

## Office of the State Public Defender

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May 19, 2021

Mr. Jorge E. Navarrete  
Clerk/Executive Officer  
Supreme Court of California  
350 McAllister Street  
San Francisco, California

Re: *People v. McDaniel*, S171393;  
Argument scheduled for June 2, 2021

### **NOTICE OF SUPPLEMENTAL AUTHORITIES**

Mr. Navarrete,

This case is scheduled for oral argument at 9:00 a.m. on Wednesday, June 2, 2020. For the Court's consideration, appellant cites the following additional authorities, relevant to two of the appellate issues, not contained in the briefs on file.

#### **McDaniel AOB: Claim I, violation of *Batson* and *Wheeler***

*People v. Hardy* (2018) 5 Cal.5th 56, 82 [“that the juror did not want to sit in the case was a legitimate race-neutral reason” but “it was also a rather weak reason. Many prospective jurors do not want to sit on a jury in a death penalty case, including some in this case the prosecutor did not challenge.”]; see also *ibid.* [that juror “said he believed life without the possibility of parole to be a worse punishment than death. . . is another legitimate race-neutral reason to exercise a peremptory challenge” but “might also be considered a weak reason”]

#### **McDaniel 3d Supp. AOB: Violation of Article I, section 16:**

Phillips, *On the Powers and Duties of Juries and on the Criminal Laws of England* (2d ed. 1813) [from chapter “On the Unanimity of Juries”: “In every issue or question to be tried or decided by a Jury, there lies or exists some Truth; . . . So a just verdict necessarily commands the assent of all the Jury.

The moral questions connected with trials do not indeed afford the same species of demonstration as geometry; but unanimity of conclusion in regard to verdicts is a similar test of truth; and is the best test that in such cases can be obtained, or desired”].)

Thank you for your attention.

Very Truly Yours,

/s/

Elias Batchelder

Supervising Deputy State Public Defender

## DECLARATION OF SERVICE

Re: PEOPLE v. DON'TE McDANIEL

Supreme Court No. S171393  
(Superior Court No. TA074274)

I, Kecia Bailey, declare that I am over 18 years of age, and not a party to the within cause; that my business address is 1111 Broadway, 10th Floor, Oakland, California 94607; I served a true copy of the attached:

### NOTICE OF SUPPLEMENTAL AUTHORITIES

on each of the following, by placing same in an envelope with postage prepaid. The envelopes were addressed and mailed on **May 19, 2021** as follows:

Don'te Lamont McDaniel  
#G-53365  
CSP-SQ  
4-EB-19  
San Quentin, CA 94974

Superior Court of Los Angeles County  
Honorable Robert J. Perry  
c/o Capital Appeals Unit  
210 West Temple St., Rm. M-3  
Los Angeles, CA 90012

The following were served the aforementioned document(s) electronically via TrueFiling on **May 19, 2021**:

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San Francisco, CA 94105  
filing@capsf.org

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct. Signed on **May 19, 2021**, at Sacramento, California.

/s/ Kecia Bailey  
KECIA BAILEY

STATE OF CALIFORNIA  
Supreme Court of California**PROOF OF SERVICE**STATE OF CALIFORNIA  
Supreme Court of CaliforniaCase Name: **PEOPLE v. McDANIEL (DON'TE LAMONT)**Case Number: **S171393**

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: **elias.batchelder@ospd.ca.gov**
3. I served by email a copy of the following document(s) indicated below:

Title(s) of papers e-served:

Filing Type	Document Title
ADDITIONAL CITES FOR ORAL ARGUMENT	McDaniel Supplemental Authorities 5.19.2021_FINAL

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California Appellate Project	filing@capsf.org	e-Serve	5/19/2021 3:40:43 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.

5/19/2021

Date

/s/Kecia Bailey

Signature

Batchelder, Elias (253386)

Last Name, First Name (PNum)

Office of the State Public Defender

Law Firm