

SUPREME COURT COPY

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In the Supreme Court of the State of California

THE PEOPLE OF THE STATE OF
CALIFORNIA,

Plaintiff and Respondent,

v.

GRAYLAND WINBUSH,

Defendant and Appellant.

Case No. S117489

SUPREME COURT
FILED

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Appellate District, Case No. 128408B
Alameda County Superior Court, Case No. Frank A. McGuire Clerk
The Honorable Jeffrey W. Horner, Judge

 Deputy

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DEATH PENALTY

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INTRODUCTION

Appellant was convicted and sentenced to death for the stabbing and strangulation murder, committed in the course of a robbery, of Erika Beeson on December 22, 1995, ten days after appellant was released from California Youth Authority (CYA). Appellant, with the help of accomplice Norman Patterson, initially set out to rob Beeson's boyfriend, Mario "Bo" Botello, who was Christmas shopping at the time of the murder.

Appellant spent four years at CYA before the murder. Upon his release, he began contacting some of the people he had grown up with in South Berkeley, including Patterson, and Botello's best friend, Maceo Smith. Two days before the murder, Patterson dropped by Botello's apartment to visit and brought appellant with him. When appellant saw Botello's gun, purchased legally, he demanded that Botello "get him a gun" so he could start robbing drug dealers. For the next two days, appellant pestered Botello by telephone, and eventually gave him a deadline of December 22, 1995 to provide him a firearm. Botello did not want to comply. On December 22, 1995, appellant called Botello to say that he and Smith were about to come over to Botello's apartment. Botello left home immediately after telling his girlfriend, Beeson, not to let them enter their apartment. When appellant and Smith arrived, appellant was furious that Botello was gone and Beeson was refusing to let them inside.

Appellant decided to rob Botello later that evening. When Botello's good friend, Smith, refused to help him, appellant turned to Patterson, who, like Smith, would not arouse Botello's suspicion in gaining entry to his apartment. When appellant and Patterson arrived at the apartment, around 8:00 p.m., Beeson was home alone.

Appellant and Patterson robbed and attacked Beeson, severely beating her with the butt of the same shotgun that appellant had admired two days earlier and strangling her with appellant's belt when she began to make