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**SUPREME COURT
FILED**

MAR 21 2013

COPY

Frank A. McGuire Clerk
Deputy

In the Supreme Court of the State of California

**THE PEOPLE OF THE STATE OF
CALIFORNIA,**

Plaintiff and Respondent,

v.

PAUL NATHAN HENDERSON,

Defendant and Appellant.

CAPITAL CASE

Case No. S098318

Riverside County
Superior Court Case
No. INF027515

RESPONDENT'S REQUEST FOR JUDICIAL NOTICE

In his Opening Brief, in Ground VIII, Henderson claims his Sixth Amendment Confrontation Clause rights were violated when a non-performing pathologist testified instead of the pathologist who performed the autopsy on the decedent, Reginald Baker. The autopsy report was not admitted into evidence at trial. To the extent the report will

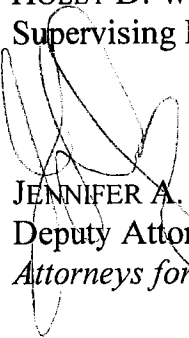
DEATH PENALTY

assist the Court in resolving Henderson's claim, Respondent requests the Court to take judicial notice of the autopsy report of Reginald Baker. (See *People v. Dungo* (2012) 55 Cal.4th 608, 615, citing *People v. Castillo* (2010) 49 Cal.4th 145, 157 [a court may take judicial notice of a public record when it does not consider the record for the truth of matters stated therein]; *Dixon v. Superior Court* (2009) 170 Cal.App.4th 1271, 1278 [an autopsy report is a public record].) Pursuant to this authority, Respondent requests that this Court take judicial notice of a true and correct copy of the autopsy report, which is attached as Exhibit A.

Dated: March 20, 2013

Respectfully submitted,

KAMALA D. HARRIS
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DANE R. GILLETTE
Chief Assistant Attorney General
JULIE L. GARLAND
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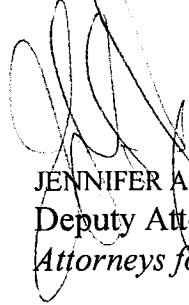
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CERTIFICATE OF COMPLIANCE

I certify that the attached Request for Judicial Notice uses a 13 point Times New Roman font and contains 159 words.

Dated: March 20, 2013

KAMALA D. HARRIS
Attorney General of California



JENNIFER A. JADOVITZ
Deputy Attorney General
Attorneys for Respondent

EXHIBIT A

SCOTTY D. HILL
CORONER/PUBLIC ADMINISTRATOR



DARRYL J. GARBER, M.D.
FORENSIC PATHOLOGIST

AUTOPSY PROTOCOL

NAME OF DECEDENT: BAKER, REGINALD FILE NO: 9713289

ANATOMIC SUMMARY

- I. Atherosclerosis, generalized, severe
 - A. Atherosclerosis, coronary arteries with 75% occlusion of the left anterior descending, 90% occlusion of the circumflex and 99% occlusion of the right coronary artery
 1. Status post coronary artery bypass grafts to left anterior descending, left obtuse marginal, circumflex, and right coronary artery (remote)
 - a. Total occlusion of grafts to left anterior descending, left obtuse marginal and circumflex coronary arteries
 - b. Adhesive pericarditis
 2. Cardiomegaly (525 gm)
 3. Left ventricular hypertrophy, heart (2.2 cm)
 4. Status post myocardial infarction, transmural, posterior and posteroseptal left ventricle
 - II. Incised wound to anterior neck
 - A. Circumstances--see Investigator's report
 - III. Toxicology (see separate report)

CONCLUSION: (cause of death)

- A) Suspect cardiac arrhythmia
- B) Atherosclerotic cardiovascular disease

OTHER CONDITIONS: Incised wound to neck

DATE AND TIME OF AUTOPSY: June 24, 1997 @ 4:31 p.m. to 5:25 p.m.

