

SUPREME COURT COPY

COPY

No. S171393

IN THE SUPREME COURT OF THE STATE OF CALIFORNIA

PEOPLE OF THE STATE OF CALIFORNIA,

Plaintiff and Respondent,

v.

DONTE LAMONT MCDANIEL,

Defendant and Appellant.

Los Angeles Superior Ct.
No. TA074274

**SUPREME COURT
FILED**

AUG 06 2015

Frank A. McGuire Clerk
Deputy

APPELLANT'S OPENING BRIEF

Appeal from the Judgment of the Superior Court
of the State of California for the County of Los Angeles

HONORABLE ROBERT J. PERRY, JUDGE

MICHAEL J. HERSEK
State Public Defender
PETER R. SILTEN
Supervising Deputy State Public Defender
State Bar No. 62784
ELIAS BATCHELDER
Deputy State Public Defender
1111 Broadway, 10th Floor
Oakland, CA 94607
Telephone: (510) 267-3300
Facsimile: (510) 452-8712
silten@ospd.ca.gov

Attorneys for Appellant

DEATH PENALTY

TABLE OF CONTENTS

	<u>Page</u>
APPELLANT’S OPENING BRIEF	1
STATEMENT OF APPEALABILITY	1
STATEMENT OF THE CASE	1
STATEMENT OF FACTS	5
A. The Guilt Phase	5
B. The Penalty Phase	16
1. The Prosecution Case	16
a. The Shooting of Ronnie Chapman	16
b. The Robbery of Javier Guerrero	17
c. Threatening a School Official	18
d. Possession of an Assault Weapon	19
e. Firearm Possession	20
f. Killing of Akkeli Holley	21
g. January 24, 2003, Battery on a Peace Officer	24
h. June 21, 2006, Battery on Peace Officer	26
i. Possession of a Weapon in the County Jail	26
j. Throwing Feces at Another Inmate	27

TABLE OF CONTENTS

	<u>Page</u>
k. Victim Impact	28
2. Defense Case	29
ARGUMENT	42
I. THE PROSECUTOR VIOLATED <i>BATSON</i> AND <i>WHEELER</i> IN HIS PEREMPTORY CHALLENGE OF PROSPECTIVE JUROR NO. 28	42
A. Introduction	42
B. Relevant Facts	44
1. Prospective Juror No. 28	44
2. Procedural History	47
C. Applicable Legal Principles	52
1. Appellant Preserved His Claim of Error with Respect to the Excusal of Prospective Juror No. 28	54
2. This Court Should Give Great Weight to the Direct Evidence of Discrimination by the Prosecution in the Selection of Appellant's Jury and Should Not Defer to the Trial Court's Finding Regarding Prospective Juror No. 28 Where Nothing in the Record Shows it Took its Own Finding of Discrimination into Consideration	57
3. The Impact of a Request for Comparative Analysis of the Relevant Juror in the Trial Court	61

TABLE OF CONTENTS

	<u>Page</u>
a. Comparative Analysis Was Requested in the Trial Court, but the Trial Court Provided No Comparative Analysis in its Decision with Respect to Prospective Juror No. 28	63
b. No Deference Is Owed to the Trial Court in Light of its Failure to Engage in the Requested Comparative Analysis When Accepting the Prosecutor’s Justification for the Exclusion of Prospective Juror No. 28	64
D. Due to the Substantial Evidence Suggestive of Discrimination and Pretext, this Court Should Find That the Prosecutor’s Excusal of Prospective Juror No. 28 Was Impermissibly Motivated by Race	67
1. The Failure to Meaningfully Question Prospective Juror No. 28 Is Evidence of Discrimination	67
a. That the Prosecutor Did Not Question Prospective Juror No. 28 Regarding the “Primary” Motivation for His Excusal Suggests That this Justification Was Merely Pretextual	68
b. The Failure to Question Prospective Juror No. 28 on His Time Concerns	70
c. The Failure to Question Prospective Juror No. 28 Regarding His Education Level	71

TABLE OF CONTENTS

	<u>Page</u>
2. The Prosecutor's Inexplicably Extremely Negative Rating of Prospective Juror No. 28 Provides Further Evidence of Discrimination	74
3. Comparative Analysis Further Substantiates That the Excusal of Prospective Juror No. 28 Was Motivated by Race	74
a. Comparative Juror Analysis Demonstrates That the Prosecutor's Reliance on Prospective Juror No. 28's Questionnaire Response That LWOP Was More Severe than the Death Penalty Was a Pretextual Justification	75
b. The Prosecutor's Subsidiary Justifications Provide More Evidence of Pretext	78
E. Conclusion	83
II. THE TRIAL COURT ERRONEOUSLY DENIED APPELLANT'S MOTION TO SUPPRESS, THEREBY VIOLATING HIS FOURTH AMENDMENT RIGHTS AND REQUIRING REVERSAL OF THE ENTIRE JUDGMENT	85
A. Relevant Facts	86
B. Applicable Law	88
C. Because the Prosecution Presented No Articulate Basis for Appellant's Detention, His Rights under the Fourth Amendment Were Violated	93

