

David H. Schwartz

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LEGAL ASSISTANT

Liana Ighes

SUPREME COURT COPY May 11, 2012

**SUPREME COURT
FILED**

MAY 11 2012

Frederick K. Ohlrich Clerk

Deputy

Frederick K. Ohlrich, Clerk of the Supreme Court
Mary Jameson, Automatic Appeals Supervisor
Supreme Court of California
Earl Warren Building
350 McAllister Street
San Francisco, CA 94102

Re: *People vs. Eric Christopher Houston*
Case No. CR14311 / 3035190

Dear Mr. Ohlrich and Ms. Jameson:

The above-entitled capital case has been placed on the Court's calendar for oral argument at 1:30 p.m. on May 31, 2012. Counsel requests 45 minutes for oral argument.

The oral argument will focus on the following issues raised in Appellant's Opening Brief ("AOB"):

1. The assignments of error raised under Headnote I in the Argument in the AOB, and more specifically,
 - a. Whether the lacunae in the appellate record of the six-plus hours of audio tapes of hostage negotiations and conversations with Defendant Houston during the incident, and of the aural content of the videotaped interrogation of Defendant Houston fatally prejudice Defendant's constitutional right to full appellate review;
 - b. Because the jury was not provided with a settled transcript of what on the tapes was intelligible and what was not intelligible and thus to be ignored, nor instructed accordingly, the jury's verdicts are necessarily based upon speculation and conjecture, not admissible evidence, and the resulting judgments were rendered in violation of Defendant's due process rights;
 - c. Given the numerous transcription errors admitted by Respondent, the trial court committed prejudicial error by not ascertaining that the prosecution transcript of the videotaped interview (Exhibit 89) accurately represented what was said on the videotape before permitting it to be used by the jury in deliberations.

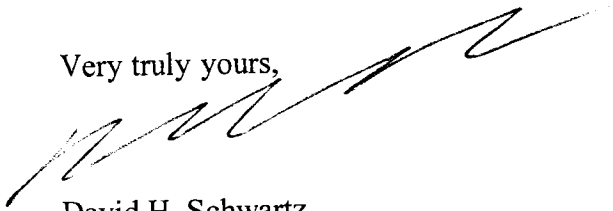
2. The assignments of error raised under Headnote VI in the Argument in the AOB that the evidence was insufficient to support verdicts of first degree murder, as well as the manner in which the absence of a complete record prejudicially interferes with the ability of the Court to resolve that issue on appeal.
3. The assignments of error raised under Headnote VIII in the Argument in the AOB that by stating to the jury his scornful opinion of mental health testimony the trial judge fatally poisoned all three phases of the trial, as well as the manner in which the absence of a complete record prejudicially interferes with the ability of the Court to assess the prejudice flowing from that error at the guilt, sanity, and penalty phases of the trial.

Please note that effective May 15, 2012, my office address will be:

601 California Street
18th Floor
San Francisco, 94108
Tel: 415- 399-9301
Fax: 415-399-9878

A formal notice will be filed with the Court next week.

Very truly yours,



David H. Schwartz

PROOF OF SERVICE BY MAIL

I, Liana Ignes, declare:

I am over the age of eighteen and not a party to this action. My business address is 1 Market Street, Steuart Tower, Suite 1600, San Francisco, California 94105-1407.

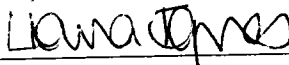
On May 11, 2012, I served the within CORRESPONDENCE TO FREDERICK K. OHLRICH, CLERK OF SUPREME COURT, RE: ORAL ARGUMENT SET FOR MAY 31, 2012, by placing a true copy thereof, enclosed in a sealed envelope with postage thereon fully paid into the United States Mail at San Francisco, California, addressed as follows:

CALIFORNIA APPELLATE PROJECT
101 Second Street, #600
San Francisco, CA 94105

JULIE A. HOKANS, Esq.
Office of the California
Attorney General
1300 "I" Street, #125
P. O. Box 944255
Sacramento, CA 94244-2550

ERIC CHRISTOPHER HOUSTON
CDC # H94300 3EY-8
San Quentin State Prison
San Quentin, CA 94974

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct and that this declaration was executed on May 11, 2012, in San Francisco, California.



Liana Ignes