EXTERNAL EXAMINATION:

The body is that of a well-developed, well-nourished, elderly white man which appears to be about the stated age of 71 years old, weighing 230 pounds and measuring 69 inches in height. There is a 60 cm well-healed scar extending from the suprasternal notch of the chest to the pubic symphysis of the abdomen. Purple cyanosis is noted from the tops of the shoulders to the top of the head. There is a 3 x 4 cm healing yellow contusion over the right anterior chest. There are several scars over the left lower extremity ranging in size from 8 to 12 cm. There is a 2 x 3 cm red-brown abrasion over the left shin. There is an incised wound to the anterior neck which will be separately described. The hair is gray. The head is not remarkable. The eyes and ears show no abnormality. The nose and mouth are normal. The neck is normal except for the incised wound which will be separately described. The chest shows no abnormality except for the previously described scars and healing contusions. The extremities show no significant injury. There are no other significant bruises or abrasions over the body.

DESCRIPTION OF INCISED WOUND:

There is a 4 inch transversely oriented incised wound over the mid anterior neck. The wound is centered and shows a jagged inferior margin with asymmetrical teeth marks on the inferior aspect. A blood-soaked cloth is present around the neck circumferentially. There is a 1/8 inch spared area on the right side of the neck on the lateral aspect of the incised wound, and then there is an additional 1/2 inch incised wound on the right side. The large incised wound is 10 inches down from the top of the head and is approximately 1/3 inch deep. The wound is in through the skin, full thickness, into the subcutaneous tissue. No major vessels or underlying structures, however, are injured.

INTERNAL EXAMINATION:

NOTE: All of the organ systems are within normal limits unless otherwise specified.

ORGAN WEIGHTS: See autopsy check list.

The heart is moderately enlarged and weighs 525 grams. Severe fibrous pericarditis is evident with extensive adhesions between the pericardial sac and epicardial surface of the heart. The left ventricle is hypertrophied and measures 2.2 cm in thickness. Transmural fibrosis of the left ventricle is evident with thinning to 0.8 cm of the posterior and posteroseptal left ventricle.

The coronary arteries show a right predominance and the LAD is 75% occluded, the circumflex 90% and RCA 99% with 75% occlusion of the left obtuse marginal branch. Coronary artery bypass grafts to the left

NAME OF DECEDENT: BAKER, REGINALD
PAGE 3

FILE NO: 97I3289

anterior descending, left obtuse marginal, circumflex and right coronary arteries are present and intact. The left obtuse marginal and grafts to the left anterior descending are 100% occluded. The graft to the circumflex artery is 100% occluded with thrombus. The graft to the right coronary artery is patent.

Meticulous examination of the neck reveals intact underlying neck structures without severe injury.

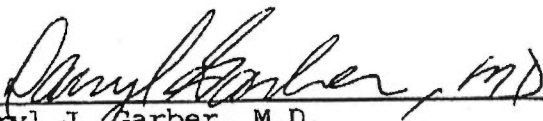
The kidneys show fine and coarse granularity.

TOXICOLOGY: Bile and spleen tissue are submitted for routine toxicology.

PHOTOGRAPHY: Photographs are taken during the autopsy.

WITNESSES: Detective Wolford and I.D. tech Aguilar from the Cathedral City Police Department witnessed the autopsy. Deputy district attorneys Cauley and Carter witnessed the autopsy. Coroner's deputy Sandoval and I.D. Villanueva witnessed the autopsy.

OPINION: On the basis of the autopsy findings, it is evident that this 71-year-old man suffered from severe atherosclerotic cardiovascular disease which resulted in a sudden suspected cardiac arrhythmia which resulted in his demise. In addition, a contributing factor was the incised wound to his neck.