TABLE OF CONTENTS

	<u>Page</u>
D. No California Court Has Adopted a Blanket Standard Allowing All Passengers to Be Detained Without a Particularized Showing of Reasonable Suspicion of Illegal Activity or Concrete Evidence of a Need to Protect Officer Safety and this Court Should Not Do So Now	96
E. Unspecified Safety Concerns of Police Officers Do Not Validate Suspicionless Detention of Passengers in a Vehicle	103
F. Appellant Was Prejudiced by the Admission of the Illegally Seized Firearm	106
III. THE TRIAL COURT IMPROPERLY ADMITTED HEARSAY EVIDENCE THAT WAS THE BASIS FOR OTHERWISE IRRELEVANT AND PREJUDICIAL GANG TESTIMONY	114
A. Relevant Facts	115
B. Applicable Legal Principles	117
C. Although Brook's Statement That He Acquired Drugs for Sale Was Inculpatory, His Statement's Regarding Carey's Alleged Involvement and the Manner in Which Brooks Obtained the Drugs from Carey Were Neither Specifically Disserving Nor Otherwise Trustworthy	119
D. The Admission of the Hearsay Statement Was Prejudicial	122
1. Absent the Garner Hearsay, There Is a Reasonable Probability That the Jury Would Not Have Accepted the Prosecutor's Weakly Supported Gang-retaliation Theory	123

TABLE OF CONTENTS

	<u>Page</u>
2. The Gang Enhancements and Gang Evidence, Which Depended on the Improper Garner Hearsay, Had a Broad and Prejudicial Effect	127
IV. BECAUSE THE GUILT AND PENALTY PHASE JURIES IMPROPERLY CONSIDERED HIGHLY INFLAMMATORY GANG ENHANCEMENTS FOR WHICH THERE WAS INSUFFICIENT EVIDENTIARY SUPPORT, REVERSAL OF APPELLANT’S CONVICTION AND SENTENCE IS REQUIRED	131
A. Relevant Facts	133
B. Applicable Law	137
C. There Was No Showing of an Associational Nexus Between the Ace Line Bounty Hunters and the Bounty Hunters Gang	143
D. Reversal Is Required	147
V. THIS COURT SHOULD INDEPENDENTLY REVIEW THE REPORTER’S TRANSCRIPTS OF THE IN CAMERA PROCEEDINGS AND THE UNDERLYING DOCUMENTS REVIEWED DURING THE PROCEEDINGS TO DETERMINE WHETHER THE TRIAL COURT ERRED WHEN IT DENIED APPELLANT’S PITCHESS MOTION	153

TABLE OF CONTENTS

	<u>Page</u>
VI. THE TRIAL COURT ERRED BY ADMITTING EVIDENCE THAT ONE OF THE VICTIMS HAD BEEN STRICKEN BY CANCER AND ALLOWING THE PROSECUTOR TO ARGUE THAT THIS TERRIBLE PLIGHT, WHOLLY UNRELATED TO VICTIM IMPACT EVIDENCE, SHOULD SUPPORT A DEATH SENTENCE FOR APPELLANT	157
A. Introduction	157
B. Relevant Facts	157
C. Applicable Law	160
D. Because Anderson’s Cancer Had No Relevance to the Penalty Phase Proceeding, it Should Have Been Excluded	162
1. The Prosecutor’s Appeal to Cancer as Supporting Victim Vulnerability Was a Red Herring	162
2. Anderson’s Cancer Was Not Relevant to Explain Her Drug Use and the Trial Court’s Ruling Merely Emboldened the Prosecutor’s Improper Argument That Appellant Intended to “Dirty Up” the Victims	163
3. The Prosecutor’s Argument That Anderson’s Life Was More “Precious” Because of Her Illness Did Not Render the Evidence Proper Victim Impact	167
E. Reversal Is Required	168
1. Standard of Review	169

TABLE OF CONTENTS

	<u>Page</u>
2. There Exists a Reasonable Possibility That the Admission of Evidence of the Victim’s Cancer Affected the Outcome of the Trial	169
VIII. THE TRIAL COURT ERRED IN REJECTING APPELLANT’S REQUEST FOR A LINGERING DOUBT INSTRUCTION AT THE PENALTY RETRIAL, AND BY INSTRUCTING THE JURORS THAT THEY HAD TO ACCEPT THE GUILT AND OTHER FINDINGS MADE BY THE PRIOR JURY AND THAT APPELLANT WAS THE ACTUAL SHOOTER OF VICTIM ANNETTE ANDERSON	172
A. The Facts	174
1. Forensic Evidence Supporting Linger- ing Doubt	174
2. Procedural History Relating to Linger- ing Doubt Instruction	175
B. Applicable Law	179
C. Argument	181
1. This Court Should Reconsider its Conclusion That a Linger- ing Doubt Instruction Is Not Required	181
2. Even If a Linger- ing Doubt Instruction Is Not Required in Every Case, it Should Be Mandatory When There Is a Reasonable Likelihood That in the Absence of Such an Instruction, the Jury Will Ignore Evidence of Linger- ing Doubt	186

