 18563; and FSB 035560;
24 m. In accordance with the requirements contained in Penal Code section 832.5(b),
25 all files maintained as of April 6, 2012, including confidential Internal Affairs files,
26 regarding Detective Michael Vasilis (ID # 50363), Detective William Flesher (ID # 24140),
27 Sargent James Voss (ID # 24447), Steve Turner (ID # 50502), Christian Phillips
28 (Donovan), Kevin Jeffery (ID # D50364), Ricardo Tomboc (ID # 24907), Sherri Vasilis,

1 Joshua Cogswell (ID # 50544), and Thomas Adams (ID # 25240) in the possession of the
2 San Bernardino Police Department; and all files maintained as of April 6, 2012, including
3 confidential Internal Affairs files, regarding Dr. Frank Sheridan, Heather Harlacker, Kerri
4 Heward, Jason McCauley, Monica Siewertsen, and Regina Foreman in the possession of
5 the San Bernardino County Sheriff's Department; and all files maintained as of April 6,
6 2012, including confidential Internal Affairs files, regarding John Nelson (ID # 2867),
7 Jarrod Green (ID # 3921) and Wesley Bruhn (ID # 3919) in the possession of the Colton
8 Police Department; and all files maintained as of April 6, 2012, including confidential
9 Internal Affairs files, regarding Steven Day in the possession of the California Department
10 of Corrections;
11 n. All California Department of Corrections records regarding Louis Mitchell,
12 Jr.;
13 o. All hospital records or other records regarding medical treatment rendered to
14 Louis Mitchell, Jr./Leonardo Meza, on August 8, 2005 through August 10, 2005, in the
15 possession of Arrowhead Regional Medical Center and Loma Linda University Medical
16 Center;
17 p. All hospital records or other records regarding medical treatment rendered on
18 August 8, 2005 through August 12, 2005 to Armando Torres (DOB 3/17/86); Jerry Payan
19 (DOB 1/2/69); Juan Marcello Bizzotto/Quincy Questionable (DOB 1/18/74); Mario Lopez
20 (DOB 7/6/46); Patrick Mawikere (DOB 11/10/84) and Susano Torres (DOB 9/15/88), in
21 the possession of Arrowhead Regional Medical Center.
22 This supplemental and previous orders for preservation by this Court remain in
23 effect until either: (1) thirty days after execution of sentence, or (2) non-preservation of
24 such items or materials is approved by a court of competent jurisdiction, after at least ninety
25 (90) days written notice of any intention to destroy or allow destruction of such evidence
26 has been given to appellant, appellant's counsel, the San Bernardino County District
27 Attorney, and the Attorney General of California.
28 The agencies named in appellant's motion to preserve are directed to inform the

Court and appellant's counsel whether any of the items or materials mentioned in the previous orders of the Court or above are in the possession of any other governmental unit, entity, official, employee or former employee and/or are further directed to inform the Court and appellant's counsel whether any of such material has been destroyed.

//

APPROVED AS TO FORM AND CONTENT

Dated: _____

ROBERT BULLOCH
San Bernardino County Deputy District Attorney

APPROVED AS TO FORM AND CONTENT

Dated: _____

RICHARD LUCZAK
Deputy City Attorney Specially Appearing For The San Bernardino Police Department

APPROVED AS TO FORM AND CONTENT

Dated: _____

SARAH OVERTON
Attorney Specially Appearing For The Superior Court Of California, County Of San Bernardino And The Jury Commissioner For The County Of San Bernardino

SO ORDERED.

Dated: _____

BRIAN S. MCCARVILLE
JUDGE OF THE SUPERIOR COURT

Court and appellant's counsel whether any of the items or materials mentioned in the previous orders of the Court or above are in the possession of any other governmental unit, entity, official, employee or former employee and/or are further directed to inform the Court and appellant's counsel whether any of such material has been destroyed.

//

APPROVED AS TO FORM AND CONTENT

Dated: 6-20-2012

ROBERT BULLOCH
San Bernardino County Deputy District Attorney

APPROVED AS TO FORM AND CONTENT

Dated: _____

RICHARD LUCZAK
Deputy City Attorney Specially Appearing For The San Bernardino Police Department

APPROVED AS TO FORM AND CONTENT

Dated: _____

SARAH OVERTON
Attorney Specially Appearing For The Superior Court Of California, County Of San Bernardino And The Jury Commissioner For The County Of San Bernardino

SO ORDERED.

