

SUPREME COURT COPY

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DEPARTMENT OF JUSTICE



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October 23, 2015

The Honorable Frank A. McGuire
Court Administrator and Clerk of the Court
Supreme Court of California
350 McAllister Street, First Floor
San Francisco, California 94102-4797

SUPREME COURT
FILED

OCT 23 2015

RE: *People v. Masters (Jarvis)*
Supreme Court of the State of California, Case No. S016883

Frank A. McGuire Clerk
Deputy

Dear Mr. McGuire:

The aforementioned case is set for oral argument on the afternoon of November 3, 2015.

We wish to bring to the Court's attention the following cases, which post-date the filing of the briefs in this matter.

People v. Mena (2012) 54 Cal.4th 146, 153-158 [denial of pretrial lineup is reviewable on direct appeal despite defendant's earlier failure to seek review by interlocutory writ] – This opinion negates a procedural bar we asserted in Argument I of respondent's brief.

United States v. Quinn (3d Cir. 2013) 728 F.3d 243,257 [no authority of trial court to grant immunity to defense witness, abrogating *Government of the Virgin Islands v. Smith* (3d Cir. 1980) 615 F.2d 964] – This opinion is relevant to the issue raised in Argument VI, and supports the People's position.

Nevada v. Jackson (2013) __ U.S. __, 133 S.Ct. 1990, 1992 [state evidentiary rulings rarely violate defendant's right to present a defense]; *Holmes v. South Carolina* (2006) 547 U.S. 319, 326 [criticizing South Carolina evidentiary rule that served no legitimate purpose, but reaffirming the constitutionality of evidentiary rules that allow exclusion of evidence if its probative value is outweighed by other considerations]; *People v. Robinson* (2005) 37 Cal.4th 592, 627 fn.17 [noting grant of certiorari in *Holmes* and stating that South Carolina rule does not apply in California] – These opinions are relevant to Arguments IV and VII, and supports the People's position.

DEATH PENALTY

February 22, 2012

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Glossip v. Gross (2015) __ U.S. __, 2732-2733135 S.Ct. 2726 [lethal injection does not violate Eighth Amendment]; *Baze v. Rees* (2008) 553 U.S. 35, 61-62 [same] – These opinions are relevant to the issue raised in Argument XVIII, and support the People’s position.

Sincerely,

A handwritten signature in black ink, appearing to read 'Alice B. Lustre', with a long horizontal flourish extending to the right.

ALICE B. LUSTRE
Deputy Attorney General

For KAMALA D. HARRIS
Attorney General

DECLARATION OF SERVICE BY U.S. MAIL

Case Name: **People v. Masters (Jarvis)**
Supreme Court Case No.: **S016883**

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. I am familiar with the business practice at the Office of the Attorney General for collection and processing of correspondence for mailing with the United States Postal Service. In accordance with that practice, correspondence placed in the internal mail collection system at the Office of the Attorney General is deposited with the United States Postal Service with postage thereon fully prepaid that same day in the ordinary course of business.

On October 23, 2015, I served the attached **Letter to the Honorable Frank A. McGuire** 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 455 Golden Gate Avenue, Suite 11000, San Francisco, CA 94102-7004, addressed as follows:

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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 October 23, 2015, at San Francisco, California.

L. Denish
Declarant



Signature