TABLE OF CONTENTS

	<u>Page</u>
D. The Failure to Provide a Lingering Doubt Instruction Was Prejudicial	191
IX. PENAL CODE SECTION 1042 AND ARTICLE I, SECTION 16 OF THE STATE CONSTITUTION REQUIRE THAT A SENTENCE OF DEATH AND THE AGGRAVATING FACTORS BE PROVEN BEYOND A REASONABLE DOUBT BY A UNANIMOUS JURY	196
A. Introduction	196
B. The State Constitution and Penal Code Section 1042 Require That Issues of Fact must Be Tried by a Jury and Accorded the Protections of Unanimity and Proof Beyond a Reasonable Doubt	199
1. The Jury Right Enshrined in Article I, Section 16 Is Broader than the Corresponding Federal Right and in Criminal Trials Encompasses Resolution of "Issues of Fact" by a Unanimous Jury Beyond a Reasonable Doubt	200
2. Determination of the Penalty Verdict Is an Issue of Fact Protected under Penal Code Section 1042 and Article I, Section 16	203
3. Determination of the Existence of Factually Disputed Aggravating Factors Are Also Issues of Fact under Penal Code Section 1042 and Article I, Section 16, Thereby Requiring Proof Beyond a Reasonable Doubt and Jury Unanimity	209
C. The Reasoning Provided in this Court's Prior Decisions Rejecting Application of the Jury Trial Rights Warrants Reconsideration	211

TABLE OF CONTENTS

	<u>Page</u>
1. This Court’s View That There Is No Requirement of Unanimity or Findings Beyond a Reasonable Doubt Stems Not from Reasoned Analysis but from Uncritical Acceptance of Legal Positions Taken by Defendants Attacking California’s Death Penalty	211
a. This Court Has Held That the Jury Trial Protections Could Be Imputed into the 1977 Statute	211
b. The Holdings under the 1977 Statute Were Applied to the 1978 Briggs Initiative	215
c. Uncritical Application of Prior Cases Resulted in the Jury Right Protections Being Read out of the 1978 Statute	216
2. This Court’s Reasoning for Rejecting the Application of Unanimity and Beyond Reasonable Doubt Burdens to Factually Disputed Aggravating Evidence and the Ultimate Penalty Determination Is Flawed	217
a. Attaching the Label ‘Normative’ Does Not Render Issues of Fact Any less Issues of Fact	218
b. This Court’s Claim That Application of the Reasonable Doubt Standard at Penalty Is Impossible Because the Questions at Issue Are “Not Susceptible to a Burden-of-Proof Quantification” Is Premised on a Fundamental Misunderstanding of Reasonable Doubt	220

TABLE OF CONTENTS

	<u>Page</u>
c. This Court’s Rule That There Is No Requirement of Unanimity for “Foundational Facts” Is Inconsistent with the Rule That Juries must Be Unanimous as to Discrete Criminal Acts	222
D. Failure to Instruct That the Ultimate Penalty Determination must Be Made Beyond a Reasonable Doubt and That Section 190.3, Factor (B) must Be Found Unanimously and Beyond a Reasonable Doubt Requires Reversal	224
X. CALIFORNIA’S DEATH PENALTY STATUTE AND CALJIC INSTRUCTIONS, AS INTERPRETED BY THIS COURT AND APPLIED AT APPELLANT’S TRIAL, VIOLATE THE UNITED STATES CONSTITUTION	228
A. Penal Code Section 190.2 Is Impermissibly Broad	228
B. The Broad Application of Penal Code Section 190.3(a) Violated Appellant’s Constitutional Rights	229
C. California’s Death Penalty Statute and the CALJIC Instructions Given in this Case Failed to Set Forth the Appropriate Burden of Proof and the Requirement of Unanimity	231
1. Appellant’s Death Sentence Is Unconstitutional Because it Was Not Premised on Findings Made Beyond a Reasonable Doubt	231
2. Some Burden of Proof Should Have Been Required, or the Jurors Should Have Been Instructed That There Was No Burden of Proof	233