Darryl J. Garber, M.D.
Forensic Pathologist

Date 7/2/97

AUTOPSY CHECK LIST

Name of Decedent: Baker, Reginald File Number: 97I3289

Autopsy Location: W+S Doctor: [Signature]

Date/Time: 6/24/97 @ 4:31 PM - 5:25 PM

EXTERNAL WT HT

- Sclera
- Teeth
- Mouth
- Tongue
- Nose
- Chest
- Breasts
- Abdomen
- Scar
- Genital
- Edema
- Skin
- Decub

HEART WT 525

- Pericard severe adhesions
- Hypert LOH 2.2
- Dilat trans fibrosis to
- Muscle thinning to 0.8cm
- Valves post + precepted LV
- Coronary st dom

AORTA severe atheros

VESSELS

LUNGS WT

- R 475
- L 480
- Adhes
- Fluid
- Atelectasis
- Oedema
- Congest
- Consol
- Bronchi
- Nodes

PHARYNX

TRACHEA

THYROID

THYMUS

NECK

- LA 75
- vic 90
- RCA 99
- L obtuse trans 75%

PERITONEUM

Fluid

Adhes

LIVER WT 14.75

Caps

Lobul

Fibros

GB

Calc

Bile ducts

SPLEEN WT 160

Color

Consists

Malpig

PANCREAS

ADRENALS

KIDNEYS WT

R 110

L 100

Caps

Cortex

Vessels

Pelvis

Ureter

BLADDER no cysts

GENITALIA

Prost

Testes

Uterus

Tubes

Ovar

OESOPHAGUS

STOMACH

DUOB & SM INT

APPENDIX

LARGE INT

ABDOM NODES

SKELETON

Spine

Marrow

BRAIN WT 1310

Dura

Fluid

Ventric

Vessels

Ears

Nasal Sin

PHOTO

YES

NO

TOXICOLOGY

Blood

Bile

Urine

Stomach Content

Liver

Brain

Vitrious

Spleen

Kidney

TISSUE

Tissue Bag

Cassettes

Frozen

BODY X-RAYS

Yes

No

ADDITIONAL COMMENTS:

Witnesses
(CCPD) Det Walford
ID tech Aguirre
DDA's Carley + Carter
Cor Rep Anderson
ID tech Villanueva

1300 cc undig food.
intact (10 nerve injury)
CABG to LAD +
L obtuse margin - 100% occl.
vic graft thrombosed (100% occl.)
RCA graft patent

