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## SUPREME COURT COPY

May 8, 2014

Honorable Frank A. McGuire  
Court Administrator and Clerk  
Supreme Court of California  
350 McAllister Street  
San Francisco, California 94102

SUPREME COURT  
FILED

MAY 12 2014

Frank A. McGuire Clerk  
Deputy

RE *People v. David Allen Lucas*  
California Supreme Court Case No.S012279  
Oral Argument Focus Letter

Dear Mr. McGuire:

The above referenced capital case has been calendared for oral argument on May 29, 2014, at 9:00 p.m. in San Francisco. I expect to focus my argument on the following issues:

1. The trial court committed potentially outcome determinative error by instructing the jury that it was defendant's burden, on the basis of his third-party culpability evidence, to raise a reasonable doubt as to defendant's guilt. (AOB pp. 514-524, RB pp. 225-228, ARB pp. 89-90, Appellant's Pre-Argument Supplemental Brief pp. 1-9.)
2. The trial court committed prejudicial error by excluding evidence that third party suspect Johnny Massingale, who testified as a prosecution witness, had a pending \$3,000,000 wrongful prosecution lawsuit against San Diego County. (AOB pp 485-496, RB 207-211, ARB 89-90, Appellant's Pre-Argument Supplemental Brief p. 10.)

Yours very truly,



Thomas Lundy  
Attorney for Appellant  
David Allen Lucas

DEATH PENALTY

**PROOF OF SERVICE**

I DECLARE THAT:

I am a resident of Sonoma County and employed in the County of Sonoma, State of California.

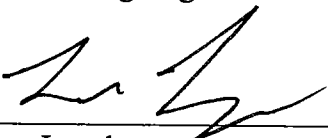
I am over the age of eighteen and not a party to the within action. My business address is: 2777 Yulupa Avenue PMB 179, Santa Rosa, California 95405. On May 8, 2014, I served the within: **Oral Argument Focus Letter** on the interested parties in said cause, by placing a true copy thereof enclosed in a sealed envelope with first class postage thereon, fully prepaid, in the United States mail, at Santa Rosa, California, addressed as follows:

Deputy A.G. William M. Wood  
Attorney General's Office  
P.O. Box 85266  
San Diego, CA 92186-5266

California Appellate Project  
101 Second Street, Suite 600  
San Francisco, CA 94105

David Lucas E-32301  
San Quentin State Prison  
San Quentin California 94964

I declare under penalty of perjury that the foregoing is true and correct and executed on May 8, 2014 at Santa Rosa, California.

  
\_\_\_\_\_  
Tom Lundy