TABLE OF CONTENTS

	<u>Page</u>
3. Appellant’s Death Verdict Was Not Premised on Unanimous Jury Findings Regarding Aggravating Circumstances	235
D. California’s Death Penalty Statute and the CALJIC Instructions Given in this Case on Mitigating and Aggravating Circumstances Violated Appellant’s Constitutional Rights	236
1. The Instructions Given Failed to Inform the Jurors That the Central Sentencing Determination Is Whether Death Is the Appropriate Penalty	236
2. The Use of Adjectives in the List of Potential Mitigating Circumstances Is Impermissibly Restrictive	237
3. The Instructions Caused the Penalty Determination to Turn on an Impermissibly Vague and Ambiguous Standard	238
4. The Jurors Should Not Have Been Instructed on Inapplicable Sentencing Factors	238
5. The Jurors Should Have Been Instructed That Statutory Mitigating Circumstances Were Relevant Solely as Potential Mitigation	239
6. The Instructions Given Failed to Inform the Jurors That If They Determined That Mitigation Outweighed Aggravation, They Were Required to Return a Sentence of Life Without Possibility of Parole	240

TABLE OF CONTENTS

	<u>Page</u>
7. The Instructions Given Erroneously Precluded The Jurors from Considering Sympathy for Appellant’s Family and Limited Their Consideration of the Impact His Execution Would Have on Them	241
8. The Jurors Should Have Been Instructed on the Presumption That Life Without Possibility of Parole Was the Appropriate Sentence	244
E. Failing to Require the Jurors to Make Written Findings Violated Appellant’s Right to Meaningful Appellate Review	245
F. The Prohibition Against Intercase Proportionality Review Guarantees Arbitrary and Disproportionate Imposition of the Death Penalty	246
G. California’s Capital Sentencing Scheme Violates the Equal Protection Clause	246
H. California’s Imposition of the Death Penalty as a Regular Form of Punishment Falls Short of International Norms	247
XI. REVERSAL IS REQUIRED BASED ON THE CUMULATIVE EFFECT OF ERRORS THAT UNDERMINED THE FUNDAMENTAL FAIRNESS OF THE TRIAL AND THE RELIABILITY OF THE DEATH JUDGMENT	248
CONCLUSION	252

TABLE OF AUTHORITIES

Page(s)

FEDERAL CASES

<i>Andres v. United States</i> (1948) 333 U.S. 740	206
<i>Apodaca v. Oregon</i> (1972) 406 U.S. 404	202
<i>Apprendi v. New Jersey</i> (2000) 530 U.S. 466	passim
<i>Ballew v. Georgia</i> (1978) 435 U.S. 223	235
<i>Batson v. Kentucky</i> (1986) 476 U.S. 79	passim
<i>Blakely v. Washington</i> (2004) 542 U.S. 296	231, 232
<i>Blystone v. Pennsylvania</i> (1990) 494 U.S. 299	237
<i>Boyd v. Newland</i> (9th Cir. 2006) 467 F.3d 1139	53, 61
<i>Boyde v. California</i> (1990) 494 U.S. 370	240
<i>Brendlin v. California</i> (2007) 551 U.S. 249	passim
<i>Brown v. Sanders</i> (2006) 546 U.S. 212	168
<i>Bumper v. North Carolina</i> (1968) 391 U.S. 543	107

TABLE OF AUTHORITIES

	<u>Page(s)</u>
<i>Caldwell v. Mississippi</i> (1985) 472 U.S. 320	250
<i>California v. Hodari D.</i> (1991) 499 U.S. 621	88
<i>Carpenter v. Winn</i> (1911) 221 U.S. 533	201
<i>Carter v. Kentucky</i> (1981) 450 U.S. 288	57, 232
<i>Castaneda v. Partida</i> (1977) 430 U.S. 482	192
<i>Chapman v. California</i> (1967) 386 U.S. 18	passim
<i>Chuang v. University of California Davis</i> (9th Cir. 2000) 225 F.3d 1115	58
<i>Cooper v. Fitzharris</i> (9th Cir. 1978) 586 F.2d 1325	248
<i>Cullen v. Pinholster</i> (2011) ___ U.S. ___, 131 S.Ct. 1388, 1407	244
<i>Cunningham v. California</i> (2007) 549 U.S. 270	231, 232
<i>Dallago v. United States</i> (D.C. Cir. 1969) 427 F.2d 546	111
<i>Debruce v. Commissioner, Alabama Dept. of Corrections</i> (11th Cir. 2014) 758 F.3d 1263	244

TABLE OF AUTHORITIES

	<u>Page(s)</u>
<i>Delo v. Lashley</i> (1993) 507 U.S. 272.	245
<i>Donnelly v. DeChristoforo</i> (1974) 416 U.S. 637	248, 249
<i>Douglas v. California</i> (1963) 372 U.S. 353	191
<i>Dunaway v. New York</i> (1979) 442 U.S. 200	88
<i>Eddings v. Oklahoma</i> (1982) 455 U.S. 104	242
<i>Estelle v. Williams</i> (1976) 425 U.S. 501	244
<i>Evitts v. Lucey</i> (1985) 469 U.S. 387	192
<i>Mills v. Maryland</i> (1988) 486 U.S. 367	237
<i>Florida v. Bostick</i> (1991) 501 U.S. 429	101, 168, 169
<i>Franklin v. Lynaugh</i> (1988) 487 U.S. 164	184, 185
<i>Fry v. Pliler</i> (2007) 551 U.S. 112	112
<i>Furman v. Georgia</i> (1972) 408 U.S. 238	204, 228

