



VICTOR J. MORSE
 Attorney at Law (State Bar # 120916)
 3145 Geary Boulevard, PMB # 232
 San Francisco, California 94118-3316
 Telephone: (415) 387-5828
 Email: victormorse@comcast.net
 Attorney for Petitioner WILLIE SCOGGINS

SUPREME COURT
FILED

JUN 11 2019

Jorge Navarrete Clerk

 Deputy

IN THE SUPREME COURT OF THE STATE OF CALIFORNIA

_____	)	Supreme Court No. S253155
In re)	
	)	Court of Appeal (Third District)
WILLIE SCOGGINS,	)	No. C084358
)	
	)	Sacramento County
	)	Superior Court
On Habeas Corpus,	)	No. 08F04643
_____)	

PETITIONER’S REQUEST FOR JUDICIAL NOTICE

TO: THE HONORABLE TANI CANTIL-SAKAUYE, CHIEF JUSTICE,
 AND THE HONORABLE ASSOCIATE JUSTICES OF THE SUPREME COURT OF THE
 STATE OF CALIFORNIA:

Pursuant to rule 8.252 of the California Rules of Court, and to Evidence Code sections 452 and 459, petitioner, through his counsel, requests this Court to take judicial notice of the records in petitioner’s prior direct appeal in *People v. Scoggins*, No. C068971.

This request for judicial notice is based on the following points and authorities.

DATED: June 10, 2019

Respectfully submitted,

 VICTOR J. MORSE
 Attorney for Petitioner WILLIE SCOGGINS
 Appointed by the Supreme Court

MEMORANDUM OF POINTS AND AUTHORITIES

Rule 8.252 of the California Rules of Court provides the means for judicial notice in a reviewing court. The rule provides in subdivision (a)(2) that the motion must state:

- (A) Why the matter is relevant to the appeal;
- (B) Whether the matter to be noticed was presented to the trial court and, if so, whether judicial notice was taken by that court;
- (C) If judicial notice of the matter was not taken by the trial court, why the matter is subject to judicial notice under Evidence Code section 451, 452, or 453; and
- (D) Whether the matter to be noticed relates to proceedings occurring after the order or judgment that is the subject of the appeal.

(Cal. Rules of Court, rule 8.252(a)(2).)

Petitioner asks this Court to take judicial notice of the records in petitioner's prior direct appeal in *People v. Scoggins*, No. C068971.

This Court may properly take judicial notice of the court records in a related appeal. This Court did so in *Stephenson v. Drever* (1997) 16 Cal.4th 1167, and explained the basis of its action:

Because this appeal is taken from a judgment of dismissal after the sustaining of a demurrer without leave to amend, we draw the operative facts, as did the Court of Appeal, from the complaint and from the record in an appeal [] in a related action between the same parties []. We may take judicial notice of the latter record. (Evid. Code, §§ 452, subd. (d)(1), 459.)

(*Stephenson, supra*, at p. 1170, fn. 1, citations omitted.)

This Court's review in this matter follows an appellate opinion filed on December 17, 2018 in *In re Scoggins* in No. C084358, in which the Court of Appeal discharged an order to show cause and denied petitioner's petition for writ of habeas corpus. The issue in *In re Scoggins* in No. C084358 was whether sufficient evidence was presented

at petitioner's jury trial to prove the felony-murder special circumstance in light of this Court's opinions in *People v. Banks* (2015) 61 Cal.4th 788 and *People v. Clark* (2016) 63 Cal.4th 522, which were decided after petitioner's conviction was final. The Court of Appeal, in footnote 2 at page 5 of its typed opinion in *In re Scoggins* in No. C084358, granted petitioner's request to take judicial notice of the record in his previous appeal in *People v. Scoggins* in No. C068971 so that petitioner could cite to that record in his traverse filed in the Court of Appeal. Throughout its opinion in *In re Scoggins* in No. C084358, the Court of Appeal discussed and relied on trial evidence found in that record. Both petitioner and respondent cited to that record in their pleadings in the Court of Appeal.

The matter to be noticed is relevant to this Court's review of the Court of Appeal's decision in *In re Scoggins* in No. C084358. Petitioner must cite to the record in *People v. Scoggins* in No. C068971 in his briefs, and respondent will need to do the same in its brief. This is so because the issue presented by this case relies on the evidence presented at petitioner's trial, which must be found in the record in petitioner's prior direct appeal in *People v. Scoggins* in No. C068971.

The matter to be noticed sets forth the evidence presented to the jury in the trial court at petitioner's trial. The trial court had no need to take judicial notice of the evidence.

The matter to be noticed may be judicially noticed pursuant to Evidence Code section 452, subdivision (a) which provides that judicial notice may be taken of the records of any court in this state.

The matter to be noticed is based on proceedings in the trial court and Court of Appeal prior to the time petitioner filed his petition for writ of habeas corpus, which resulted in the subsequent proceedings in the Court of Appeal in *In re Scoggins* in No. C084358. This is the case that resulted in the judgment that is presently on review before this Court in this case.

References to portions of the trial testimony and evidence are a necessary part of the argument in this case. Petitioner requests that judicial notice be taken of the record in

People v. Scoggins in No. C068971 so that petitioner may refer to the record in his briefs.

A proposed order is attached.

DATED: June 10, 2019

Respectfully submitted,

VICTOR J. MORSE

Attorney for Petitioner WILLIE SCOGGINS

Appointed by the Supreme Court

IN THE SUPREME COURT OF THE STATE OF CALIFORNIA

_____	)	Supreme Court No. S253155
In re)	
	)	Court of Appeal (Third District)
WILLIE SCOGGINS,	)	No. C084358
)	
	)	Sacramento County
	)	Superior Court
On Habeas Corpus,	)	No. 08F04643
_____)	

[PROPOSED] ORDER

With good cause appearing, petitioner’s request that this Court take judicial notice of the records in petitioner’s prior direct appeal in *People v. Scoggins* in No. C068971 is hereby granted.

Date:

Chief Justice, California Supreme Court

**DECLARATION OF SERVICE BY MAIL
AND ELECTRONIC SERVICE BY TRUEFILING**

In re Willie Scoggins

Case No. S253155

I, VICTOR J. MORSE, declare that I am a citizen of the United States, over 18 years of age, employed in the County of San Francisco, State of California, and not a party to the subject cause. My business address is 3145 Geary Boulevard, PMB # 232, San Francisco, California 94118-3316. I served a true copy of the attached

PETITIONER'S REQUEST FOR JUDICIAL NOTICE

on the following, by placing copies thereof in envelopes addressed as follows:

Mr. Willie Scoggins # AI 2379
California State Prison
- Los Angeles County
P.O. Box 8457
Lancaster, CA 93539

Dennis B. Jones
Superior Court Clerk
720 Ninth Street, Room 101
Sacramento, CA 95814
(Attn.: Judge David De Alba)

Anne Marie Schubert
District Attorney
901 G Street
Sacramento, CA 95814

The envelopes were then, on June 10, 2019, sealed and deposited, in the United States Mail at San Francisco, California, the county in which I am employed, with the postage thereon fully prepaid.

On June 10, 2019, I caused the TrueFiling website to transmit a PDF version of this document by electronic mail to each of the following using the email addresses indicated:

Xavier Becerra, Attorney General
sacawtruefiling@doj.ca.gov

Central California Appellate Program
eservice@capcentral.org

Court of Appeal
Third Appellate District

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct. Executed on June 10, 2019, at San Francisco, California.

VICTOR J. MORSE