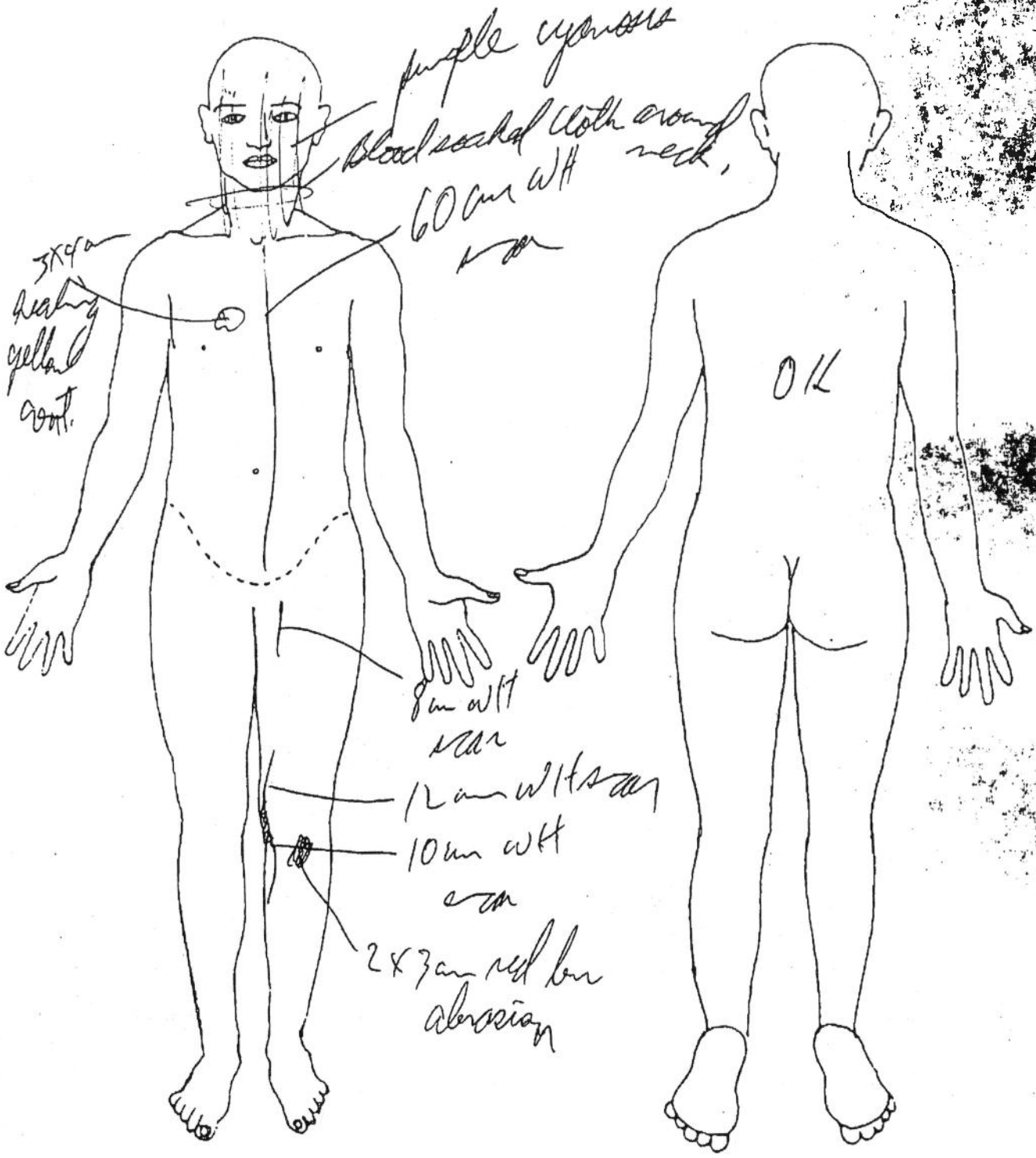


200-24 (Rev. 7/96)

BODY DIAGRAM

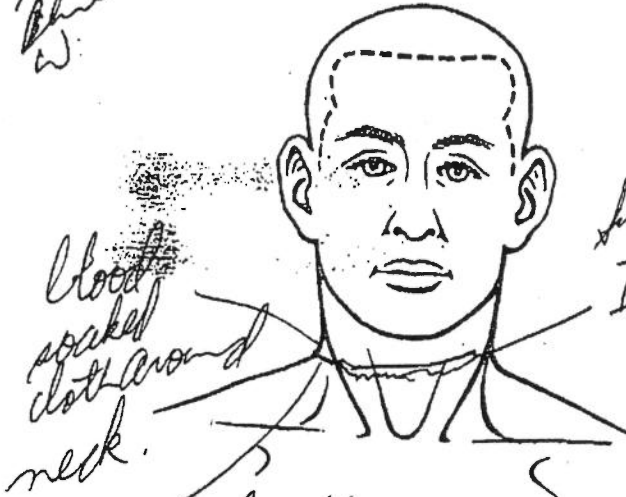
CASE NO. 9713289

NAME Baker

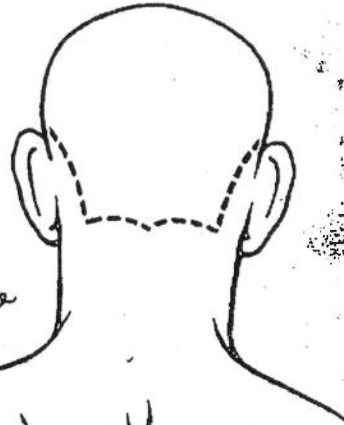


97I3289
Baker

69"
230
grey
blue
w.



superficial
I W
4" transverse
oriented
centered



blood
soaked
cloth around
neck.

