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Attorney for Appellant Wheeler

SUPREME COURT
FILED

MAY 26 2004

Frederick K. Ohlrich Clark

SUPREME COURT OF THE STATE OF CALIFORNIA

THE PEOPLE OF THE STATE OF
CALIFORNIA,

Plaintiff and Respondent,

vs.

STANLEY BRYANT, DONALD FRANKLIN

SMITH and LEROY WHEELER

Defendants and Appellants.

No. S049596

**REQUEST FOR
JUDICIAL NOTICE
OF COURT FILES**

TO: THE HONORABLE RONALD GEORGE, CHIEF JUSTICE, AND
TO THE HONORABLE ASSOCIATE JUSTICES OF THE SUPREME
COURT OF THE STATE OF CALIFORNIA

I am attorney for Appellant Wheeler by appointment of this Court.

In the fourteenth argument in Appellant Wheeler's opening brief, it is argued that the cumulative effect of the numerous errors which occurred during the guilt and penalty phases of the trial compels reversal. It is argued that the fact that there were multiple homicides in Appellant's case is not dispositive. Juries frequently reject the ultimate sanction in multi-homicide cases and in cases with horrific facts. To substantiate this point, it is necessary to refer to records of other courts.

Appellant, Leroy Wheeler, through appointed counsel, Conrad Petermann, hereby requests pursuant to Evidence Code sections 452 and 459 that judicial notice be taken of the following:

A. *State v. Pruett*, Circuit Court of Hinds County, Mississippi, case number T0358;

B. *People v. Nguyen*, San Francisco County Superior Court, California, case #156754;

C. *People v. Puente*, Monterey Superior Court, California, case number SS018056A;

D. *People v. Naddi*, San Diego County Superior Court, California, case number CR 76494; and

E. *People v. Tholmer*, Los Angeles County, California, case number A396284.

Evidence Code section 452, subdivision (d) states that judicial notice “may be taken” of “[r]ecords of (1) any court of this state....” Evidence Code section 453 mandates that judicial notice be taken of matters referred to in section 452 “if a party requests it and: ¶ (a) Gives each adverse party sufficient notice of the requests, through the pleadings or otherwise, to enable such adverse party to prepare to meet the request; and ¶ (b) Furnishes the court with sufficient information to enable it to take judicial notice of the matter.

Appellant Wheeler hereby invokes the procedures of section 453 in requesting that judicial notice of the cases above be taken and that these matters be incorporated in the appellate record of this case.

Dated: May 24, 2004

Respectfully Submitted,


Conrad Petermann

CONRAD PETERMANN
323 East Matilija Street
Suite 110, PMB 142
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CASE NUMBER: No. S049596

DECLARATION OF SERVICE

I, undersigned, say: I am a citizen of the United States, a resident of Los Angeles County, over 18 years of age, not a party to this action and with the above business address. On the date executed below, I served the **REQUEST FOR JUDICIAL NOTICE OF COURT FILES** by depositing a copy thereof in a sealed envelope, postage thereon fully prepaid, in the United States Mail at Los Angeles, California. Said copies were addressed as follows:

Department of Justice
Attorney General's Office
300 South Spring Street
Los Angeles, CA 90093-
0579

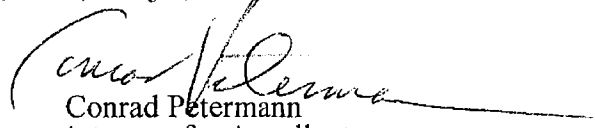
Mr. Leroy Wheeler
J-83401, 2-Eb-81
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San Quentin, CA 94974

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I declare under penalty of perjury that the foregoing is true and correct. Executed on May 24, 2004, at Ojai, California.


Conrad Petermann
Attorney for Appellant