Dated: _____

BRIAN S. MCCARVILLE
JUDGE OF THE SUPERIOR COURT

Court and appellant's counsel whether any of the items or materials mentioned in the previous orders of the Court or above are in the possession of any other governmental unit, entity, official, employee or former employee and/or are further directed to inform the Court and appellant's counsel whether any of such material has been destroyed.

//

APPROVED AS TO FORM AND CONTENT

Dated: _____

ROBERT BULLOCH
San Bernardino County Deputy District Attorney

APPROVED AS TO FORM AS [redacted]

Dated: 6/21/12

RICHARD LUCZAK
Deputy City Attorney Specially Appearing For The San Bernardino Police Department

APPROVED AS TO FORM AND CONTENT

Dated: 6/18/12

SARAH OVERTON
Attorney Specially Appearing For The Superior Court Of California, County Of San Bernardino And The Jury Commissioner For The County Of San Bernardino

SO ORDERED.

Dated: 6/22/12

BRIAN S. MCCARVILLE
JUDGE OF THE SUPERIOR COURT

SUPERIOR COURT OF CALIFORNIA, COUNTY OF SAN BERNARDINO 401 NORTH ARROWHEAD AVENUE SAN BERNARDINO, CA 92415-0063	COURT USE ONLY FILED SUPERIOR COURT COUNTY OF SAN BERNARDINO Appeals Division JUL 10 2012 BY Karen Mueller KAREN MUELLER, DEPUTY
PLAINTIFF(S): PEOPLE	
DEFENDANT(S): LOUIS MITCHELL, JR.	JUDGE: HONORABLE BRIAN S. MCCARVILLE DEPT: S36
CLERK'S CERTIFICATION OF SERVICE BY MAIL **(CCP § 1013A(4))**	CASE NUMBER: FSB051580 / S147335

I, Karen Mueller, certify that: I am not a party to the above-entitled case; that on the date shown below, I served the following document(s): **ORDER TO PRESERVE EVIDENCE PENDING AUTOMATIC APPEAL AND RELATED POST CONVICTION PROCEEDINGS**, on the parties shown below by placing a true and correct copy in a separate envelope, addressed as shown below; each envelope was then sealed and, with postage thereon fully prepaid, deposited in the United States Postal Service at San Bernardino, California.

MARIA MORGA, DSPD State Public Defender Oakland City Center 1111 Broadway, 10th Floor Oakland, CA 94607	MARISSA A. BEJARANO, DAG Attorney General Department of Justice 110 W. "A" Street, Suite 1100 San Diego, CA 92101
CAPTAIN ALAN SPEARS, ESQ. 525 B Street, Suite 1500 San Diego, CA 92101	ROBERT BULLOCH, DDA District Attorney's Office 316 N. Mountain View Ave. San Bernardino, CA 92415-0004
PHEBE CHU, DCC San Bernardino County Counsel 385 N. Arrowhead Ave., 4th Floor San Bernardino, CA 92415-0140	ROD HOOPS, SHERIFF San Bernardino County Sheriff's Department 655 E. Third Street San Bernardino, CA 92415
***SEE ATTACHED PAGE	

Dated: July 10, 2012

STEPHEN H. NASH,
Court Executive Officer

By: Karen Mueller, Deputy
Karen Mueller

CLERK'S CERTIFICATE OF SERVICE BY MAIL

CLERK'S CERTIFICATE OF SERVICE BY MAIL
(continued)

Case Name: PEOPLE OF THE STATE OF CALIFORNIA vs LOUIS MITCHELL JR.

Case Number: FSB 051580 / S147335

SARAH L. OVERTON, ESQ.
Cummings, McClorey, Davis, Acho & Associates PC
3801 University Ave., Suite 560
Riverside, CA 92501

MICHELLE SCRAY,
CHIEF PROBATION OFFICER
San Bernardino County Probation Department
Administrative Offices
175 West Fifth Street
San Bernardino, CA 92415

GRACE CUEVAS,
CUSTODIAN OF RECORDS
San Bernardino County Sheriff-Coroner Department / Coroner Division
175 South Lena Road
San Bernardino, CA 92415

BENJAMIN T. RICE, ESQ.
California Department of Corrections
Office of Legal Affairs
1515 "S" Street, Suite 314-S
Sacramento, CA 95814

ROBERT HANDY, CHIEF OF POLICE
San Bernardino Police Department
710 North "D" Street
San Bernardino, CA 92401

STEVE WARD, CHIEF OF POLICE
Colton Police Department
650 North La Cadena Drive
Colton, CA 92324