1/8" spaced area +
don't 1/2" additon I W
on R side

11
pipped inferior margin 10
asymmetrical teeth marks
10" down from top of head,



~ 1/3" deep
into + thru
subcut.
fat only
No major
vessels or
structures
injured

AUTOPSY NOTES

DECEDENT REGINALD VICTOR BAKER FILE# 97I3289

DATE OF AUTOPSY 6-24-97 START 1631 FINISH 1725

PATHOLOGIST GARBER DEPUTY SANDOZ

CORONER TECH John Caranci PHOTO TECH _____

WITNESSES Jennifer Cauley DA

Dianna Carter DA

Det Carl Wolforde CCPD

Harold Aguilar CCPD (ID)

Michelle Villanueva

SEX M AGE 71 EYES Blk HAIR Grey HEIGHT 69" WEIGHT 230 RACE C

CLOTHING REMOVED BY: AS SCW TIME _____

DESCRIPTION _____

CLOTHING GIVEN TO: CCPD

BRAIN _____ HEART _____ L. LUNG _____ R. LUNG _____

L. KIDNEY _____ R. KIDNEY _____ SPLEEN _____ LIVER _____

BLOOD SAMPLE BY GARBER SITE SPLEEN TIME ~~1653~~ 1653
GREY TOP _____ YELLOW X LAVENDER X BOTTLE X (2) 1654

URINE SAMPLE BY ~~GARBER~~ NONE TIME ~~1704~~

BILE SAMPLE BY GARBER TIME 1704

GASTRIC SAMPLE BY _____ TIME _____

EXAMINATION NOTES

HEAD OPENED BY John Caranci TIME 1643

CHEST OPENED BY Garber TIME 1644

NECK ORGANS REMOVED BY GARBER TIME 1701

COMMENTS: normal

TESTES REMOVED BY _____
COMMENTS: _____

SWABS:

(ORAL) by _____ TIME _____

(VAGINAL) by _____ TIME _____

(ANAL) by _____ TIME _____

(URETHRAL) by _____ TIME _____

EVIDENCE REMOVED:

1. RELEASED TO CCPD HARDUS TIME _____
2. _____ TIME _____
3. _____ TIME _____
4. _____ TIME _____
5. _____ TIME _____

EVIDENCE GIVEN TO: _____

CAUSE OF DEATH Arrhythmia

A) SUSPECT CARDIAC ARRHYTHMIA MINS

B) Artherosclerotic cardiovascular disease YES

C) _____

OSC NONE INCISED WOUND TO NECK
~~ARTHEROSCLEROTIC CARDIOVASCULAR HEART DISEASE~~

FINGERPRINTS _____ (2 SETS) PHOTOS R612 (# OF)

4 inch Superficial laceration
Asymmetrical teeth marks

IDECLARATION OF SERVICE BY OVERNIGHT COURIER

Case Name: **Paul Nathan Henderson**

Case No.: **S098318**

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; my business address is: 110 West A Street, Suite 1100, P.O. Box 85266, San Diego, CA 92186-5266.

On **March 20, 2013**, I served the attached **REQUEST FOR JUDICIAL NOTICE** by placing a true copy thereof enclosed in a sealed envelope with the **FEDEX**, addressed as follows:

Martin H. Dodd, Esq.
Futterman Dupree Dodd Croley Maier LLP
180 Sansome Street, 17th Floor
San Francisco, CA 94104
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Counsel for appellant
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California Appellate Project
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San Francisco, CA 94105-3672
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Riverside County Superior Court
Presiding Judge of Dept. N-3
Indio Larson Justice Center
46-200 Oasis Street
Indio, CA 92591
FED EX Tracking No. 8017 2195 6014

Mary Jameson
Automatic Appeals Unit Supervisor
Supreme Court of the State of California
350 McAllister Street, 1st Floor
San Francisco, CA 94102-3600
FED EX Tracking No. 8017 2195 6003

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 **March 20, 2013**, at San Diego, California.

Claudia Chavez-Estrada

Declarant


Signature