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SUPREME COURT COPY

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IN THE SUPREME COURT OF THE STATE OF CALIFORNIA

PEOPLE OF THE STATE OF CALIFORNIA,

Plaintiff and Respondent,

v.

ROBERT MAURICE BLOOM,

Defendant and Appellant.

(Los Angeles County
Sup. Ct. No. A801380)

**SUPREME COURT
FILED**

MAY 30 2014

APPELLANT'S REPLY BRIEF

Frank A. McGuire Clerk

Appeal from the Judgment of the Superior Court
of the State of California for the County of Los Angeles

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DEATH PENALTY

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No. S095223

IN THE SUPREME COURT OF THE STATE OF CALIFORNIA

PEOPLE OF THE STATE OF CALIFORNIA,

Plaintiff and Respondent,

v.

ROBERT MAURICE BLOOM,

Defendant and Appellant.

(Los Angeles County
Superior Court
No. A801380)

APPELLANT'S REPLY BRIEF

INTRODUCTION

As shown in the opening brief, the record on appeal contains substantial evidence that appellant suffers from a complex constellation of psychological, psychiatric, developmental, social, and cognitive deficits arising from serious mental illness and moderate-to-severe brain damage. The evidence identifying these deficits, their causes, and the difficulties they caused in appellant's life is compelling in its breadth and its depth based in part on historical records, including psychiatric, educational, and medical records predating the crimes at issue in this case; expert psychiatric opinions based upon evaluations of appellant conducted before the crimes occurred, evaluations conducted contemporaneously with appellant's first trial, and evaluations conducted thereafter, including leading up to the trial at issue here; and consistent neuropsychological testing over two separate courses of testing, showing severe brain impairment and cognitive deficits.

The appellate record includes evidence of specific brain trauma suffered by appellant in utero and/or at age two; an overwhelming consensus of approximately eight mental health experts that appellant was seriously mentally ill and cognitively impaired; appellant's history of responsiveness to antipsychotic medications indicating an underlying psychotic process; and appellant's discontinuation of antipsychotic medication leading up to and throughout the trial proceedings.

The extensive mental health evidence was critical to understanding a number of issues in this case. These included appellant's mental state at the time of the crimes; whether appellant was sane at the time of the commission of each of the homicides; whether he was competent to stand trial, waive his presence, and represent himself at the penalty phase; and the validity of the withdrawal of his pleas of not guilty by reason of insanity (hereafter "NGI") to Counts Two and Three after the jury was unable to return unanimous verdicts on that plea.

The issues revolving around questions of appellant's competence and the rationality of his understanding and decision-making were further affected by critical occurrences during the trial proceedings. These included: first, defense counsel repeatedly warned the trial court that counsel had serious concerns about appellant's competence; second, Dr. Vicary warned that, due to the nature of appellant's impairments, appellant might "snap" under the pressure of trial, affecting the rationality of his thought processes; third, defense counsel eventually had to declare a doubt that appellant was competent, finally representing to the court that appellant's ability to cooperate rationally with counsel, which had always been marginal, had significantly changed around the time appellant was absent from the courtroom during the sanity phase; fourth, the jury was unable to reach unanimous verdicts as to

sanity on Counts Two and Three, with three jurors convinced by a preponderance of evidence that appellant was insane during the commission of the homicides on those two counts; and finally, appellant irrationally withdrew his NGI plea, a decision which defense counsel refused to endorse.

After appellant was allowed to represent himself for the penalty phase, consideration of the evidence of appellant's mental illness, developmental disability, and brain damage continued to be crucial to a reasoned evaluation of appellant's peculiar behavior in preparing for the penalty phase, his bizarre, inappropriate and irrational behavior in representing himself during the penalty phase, and his refusal to cooperate with Dr. Sharma.

Despite the weight of the evidence establishing appellant's multiple mental and cognitive impairments, and their relevance to the capital prosecution, respondent is largely dismissive of the evidence, barely addressing the details of it, mischaracterizing its effect on the jury, and relying instead on the constitutionally flawed 1983 trial and 1984 competence hearing at which none of the relevant evidence was presented due to appellant's former defense counsel's inadequate representation.

In doing so, respondent repeats a number of flawed arguments. Appellant addresses these repeated arguments here, and incorporates this common reply in the relevant arguments as appropriate.

In Argument I.C.1. of respondent's brief, respondent raises a novel argument contending that appellant is due no relief on appeal from errors which resulted in prejudice to the mental health defenses because "appellant specifically repudiated the mental defense in the trial court." (RB 46.)¹ From

¹ As in the opening brief, "CT" refers to the clerk's transcript on appeal, preceded by the volume number. "RT" refers to the reporter's (continued...)