RICHARD LUCZAK,
DEPUTY CITY ATTORNEY
City of San Bernardino
300 North "D" Street
San Bernardino, CA 92418

ALLAN RAWLAND
San Bernardino County Department of Behavioral Health
268 West Hospitality Lane, Suite 400
San Bernardino, CA 92415

JOEL GOLUB, CHIEF INFORMATION OFFICER
San Bernardino County Information Services Department
670 East Gilbert Street
San Bernardino, CA 92415-0915

SAN BERNARDINO COUNTY JAIL
630 East Rialto
San Bernardino, CA 92408

CAPTAIN SCOTT MESA
West Valley Detention Center
9500 Etiwanda Avenue
Rancho Cucamonga, CA 91730

ARROWHEAD REGIONAL MEDICAL CENTER
Custodian of Records
400 North Pepper Avenue
Colton, CA 92324

BRENDA TAYLOR, RHIA, CCS
EXECUTIVE DIRECTOR
Loma Linda University Medical Center
Health Information Management
(Hospitalizations)
101 East Redlands Blvd., Suite 1200
San Bernardino, CA 92408

SUPERIOR COURT OF CALIFORNIA, COUNTY OF SAN BERNARDINO
401 North Arrowhead Ave., San Bernardino, CA 92415-0063

NAME ADDRESS AND TELEPHONE NUMBER OF APPELLANT'S ATTORNEY			FOR COURT USE ONLY
MARIA MORGA, DSPD STATE PUBLIC DEFENDER'S OFFICE 221 MAIN STREET, 10TH FLOOR SAN FRANCISCO, CA 94105			FILED SUPERIOR COURT COUNTY OF SAN BERNARDINO Appeals Division JUL 31 2012 BY Karen Mueller KAREN MUELLER, DEPUT
NAME ADDRESS AND TELEPHONE NUMBER OF RESPONDENT'S ATTORNEY			
ATTORNEY GENERAL DEPARTMENT OF JUSTICE 110 West A Street, Suite 600 San Diego, CA 92101	GOVERNOR STATE CAPITOL ROOM 1028 SACRAMENTO, CA 95014	DISTRICT ATTORNEY 316 N. Mt View Avenue San Bernardino, CA 92415-0004	
TITLE OF CASE (ABBREVIATED)			CASE NUMBER
PEOPLE OF THE STATE OF CALIFORNIA VS. LOUIS MITCHELL, JR.			FSB 051580 / S147335

NOTICE TO REPORTER TO PREPARE TRANSCRIPT ON APPEAL

Appeal from Honorable Judge: BRIAN S. MCCARVILLE

In accordance with the AUTOMATIC APPEAL, you are hereby directed to commence preparation of the REPORTER'S TRANSCRIPT ON APPEAL in the above-entitled action, pursuant to CRC Rule 8.622. The Appeal is to the SUPREME COURT OF THE STATE OF CALIFORNIA and the appellate record is to contain transcripts for every hearing reported in this matter, as indicated below. **PRIMARY REPORTER:** KATHY SELLERS

KATHY SELLERS: 2/3/12 4/6/12 5/25/12

*** Please make this Supplemental 1, starting at page 41.***

TRANSCRIPTS ARE DUE: AUGUST 10, 2012 **ATTN:** KATHY SELLERS

The Rules on Appeal require the original and 5 copies of your transcript to be filed with the clerk of the Appeals Division within 10 days of the date of this notice. Please prepare an additional 0 copy (ies) of your transcript (**for a total of 6 transcripts**).

The Appeals Division requires ALL Marsden/In Camera Hearings to be sealed separately from the record on appeal. Please note all Affidavits of "no notes" must be submitted within 10 days from the date of mailing.

Please contact the Appeals Division if you need information regarding the requirements for requesting an extension of time.

Dated: July 31, 2012 by Karen Mueller, Deputy
KAREN MUELLER

If you have any questions regarding this notice, please call: (909) 521-3567

NOTICE TO REPORTER TO PREPARE TRANSCRIPT ON APPEAL 1/07

COUNTY OF SAN BERNARDINO

DECLARATION OF SERVICE BY MAIL

STATE OF CALIFORNIA)
) **SS.** FSB 051580
COUNTY OF SAN BERNARDINO)

The undersigned hereby declares: I am a citizen of the United States of America, over the age of eighteen years, a resident of the above-named State. and not a party to nor interested in the proceedings named in the title of the annexes document. I am a Deputy Clerk of said County. I am readily familiar with the business practice for collection and processing of correspondence for mailing with the United States Postal Service that same day in the ordinary course of business. On the date of mailing shown below, I placed for collections and mailing following ordinary business practices, at the request and under the direction of the Ex-Officio Clerk of the Superior Court in and for the State of California and County above-named, whose office is at the 401 North Arrowhead Avenue, San Bernardino, California, a sealed envelope which contained a true copy of each annexed document, and which envelope was addresses to the addressed to the addressee, as follows:

KATHY SELLERS: HOME ADDRESS

Date and Place of Mailing: July 31, 2012, San Bernardino. California.

