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SUPREME COURT COPY

State of California
DEPARTMENT OF JUSTICE



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January 24, 2017

Jorge E. Navarrete
Clerk of the Supreme Court
Supreme Court of the State of California
350 McAllister Street, Room 1295
San Francisco, CA 94102-4797

RE: *In re Kenneth Earl Gay, On Habeas Corpus*
Supreme Court of the State of California, Case No. S130263

SUPREME COURT
FILED

JAN 25 2017

Jorge Navarrete Clerk

Deputy

Dear Mr. Navarrete:

After conferring with petitioner's counsel, I would like to make the following corrections to Respondent's Reply Brief and Response to Petitioner's Objections, filed September 16, 2016:

1. On page 4, Respondent's Reply Brief states:

Petitioner also told [Gilbert] Gutierrez that petitioner fired the first shot while in the car, the second one when he stepped out and shot twice, and then emptied the gun into the officer who was on the ground, saying, "Here's your identification, motherfucker."

In fact, Gutierrez testified at the 1985 trial that Raynard Cummings, not petitioner, said Cummings had shot Officer Verna. (See 64RT 6948-6959.)

2. On pages 28 and 29, Respondent's Reply Brief states:

Because Shinn had the LAPD investigation ("murder") book, which included the report of Irma's statement, he was aware of Irma's statements, and that Irma's parents did not want her to cooperate with the police investigation.

Please delete the following portion of that sentence: "and that Irma's parents did not want her to cooperate with the police investigation."

DEATH PENALTY

3. On page 38, Respondent's Reply Brief states:

For example, Deputies McCurtain and LaCasella testified during the guilt phase that Cummings bragged about shooting Officer Verna and made statements like, "I put six in him," "He took six of mine," and "Pow, Pow," "First two in the back, pow, pow and then walked up and four more. Pow, pow, pow, pow. That's the way it is done."

Deputy LaCasella testified that he heard Raynard Cummings says that gunshot number six "is the one I put in the motherfucker." (See RT 8612-8633.)

Respectfully submitted,

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Attorneys for Respondent

DECLARATION OF SERVICE

Case Name: **In re Kenneth Earl Gay, On Habeas Corpus** No.: **S130263**

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.

On January 24, 2017, I caused the original and ten (10) copies of the **LETTER** in this case to be delivered to the California Supreme Court at 350 McAllister Street, Room 1295, San Francisco, CA 94102-4797 by Federal Express; Tracking Number 8071 1579 4049.

On January 24, 2017, I served the attached **LETTER** by transmitting a true copy via electronic mail to:

Gary D. Sowards
Jennifer Molayem
Attorneys at Law
docketing@hrcr.ca.gov
(Attorneys for Petitioner)

Hon. Jackie Lacey, District Attorney
John Colello, Assistant Head Deputy
Darren Levine
Renee Rose
Lawrence Morrison
Deputy District Attorneys
(courtesy copy)

On January 24, 2017, I served the attached **LETTER** by placing a true copy thereof enclosed in a sealed envelope in the internal mail collection system at the Office of the Attorney General at 300 South Spring Street, Suite 1702, Los Angeles, CA 90013, addressed as follows:

Sherri R. Carter, Clerk of the Court
Los Angeles County Superior Court
111 N. Hill Street
Los Angeles, CA 90012

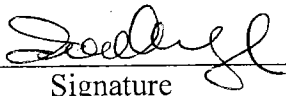
Governor's Office
Attn: Legal Affairs Secretary
State Capitol, First Floor
Sacramento, CA 95814

LaQuincy Stuart, Death Penalty Clerk
Los Angeles County Superior Court
Criminal Appeals Unit
Clara S. Foltz Criminal Justice Center
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Los Angeles, CA 90012

Michael G. Millman
Executive Director
California Appellate Project (SF)
101 Second Street, Suite 600
San Francisco, CA 94105

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 January 24, 2017, at Los Angeles, California.

Irene Rangel
Declarant


Signature