

MARK D. GREENBERG
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SUPREME COURT COPY

October 18, 2018

California Supreme Court
San Francisco, CA 94102

ATTN: April Boelk, Automatic Appeals Unit Supervisor

Re: *People v. Westerfield*, S112691; advisement of focus issues, and request for 45 minute allotment

Dear Ms. Boelk,

This case has been calendared for oral argument for November 7, 2018 at 10 a.m. On behalf of appellant, this letter is to advise the Court of the issues I intend to focus on at oral argument. These are identified by the numeration used in appellant's opening brief and by a brief statement of the issues. I will of course be prepared to address any other issue raised in the case as the Court deems it appropriate.

- I. The denial of appellant's Fourth Amendment motion to suppress evidence.
- II. The refusal of the trial court to grant appellant's request for additional peremptory challenges.
- IV. and XXII. The denial of appellant's request to sequester the guilt phase jury, and alternatively, the denial of the request to sequester the penalty jury.
- V. The improper joinder of misdemeanor child pornography counts to the capital charges.

I would also request on behalf of appellant Westerfield an allotment of 45 minutes for argument.

DEATH PENALTY

Please bring this letter to the attention of the Court.

Thank you.

Yours truly,

/s/ Mark D. Greenberg
Attorney for Appellant

PROOF OF SERVICE

The undersigned certifies that he is an active member of the State Bar of California, not a party to the within action, and his business address is 484 Lake Park Avenue, No. 429, Oakland, California; that he served a copy of the following documents:

LETTER DESIGNATING FOCUS ISSUES FOR ORAL ARGUMENT, AND
REQUEST FOR A 45 MINUTE ALLOTMENT FOR ARGUMENT

Though the court's truefiling system to:

CALIFORNIA APPELLATE PROJECT

ATTORNEY GENERAL OF THE STATE OF CALIFORNIA

I declare under penalty of perjury that the foregoing is true and correct and that this declaration was executed on October 18, 2018 at Oakland, California.

/s/ Mark D. Greenberg
Attorney at Law

STATE OF CALIFORNIA
Supreme Court of California

PROOF OF SERVICE

STATE OF CALIFORNIA
Supreme Court of California

Case Name: **PEOPLE v. WESTERFIELD (DAVID
ALAN)**

Case Number: **S112691**

Lower Court Case Number:

1. At the time of service I was at least 18 years of age and not a party to this legal action.
2. My email address used to e-serve: **markdgreen2@comcast.net**
3. I served by email a copy of the following document(s) indicated below:

Title(s) of papers e-served:

Filing Type	Document Title
LETTER	Westerfield focus letter

Service Recipients:

Person Served	Email Address	Type	Date / Time
Attorney General - San Diego Office Robin Urbanski, Deputy Attorney General SDG	robin.urbanski@doj.ca.gov	e-Service	10/18/2018 12:48:47 PM
eService California Appellate Project California Appellate Project 000000	filing@capsf.org	e-Service	10/18/2018 12:48:47 PM
Holly Wilkens Department of Justice, Office of the Attorney General-San Diego 88835	Holly.Wilkens@doj.ca.gov	e-Service	10/18/2018 12:48:47 PM
Mark Greenberg Attorney at Law 99726	markdgreen2@comcast.net	e-Service	10/18/2018 12:48:47 PM
Mark Greenberg Mark D. Greenberg 99726	markdgreen2@comcast.net	e-Service	10/18/2018 12:48:47 PM
Mark Greenberg Attorney at Law 99726	markdgreen2@comcast.net	e-Service	10/18/2018 12:48:47 PM
Robin Urbanski Department of Justice, Office of the Attorney General-San Diego 228485	Robin.Urbanski@doj.ca.gov	e-Service	10/18/2018 12:48:47 PM
San Diego District Attorney Department of Justice, Office of the Attorney General-San Diego	da.appellate@sdcda.org	e-Service	10/18/2018 12:48:47 PM
San Diego Superior Court Department of Justice, Office of the Attorney General-San Diego	Appeals.Central@SDCourt.ca.gov	e-Service	10/18/2018 12:48:47 PM

SDAG Docketing Department of Justice, Office of the Attorney General-San Diego	sdag.docketing@doj.ca.gov	e-Service	10/18/2018 12:48:47 PM
Stephen McGee Department of Justice, Office of the Attorney General-San Diego	Stephen.McGee@doj.ca.gov	e-Service	10/18/2018 12:48:47 PM

This proof of service was automatically created, submitted and signed on my behalf through my agreements with TrueFiling and its contents are true to the best of my information, knowledge, and belief.