Document Mailed: **NOTICE TO REPORTER TO PREPARE TRANSCRIPTS ON APPEAL**

At the time of said mailing. there was a regular communication by mail between the place of mailing and the place so addressed.

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

Executed on July 31, 2012, at San Bernardino, California.

Karen Mueller, Deputy

EXHIBIT B

THE PEOPLE OF THE STATE OF CALIFORNIA Petitioner, v. THE SUPERIOR COURT OF CALIFORNIA, COUNTY OF SAN BERNARDINO, Respondent, JOHNNY MORALES, Real Party in Interest.	)	No. _____ Court of Appeal No. E061754 **Related Death Penalty Appeal Pending** No. S137307

DECLARATION OF SENIOR DEPUTY STATE PUBLIC DEFENDER C. DELAINE RENARD IN SUPPORT OF MOTION FOR JUDICIAL NOTICE

I, C. Delaine Renard, declare:

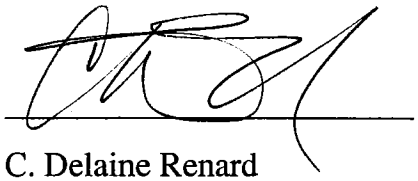
1. I am an attorney licensed to practice law in the State of California am employed by the State Public Defender as a Senior Deputy State Public Defender. The State Public Defender has been appointed to represent Johnny Morales on his automatic appeal pending before this Court. I have been assigned as his counsel on appeal, as well as on the related mandamus proceedings before the appellate court and the resulting petition for review that accompanies this motion.

2. The State Public Defender is also appointed counsel for the defendants in all of the cases that resulted in the evidence preservation orders that are the subject of the instant motion for judicial notice.

Therefore, I obtained copies of those orders as part of the records regularly maintained by my office.

3. Exhibit A contains true and correct copies of those orders.

I declare under penalty of perjury that the foregoing is true and correct and that this declaration was signed on August 18, 2015, in Oakland, California.



C. Delaine Renard

DECLARATION OF SERVICE

Re: THE PEOPLE v. SUPERIOR COURT (MORALES) No._____
Court of Appeal No. E061754
Related Death Penalty Appeal Pending No. S137307)

I, Kecia Bailey, declare that I am over 18 years of age, and not a party to the within cause; that my business address is 1111 Broadway, 10th Floor, Oakland, California 94607; I served a true copy of the attached:

MOTION FOR JUDICIAL NOTICE IN SUPPORT FOR PETITION FOR REVIEW

on each of the following, by placing same in an envelope addressed respectively as follows:

FELICITY SENOSKI
Deputy Attorney General
Office of the Attorney General
110 W. A Street, Suite 110
San Diego, CA 92101

JOHNNY MORALES, V-94083
CSP-SQ
4-EB-40
San Quentin, CA 94974

MICHAEL T. MURPHY
Deputy Attorney General
Office of the Attorney General
110 West A Street, Suite 1100
San Diego, CA 92186-5266

CLERK OF THE COURT
San Bernardino County Superior Court
247 West Third Street
San Bernardino, CA 92415

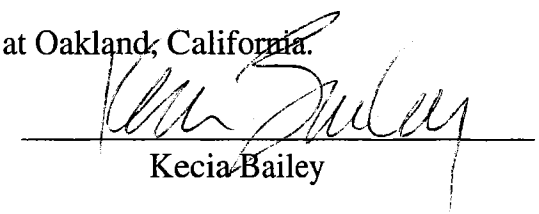
MICHAEL DOWD
Supervising Deputy District Attorney
San Bernardino County District Attorney
900 E. Gilbert Street
San Bernardino, CA 92415

CLERK OF THE COURT
Fourth District Court of Appeal
Division Two
3389 12th Street
Riverside, CA 92501

Each said envelope was then, on August 19, 2015, deposited in the United States mail at Alameda, California, the county in which I am employed, with the postage thereon fully prepaid.

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

Signed on this 19th day of August 2015, at Oakland, California.



Kecia Bailey