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SUPREME COURT  
**FILED**

JUN 23 2009

Frederick K. Ohlrloh Clerk

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Deputy

**In the Supreme Court of the State of California**

**PEOPLE OF THE STATE OF CALIFORNIA,**

Plaintiff and Respondent,

v.

**JOSEPH MANUEL MONTES,**

Defendant and Appellant.

**CAPITAL CASE**

Case No. S059912

**REQUEST TO TAKE JUDICIAL NOTICE**

**TO THE HONORABLE RONALD GEORGE, CHIEF JUSTICE, AND THE  
ASSOCIATE JUSTICES OF THE CALIFORNIA SUPREME COURT:**

**DEATH PENALTY COPY**

Respondent respectfully requests that the court take judicial notice of the following court records under Evidence Code sections 452, subdivision (d), and 459: (1) the decision and record on appeal filed in *People v. Varela et al.*, Case Number E020144.

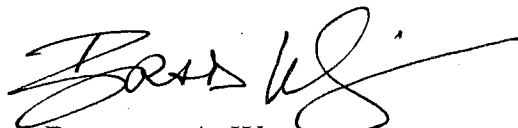
The above referenced matter is the direct appeal of Montes's trial co-defendants. As discussed in the Respondent's Brief, Montes shared a jury trial with co-defendants Hawkins and Gallegos (Montes alone continued on to a penalty phase). In addition, several of the claims now raised by Montes were considered and addressed in the Court of Appeal decision filed November 15, 1999.

Accordingly, respondent respectfully requests that the court take judicial notice of the court of appeal records and decision in that matter.

Dated: June 18, 2009

Respectfully submitted,

EDMUND G. BROWN JR.  
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**DECLARATION OF SERVICE BY U.S. MAIL**

Case Name: **People v. Joseph M. Montes**

Case No.: **S059912**

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 collection and processing of correspondence for mailing with the United States Postal Service. 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 that same day in the ordinary course of business.

On June 19, 2009, I served the attached

**REQUEST TO TAKE JUDICIAL NOTICE**

by placing a true copy thereof enclosed in a sealed envelope with postage thereon fully prepaid, in the internal mail collection system at the Office of the Attorney General at 110 West A Street, Suite 1100, P.O. Box 85266, San Diego, CA 92186-5266, addressed as follows:

Sharon Fleming Attorney at Law P.O. Box 157 Ben Lomond, CA 95005 <i>Attorney for Appellant</i> <i>Joseph Manuel Montes</i> (two copies)	Hon. Robert J. McIntyre Riverside County Superior Court 9991 County Farm Road Riverside, CA 92501-3526
Rod Pacheco, District Attorney Riverside County District Attorney's Office 4075 Main Street Riverside, CA 92501	Michael G. Millman Executive Director California Appellate Project (SF) 101 Second Street, Suite 600 San Francisco, CA 94105

I declare under penalty of perjury under the laws of the State of California the foregoing is true and correct and that this declaration was executed on June 19, 2009, at San Diego, California.

G. Nolan  
Declarant



Signature