TABLE OF AUTHORITIES

	<u>Page(s)</u>
<i>Gibson v. Clanon</i> (9th Cir. 1980) 633 F.2d 851	111
<i>Greer v. Miller</i> (1987) 483 U.S. 756	248
<i>Gregg v. Georgia</i> (1976) 428 U.S. 153	212, 213, 246
<i>Harmelin v. Michigan</i> (1991) 501 U.S. 957	236
<i>Harris v. Hardy</i> (7th Cir. 2012) 680 F.3d 942	59, 60
<i>Harris v. Wood</i> (9th Cir. 1995) 64 F.3d 1432	248
<i>Heyne v. Caruso</i> (9th Cir. 1995) 69 F.3d 1475	58
<i>Hibdon v. United States</i> (6th Cir. 1953) 204 F.2d 834	208
<i>Hicks v. Oklahoma</i> (1980) 447 U.S. 343	233, 240, 243
<i>Hitchcock v. Dugger</i> (1987) 481 U.S. 393	250
<i>Johnson v. California</i> (2005) 545 U.S. 162	57
<i>Johnson v. Mississippi</i> (1988) 486 U.S. 578	168, 174, 238

TABLE OF AUTHORITIES

	<u>Page(s)</u>
<i>Karis v. Calderon</i> (9th Cir. 2002) 283 F.3d 1117	111
<i>Kesser v. Cambra</i> (9th Cir. 2006) 465 F.3d 351	54, 70, 74, 81
<i>Knowles v. Iowa</i> (1998) 525 U.S. 113	104
<i>Lankford v. Idaho</i> (1991) 500 U.S. 110	224
<i>Lockett v. Ohio</i> (1978) 438 U.S. 586	237, 242
<i>Mak v. Blodgett</i> (9th Cir. 1992) 970 F.2d 614	248
<i>Maryland v. Buie</i> (1990) 494 U.S. 325	104, 242
<i>Maryland v. Wilson</i> (1997) 519 U.S. 408	passim
<i>Maynard v. Cartwright</i> (1988) 486 U.S. 356	230, 238
<i>McGahee v. Alab. Dept. Of Corrections</i> (11th Cir. 2009) 560 F.3d 1252	59, 60
<i>McKoy v. North Carolina</i> (1990) 494 U.S. 433	235, 242
<i>Michigan v. Bryant</i> (2011) 562 U.S. 344	115, 116, 122

TABLE OF AUTHORITIES

	<u>Page(s)</u>
<i>Miller-El v. Cockrell</i> (2003) 537 U.S. 322	57
<i>Miller-El v. Dretke</i> (2005) 545 U.S. 231	passim
<i>Monge v. California</i> (1998) 524 U.S. 721	236
<i>Morgan v. Branker</i> (W.D.N.C., July 17, 2012, 1:09-CV-416) 2012 WL 2917841	244
<i>Myers v. Ylst</i> (9th Cir. 1990) 897 F.2d 417	236
<i>Ohio Adult Parole Authority v. Woodard</i> (1998) 523 U.S. 272	192
<i>Oregon v. Guzek</i> (2006) 546 U.S. 517	184, 191
<i>Payne v. Tennessee</i> (1991) 501 U.S. 808	passim
<i>Penry v. Johnson</i> (2001) 532 U.S. 782	173, 191, 192
<i>Purkett v. Elem</i> (1995) 514 U.S. 765	53
<i>Ring v. Arizona</i> (2002) 536 U.S. 584	231, 232, 235
<i>Roper v. Simmons</i> (2005) 543 U.S. 551	247

TABLE OF AUTHORITIES

	<u>Page(s)</u>
<i>Skipper v. South Carolina</i> (1986) 476 U.S. 1	57, 242, 250
<i>Snyder v. Louisiana</i> (2008) 552 U.S. 472	passim
<i>Spaziano v. Florida</i> (1984) 468 U.S. 447	205
<i>Stringer v. Black</i> (1992) 503 U.S. 222	240
<i>Terry v. Ohio</i> (1968) 392 U.S. 1	85, 99, 101
<i>Trop v. Dulles</i> (1958) 356 U.S. 86	247
<i>Tuilaepa v. California</i> (1994) 512 U.S. 967	230
<i>Tyson v. Trigg</i> (7th Cir. 1995) 50 F.3d 436	192
<i>U.S. v. Correa-Ventura</i> (5th Cir. 1993) 6 F.3d 1070	208, 221
<i>U.S. v. Escobar de Bright</i> (9th Cir. 1984) 742 F.2d 1196	193
<i>U.S. v. Brodwin</i> (S.D.N.Y. 2003) 292 F.Supp.2d 484	111
<i>U.S. v. Jenson</i> (5th Cir. 2006) 462 F.3d 399	95

