

XAVIER BECERRA
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State of California
DEPARTMENT OF JUSTICE



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April 16, 2018

April Boelk
Automatic Appeals Supervisor
Supreme Court of California
350 McAllister Street
San Francisco, CA 94102

RE: *People v. Christopher A. Spencer*, Case No. S057242

Dear Ms. Boelk:

Oral argument has been scheduled for the afternoon of May 1, 2018. Please advise the Court that counsel for respondent intends to respond to the following two issues from appellant's opening brief and the issue from his supplemental opening brief, as noted by appellant in his letter of April 16, 2018:

I. The trial court erroneously granted the prosecution's challenge under *Witherspoon v. Illinois* and *Wainwright v. Witt*, violating appellant's state and federal constitutional rights to due process, a fair and impartial jury and to be free of cruel and unusual punishments and arbitrary imposition of the death penalty. (U.S. Const., Amends. VI, VII, XIV; Cal. Const., Art. 1, secs. 15, 16, 17).

VI. The trial court's admission of excessive, irrelevant and highly prejudicial victim impact evidence was contrary to California law and violated appellant's constitutional rights.

Appellant's convictions and death sentence must be vacated because of constitutional error in mischaracterizing aggravating evidence and precluding from the jury's consideration, appellant's lesser role in the non-capital robbery.

Respondent will of course be prepared to address any other issues on which the Court has questions.

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Sincerely,

A handwritten signature in blue ink, appearing to read "Arthur P. Beever".

ARTHUR P. BEEVER
Deputy Attorney General

For XAVIER BECERRA
Attorney General

APB:

SF1996XS0004

DECLARATION OF ELECTRONIC SERVICE AND SERVICE BY U.S. MAIL

Case Name: **People v. Christopher A. Spencer**
No.: **S057242**

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 collecting and processing electronic and physical correspondence. 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 with postage thereon fully prepaid that same day in the ordinary course of business. Correspondence that is submitted electronically is transmitted using the TrueFiling electronic filing system. Participants who are registered with TrueFiling will be served electronically. Participants in this case who are not registered with TrueFiling will receive hard copies of said correspondence through the mail via the United States Postal Service or a commercial carrier.

On April 16, 2018, I electronically served the attached **FOCUS LETTER** by transmitting a true copy via this Court's TrueFiling system. Because one or more of the participants in this case have not registered with the Court's TrueFiling system or are unable to receive electronic correspondence, on April 16, 2018, I placed a true copy thereof enclosed in a sealed envelope in the internal mail collection system at the Office of the Attorney General at 455 Golden Gate Avenue, Suite 11000, San Francisco, CA 94102-7004, addressed as follows:

Emry J. Allen
Attorney at Law
5050 Laguna Blvd., Suite 112
PMB336
Elk Grove, CA 95758

emryallen@aol.com

Superior Court of California
County of Santa Clara
Criminal Division - Hall of Justice
Attention: Criminal Clerk's Office
191 North First Street
San Jose, CA 95113-1090

CAP - SF
California Appellate Project (SF)
101 Second Street, Suite 600
San Francisco, CA 94105-3647

The Honorable Jeffrey F. Rosen
District Attorney
Santa Clara County D. A.'s Office
70 W. Hedding Street
San Jose, CA 95110

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 April 16, 2018, at San Francisco, California.

L. Denish
Declarant

/s/ L. Denish
Signature

STATE OF CALIFORNIA
Supreme Court of California

PROOF OF SERVICE

STATE OF CALIFORNIA
Supreme Court of California

Case Name: **PEOPLE v. SPENCER (CHRISTOPHER ALAN)**

Case Number: **S057242**

Lower Court Case Number:

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

4/16/2018

Date

/s/Arthur P. Beever

Signature

Beever, Arthur P. (242040)

Last Name, First Name (PNum)

California Dept of Justice, Office of the Attorney General

Law Firm