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

10/18/2018

Date

/s/Mark Greenberg

Signature

Greenberg, Mark (99726)

Last Name, First Name (PNum)

Mark D. Greenberg

Law Firm

AMENDED PROOF OF SERVICE FOR FOCUS LETTER

The undersigned certifies that he is an active member of the State Bar of California, not a party to the within action, and his business address is 484 Lake Park Avenue, No. 429, Oakland, California; that on October 18, 2018 he served a copy of the following documents:

LETTER DESIGNATING FOCUS ISSUES FOR ORAL ARGUMENT, AND
REQUEST FOR A 45 MINUTE ALLOTMENT FOR ARGUMENT

Though the court's truefiling system to:

CALIFORNIA APPELLATE PROJECT

ATTORNEY GENERAL OF THE STATE OF CALIFORNIA

And that on that same date he served by placing same in a sealed envelope, fully prepaying the postage thereon, and depositing said envelope in the United States mail at Oakland, California on October 18, 2018, addressed as follows:

David Westerfield, T-77622
San Quentin State Prison
San Quentin, CA 94974

I declare under penalty of perjury that the foregoing is true and correct and that this declaration was executed on October 19, 2018 at Oakland, California.

/s/ Mark D. Greenberg
Attorney at Law

STATE OF CALIFORNIA
Supreme Court of California

PROOF OF SERVICE

STATE OF CALIFORNIA
Supreme Court of California

Case Name: **PEOPLE v. WESTERFIELD (DAVID
ALAN)**

Case Number: **S112691**

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2. My email address used to e-serve: **markdgreen2@comcast.net**
3. I served by email a copy of the following document(s) indicated below:

Title(s) of papers e-served:

Filing Type	Document Title
LETTER	Westerfield amended proof of service focus letter

Service Recipients:

Person Served	Email Address	Type	Date / Time
Attorney General - San Diego Office Robin Urbanski, Deputy Attorney General SDG	robin.urbanski@doj.ca.gov	e-Service	10/19/2018 9:33:56 AM
eService California Appellate Project California Appellate Project 000000	filing@capsf.org	e-Service	10/19/2018 9:33:56 AM
Holly Wilkens Department of Justice, Office of the Attorney General-San Diego 88835	Holly.Wilkens@doj.ca.gov	e-Service	10/19/2018 9:33:56 AM
Mark Greenberg Attorney at Law 99726	markdgreen2@comcast.net	e-Service	10/19/2018 9:33:56 AM
Mark Greenberg Mark D. Greenberg 99726	markdgreen2@comcast.net	e-Service	10/19/2018 9:33:56 AM
Mark Greenberg Attorney at Law 99726	markdgreen2@comcast.net	e-Service	10/19/2018 9:33:56 AM
Robin Urbanski Department of Justice, Office of the Attorney General-San Diego 228485	Robin.Urbanski@doj.ca.gov	e-Service	10/19/2018 9:33:56 AM
San Diego District Attorney Department of Justice, Office of the Attorney General-San Diego	da.appellate@sdca.org	e-Service	10/19/2018 9:33:56 AM
San Diego Superior Court Department of Justice, Office of the Attorney General-San Diego	Appeals.Central@SDCourt.ca.gov	e-Service	10/19/2018 9:33:56 AM

SDAG Docketing Department of Justice, Office of the Attorney General-San Diego	sdag.docketing@doj.ca.gov	e-Service	10/19/2018 9:33:56 AM
Stephen McGee Department of Justice, Office of the Attorney General-San Diego	Stephen.McGee@doj.ca.gov	e-Service	10/19/2018 9:33:56 AM

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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.

10/19/2018

Date

/s/Mark Greenberg

Signature

Greenberg, Mark (99726)

Last Name, First Name (PNum)

Mark D. Greenberg

Law Firm