TABLE OF AUTHORITIES

	<u>Page(s)</u>
<i>U.S. v. Mendenhall</i> (1980) 446 U.S. 544	88
<i>U.S. v. Montero-Camargo</i> (9th Cir. 2000) 208 F.3d 1122	103
<i>U.S. v. Ortiz</i> (N.D. Cal. 2014) 54 F.Supp. 3d 1081	95
<i>U.S. v. Stephens</i> (7th Cir. 2008) 514 F.3d 703	59, 60, 102
<i>U.S. v. Wallace</i> (9th Cir. 1988) 848 F.2d 1464	248
<i>Vasquez v. Hillery</i> (1986) 474 U.S. 254	228
<i>Wardius v. Oregon</i> (1973) 412 U.S. 470	241
<i>Woodson v. North Carolina</i> (1976) 428 U.S. 280	185, 235, 236
<i>Zant v. Stephens</i> (1983) 462 U.S. 862	168, 229, 237

STATE CASES

<i>Castle v. State</i> (Alaska Ct.App. 2000) 999 P.2d 169	89
<i>Chambers v. Superior Court</i> (2007) 42 Cal.4th 673	passim
<i>City of Santa Cruz v. Municipal Court</i> (1989) 49 Cal.3d 74	153, 203

TABLE OF AUTHORITIES

	<u>Page(s)</u>
<i>Commonwealth v. Gonsalves</i> (1999) 429 Mass. 658	90
<i>Cuervo v. State</i> (Fla. 2007) 967 So.2d 155	110
<i>Dale v. City Court of City of Merced</i> (1951) 105 Cal.App.2d 602	202, 223
<i>Dennis v. State</i> (1997) 345 Md. 649	90
<i>Floyd v. State</i> (2002) 118 Nev. 156	167
<i>Franchise Tax Board v. Superior Court</i> (2011) 51 Cal.4th 1006	219
<i>Grey v. State</i> (2008) 124 Nev. 110	167
<i>In re Anderson</i> (1968) 69 Cal.2d 613	219
<i>In re Avena</i> (1996) 12 Cal.4th 694	186
<i>In re Javier A.</i> (1984) 159 Cal.App.3d 913	201, 202, 210
<i>In re Jose P.</i> (2003) 106 Cal.App.4th 458	145, 146
<i>In re Marquez</i> (1992) 1 Cal.4th 584	250

TABLE OF AUTHORITIES

	<u>Page(s)</u>
<i>In re Sakarias</i> (2005) 35 Cal.4th 140	185
<i>In re Tony C.</i> (1978) 21 Cal.3d 888	86
<i>In re Wing Y.</i> (1977) 67 Cal.App.3d 69	151
<i>Katzberg v. Regents of University of California</i> (2002) 29 Cal.4th 300	200
<i>Koppikus v. State Capitol Com'rs</i> (1860) 16 Cal. 248	201, 223
<i>Lorenzana v. Superior Court</i> (1973) 9 Cal.3d 626	94
<i>Mitchell v. Superior Court</i> (1989) 49 Cal.3d 1230	200, 203, 218
<i>People v. Abel</i> (2012) 53 Cal.4th 891	168, 169
<i>People v. Albarran</i> (2007) 149 Cal.App.4th 214	passim
<i>People v. Alderrou</i> (1987) 191 Cal.App.3d 1074	156
<i>People v. Aldridge</i> (1984) 35 Cal.3d 473	96
<i>People v. Allen</i> (1986) 42 Cal.3d 1222	216

TABLE OF AUTHORITIES

	<u>Page(s)</u>
<i>People v. Anderson</i> (1987) 191 Cal.App.3d 207	220, 231, 232
<i>People v. Aranda</i> (2012) 55 Cal.4th 342	224
<i>People v. Arias</i> (1996) 13 Cal.4th 92	passim
<i>People v. Ashmus</i> (1991) 54 Cal.3d 932	passim
<i>People v. Avila</i> (2006) 38 Cal.4th 491	237
<i>People v. Bacigalupo</i> (1993) 6 Cal.4th 457	237
<i>People v. Banks</i> (2014) 59 Cal.4th 1113	188, 193
<i>People v. Bemore</i> (2000) 22 Cal.4th 809	243, 244
<i>People v. Berryman</i> (1993) 6 Cal.4th 1048	174, 217
<i>People v. Blair</i> (2005) 36 Cal.4th 686	230, 233
<i>People v. Bower</i> (1979) 24 Cal.3d 638	86, 100, 101
<i>People v. Brady</i> (2010) 50 Cal.4th 547	169

