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April 29, 2024

Jorge E. Navarrete  
Clerk and Executive Officer  
Supreme Court of California  
350 McAllister Street  
San Francisco, CA 94102-4797

**CAPITAL CASE**

Re: *People v. Robert Ward Frazier*, S148863  
**Notice of Supplemental Authorities**

Dear Mr. Navarrete:

This case is scheduled for oral argument on Thursday, May 9, 2024, at 1:30 PM. For the Court's consideration, appellant cites the following additional authorities not contained in the briefs on file.

**Argument I from Appellant's Supplemental Opening Brief, filed October 27, 2023, "Appellant Was Denied His Fundamental Sixth Amendment Right to Choose the Objective of the Penalty Phase Defense.":**

*Lewis v. Andes* (9th Cir. 2024) 95 F.4th 1166 (affirming denial of habeas petition asserting ineffective assistance of counsel, the court recognized that it is a "valid approach to mitigation" to limit evidence about the defendant's troubled upbringing and mental health issues and to instead focus the penalty phase defense on lingering doubt and testimony by the defendant's family "asking the jury to spare his life.");

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*Fields v. Jordan* (6th Cir. 2023) 86 F.4th 218 (holding that the state court could reasonably conclude that counsel was not ineffective for compromising with a capital defendant’s desire limit the mitigating evidence at the penalty phase, the court cited *McCoy v. Louisiana* (2018) 584 U.S. 414, to suggest that had counsel presented disputed mitigation evidence over objection, the defendant “may well have argued that [counsel] violated his right to make a major decision,” and further observed that “many lower courts have held that a defendant can voluntarily ‘waive the presentation of mitigating evidence.’ [Citation.]”)

Thank you for bringing this letter to the Court’s attention.

Sincerely,

/s/

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Mark R. Feeser  
Supervising Deputy State  
Public Defender

Attorney for Appellant

**DECLARATION OF SERVICE**

Case Name: ***People v. Robert Ward Frazier***  
Case Number: **Cal. Supreme Ct. No. S148863**  
**Contra Costa County Sup. Ct. No. 5-041700-6**

I, **Christopher Gonzalez**, declare as follows: I am over the age of 18 and not a party to this cause. I am employed in the county where the mailing took place. My business address is 770 L Street, Suite 1000, Sacramento, California 95814. I served a true copy of the following document:

**NOTICE OF SUPPLEMENTAL AUTHORITIES**

By enclosing it in envelopes and placing the envelopes for collection and mailing with the United States Postal Service with postage fully prepaid on the date and at the place shown below, following our ordinary business practices.

The envelope was addressed and mailed on **April 29, 2024**, as follows:

Robert W. Frazier, # F-55038 CSP-SQ San Quentin, CA 94974	Death Penalty Appeals Clerk Contra Costa Superior Court c/o Appeals Division 725 Court Street, Room 103 Martinez, CA 94553
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The following were served the aforementioned document electronically via TrueFiling on **April 29, 2024**:

<p>Office of the Attorney General – SF Victoria B. Ratnikova, Deputy Attorney General 455 Golden Gate Ave., Suite 11000 San Francisco, CA 94102-7004</p> <p><a href="mailto:Victoria.Ratnikova@doj.ca.gov">Victoria.Ratnikova@doj.ca.gov</a> <a href="mailto:SFAG.Docketing@doj.ca.gov">SFAG.Docketing@doj.ca.gov</a></p>	<p>California Appellate Project 425 California Street, Suite 800 San Francisco, CA 94104 <a href="mailto:filing@capsf.org">filing@capsf.org</a></p>
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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. Signed on **April 29, 2024**, at Sacramento County, California.

Christopher  
Gonzalez

 Digitally signed by Christopher  
Gonzalez  
Date: 2024.04.29 13:09:47 -07'00'

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Christopher Gonzalez

STATE OF CALIFORNIA  
Supreme Court of California

**PROOF OF SERVICE**

STATE OF CALIFORNIA  
Supreme Court of California

Case Name: **PEOPLE v. FRAZIER (ROBERT WARD)**

Case Number: **S148863**

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.

4/29/2024

Date

/s/Christopher Gonzalez

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Signature

Feeser, Mark (252968)

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Last Name, First Name (PNum)

Office of the State Public Defender

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Law Firm