TABLE OF AUTHORITIES

	<u>Page(s)</u>
<i>People v. Bramit</i> (2009) 46 Cal.4th 1221.	168
<i>People v. Breaux</i> (1991) 1 Cal.4th 281	238, 239
<i>People v. Brendlin</i> (2006) 38 Cal.4th 1107	100
<i>People v. Breverman</i> (1998) 19 Cal.4th 142	232, 244
<i>People v. Brown</i> (1988) 46 Cal.3d 432	passim
<i>People v. Bryant</i> (2014) 60 Cal.4th 335	166
<i>People v. Burgener</i> (2003) 29 Cal.4th 833	64
<i>People v. Calvin</i> (2008) 159 Cal.App.4th 1377	66
<i>People v. Campa</i> (1984) 36 Cal.3d 870	117
<i>People v. Cancino</i> (1937) 10 Cal.2d 223	207
<i>People v. Cardenas</i> (1982) 31 Cal.3d 897	111, 151
<i>People v. Carrera</i> (1989) 49 Cal.3d 291	162

TABLE OF AUTHORITIES

	<u>Page(s)</u>
<i>People v. Castellon</i> (1999) 76 Cal.App.4th 1369	passim
<i>People v. Castenada</i> (2000) 23 Cal.4th 743	137
<i>People v. Chism</i> (2014) 58 Cal.4th 1266	83
<i>People v. Clair</i> (1992) 2 Cal.4th 629	162
<i>People v. Collins</i> (1976) 17 Cal.3d 687	203
<i>People v. Cook</i> (2006) 39 Cal.4th 566	165, 239, 246, 247
<i>People v. Cowan</i> (2010) 50 Cal.4th 401	161
<i>People v. Cox</i> (1991) 53 Cal.3d 618	180, 182, 184
<i>People v. Davenport</i> (1985) 41 Cal.3d 247	239
<i>People v. Diaz</i> (2014) 227 Cal.App.4th 362	170
<i>People v. Diaz</i> (2015) 60 Cal.4th 1176	126
<i>People v. Dixon</i> (Colo.App. 2000) 21 P.3d 440	89

TABLE OF AUTHORITIES

	<u>Page(s)</u>
<i>People v. Duarte</i> (2000) 24 Cal.4th 603	117, 118, 122
<i>People v. Duff</i> (2014) 58 Cal.4th 527	217, 218
<i>People v. Duncan</i> (1991) 53 Cal.3d 955	240
<i>People v. Easley</i> (1982) 33 Cal.3d 65	215
<i>People v. Edelbacher</i> (1989) 47 Cal.3d 983	228
<i>People v. Edwards</i> (1991) 54 Cal.3d 787	161, 167, 180, 182
<i>People v. Fairbank</i> (1997) 16 Cal.4th 1223	231
<i>People v. Fauber</i> (1992) 2 Cal.4th 792	245
<i>People v. Fierro</i> (1991) 1 Cal.4th 173	246
<i>People v. Frazier</i> (2001) 89 Cal.App.4th 30	112
<i>People v. Frierson</i> (1991) 53 Cal.3d 730	passim
<i>People v. Fuentes</i> (1991) 54 Cal.3d 707	53, 167

TABLE OF AUTHORITIES

	<u>Page(s)</u>
<i>People v. Garcia</i> (1984) 36 Cal.3d 539	130, 152
<i>People v. Garcia</i> (2008) 168 Cal.App.4th 261	118, 119, 120, 194
<i>People v. Gates</i> (1987) 43 Cal.3d 1168	216
<i>People v. Gay</i> (1940) 37 Cal.App.2d 246	209
<i>People v. Gay</i> (2008) 42 Cal.4th 1195	passim
<i>People v. Ghent</i> (1987) 43 Cal.3d 739	216, 223, 247
<i>People v. Glaser</i> (1995) 11 Cal.4th 354	97
<i>People v. Gonzales</i> (2011) 52 Cal.4th 254	173, 174, 181
<i>People v. Gonzales</i> (2012) 54 Cal.4th 1234	242
<i>People v. Gonzalez</i> (1992) 7 Cal.App.4th 381	passim
<i>People v. Gonzalez</i> (1998) 184 Ill.2d 402	91
<i>People v. Green</i> (1956) 47 Cal.2d 209	206

TABLE OF AUTHORITIES

	<u>Page(s)</u>
<i>People v. Griffin</i> (2004) 33 Cal.4th 536	232
<i>People v. Gurule</i> (2002) 28 Cal.4th 557	185
<i>People v. Guzman</i> (1988) 45 Cal.3d 915	197
<i>People v. Hall</i> (1926) 199 Cal. 451	passim
<i>People v. Hall</i> (1983) 35 Cal.3d 161	passim
<i>People v. Hamilton</i> (1968) 60 Cal.2d 105	250
<i>People v. Hamilton</i> (1989) 48 Cal.3d 1142	239
<i>People v. Hamilton</i> (2009) 45 Cal.4th 863	181, 183, 251
<i>People v. Harris</i> (2005) 37 Cal.4th 310	passim
<i>People v. Harrison</i> (2005) 35 Cal.4th 208	90, 182
<i>People v. Hartsch</i> (2010) 49 Cal.4th 472	180, 183, 186
<i>People v. Hawthorne</i> (1992) 4 Cal.4th 43	231

TABLE OF AUTHORITIES

	<u>Page(s)</u>
<i>People v. Hayes</i> (1990) 52 Cal.3d 577	249
<i>People v. Hernandez</i> (2004) 33 Cal.4th 1040	147
<i>People v. Hill</i> (1998) 17 Cal.4th 800	248
<i>People v. Hillhouse</i> (2002) 27 Cal.4th 469	239
<i>People v. Holt</i> (1984) 37 Cal.3d 436	248
<i>People v. Hovarter</i> (2008) 44 Cal.4th 983	205
<i>People v. Hoyos</i> (2007) 41 Cal.4th 872	97
<i>People v. Huggins</i> (2006) 38 Cal.4th 175	68, 106
<i>People v. Jackson</i> (1980) 28 Cal.3d 264	passim
<i>People v. Jackson</i> (2014) 58 Cal.4th 724	passim
<i>People v. Jennings</i> (1988) 46 Cal.3d 963	216
<i>People v. Johnson</i> (1992) 3 Cal.4th 1183	passim

TABLE OF AUTHORITIES

	<u>Page(s)</u>
<i>People v. Johnson</i> (2003) 30 Cal.4th 1302	57
<i>People v. Jones</i> (2011) 51 Cal.4th 346	64, 181, 191
<i>People v. Kaurish</i> (1990) 52 Cal.3d 648	182
<i>People v. Kelly</i> (1928) 203 Cal. 128	197
<i>People v. Kelley</i> (1980) 113 Cal.App.3d 1005	241
<i>People v. Kelly</i> (2007) 42 Cal.4th 763	161
<i>People v. Kennedy</i> (2005) 36 Cal.4th 595	230
<i>People v. Lawley</i> (2002) 27 Cal.4th 102	118, 119, 120, 121
<i>People v. Leach</i> (1975) 15 Cal.3d 419	118
<i>People v. Lee</i> (1987) 43 Cal.3d 666	130, 152, 194
<i>People v. Lenart</i> (2004) 32 Cal.4th 1107	234
<i>People v. Lenix</i> (2008) 44 Cal.4th 602	passim

TABLE OF AUTHORITIES

	<u>Page(s)</u>
<i>People v. Lewis</i> (2008) 43 Cal.4th 415	68
<i>People v. Lloyd</i> (2015) 236 Cal.App.4th 49	189
<i>People v. Loker</i> (2008) 44 Cal.4th 691	164, 166, 210
<i>People v. Louis</i> (1987) 42 Cal.3d 969	127, 170, 216
<i>People v. Lucas</i> (2014) 60 Cal.4th 153	181
<i>People v. Mai</i> (2013) 57 Cal.4th 986	61, 65, 66, 83
<i>People v. Manibusan</i> (2013) 58 Cal.4th 40	83, 180, 218
<i>People v. Manriquez</i> (2005) 37 Cal.4th 547	247
<i>People v. Mata</i> (2013) 57 Cal.4th 178	passim
<i>People v. Maury</i> (2003) 30 Cal.4th 342	182
<i>People v. McCurdy</i> (2014) 59 Cal.4th 1063	179, 192
<i>People v. McKinzie</i> (2012) 54 Cal.4th 1302	220, 222

TABLE OF AUTHORITIES

	<u>Page(s)</u>
<i>People v. Medina</i> (1995) 11 Cal.4th 694	236
<i>People v. Merriman</i> (2014) 60 Cal.4th 1	130
<i>People v. Mesa</i> (2012) 54 Cal.4th 191	137, 188, 222
<i>People v. Mickle</i> (1991) 54 Cal.3d 140	223
<i>People v. Miranda</i> (1987) 44 Cal.3d 57	216, 222, 223
<i>People v. Montes</i> (2014) 58 Cal.4th 809	130
<i>People v. Mooc</i> (2001) 26 Cal.4th 1216	154
<i>People v. Moore</i> (1954) 43 Cal.2d 517	241
<i>People v. Morris</i> (1991) 53 Cal.3d 152	182
<i>People v. Morse</i> (1964) 60 Cal.2d 631	208, 251
<i>People v. Muhammad</i> (2003) 108 Cal.App.4th 313	57, 60
<i>People v. Musselwhite</i> (1998) 17 Cal.4th 1216	180, 183, 185, 186