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October 23, 2020

Mr. Jorge E. Navarrete, Clerk and Executive Officer
Supreme Court of California
350 McAllister Street
San Francisco, CA 94102-3600

Re: People v. Brian David Johnsen, S040704
Argument Scheduled for November 3, 2020
Additional Authorities for Argument

Dear Mr. Navarrete:

This case is calendared for argument on Tuesday, November 3, 2020 at 9:00 a.m. At that argument, I may cite the following authorities, which were not cited in Appellant's opening or reply briefs:

ARGUMENT II:¹ The only case in which this Court has addressed a *Massiah*² claim since the filing of the reply brief is People v. Fayed (2020) 9 Cal. 5th 147, 160-64.

Also regarding Argument II, the Supreme Court of Connecticut has recently decided a *Massiah* case that involves facts very similar to this case, State v. Ashby, No. 18190, 2020 Conn. LEXIS 186, at *5 (Aug. 6, 2020).

¹ II. THE TRIAL COURT COMMITTED REVERSIBLE ERROR AT BOTH THE GUILT AND PENALTY PHASES BY ADMITTING INCRIMINATING STATEMENTS ELICITED FROM APPELLANT BY JAILHOUSE INFORMANT ERIC HOLLAND IN VIOLATION OF APPELLANT'S SIXTH AMENDMENT RIGHT TO COUNSEL.

² Massiah v. United States (1964) 377 U.S. 201.

ARGUMENT VII:³ Regarding Argument VII, this Court found prejudicial jury misconduct in a capital case involving facts similar to this case, People v. Hensley (2014) 59 Cal.4th 788, 818-828, where a juror deliberately solicited guidance from his pastor on the very issues (mercy and death penalty) he was deciding as a juror.

Thank you for bringing this letter to the Court's attention.

Sincerely,

/S/

NEOMA KENWOOD

Attorney for Appellant JOHNSEN

³ VII. REVERSAL OF THE DEATH JUDGMENT IS REQUIRED BECAUSE OF THE TRIAL COURT'S FAILURE TO EXCUSE A JUROR WHO ADMITTEDLY VIOLATED HER OATH AND INSTRUCTIONS BY CONTACTING HER PRIEST AND LEARNING THE CHURCH'S POSITION ON THE DEATH PENALTY, BUT IF NOT, THE COURT'S FAILURE TO CONDUCT AN ADEQUATE INQUIRY INTO SUCH MISCONDUCT REQUIRES REVERSAL.

PEOPLE V. BRIAN DAVID JOHNSEN, Automatic Appeal No.
S040704
Stanislaus County Superior Ct. No. R239682

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STATE OF CALIFORNIA, COUNTY OF SAN FRANCISCO

I declare as follows:

I, NEOMA KENWOOD, am over the age of 18 years and am not a party to the within action. My business address is P.M.B. #414, 1569 Solano Avenue, Berkeley, CA 94707. On October 23, 2020, I served a true and correct copy of the attached

APPELLANT'S ADDITIONAL AUTHORITIES LETTER

on the interested parties or counsel for interested parties named below, by placing a true copy enclosed in a sealed envelope, with postage fully prepaid, in an official depository under the care and control of the United States Postal Service:

BRIAN DAVID JOHNSEN, #J-25500
CSP-SQ
4 EB 98
San Quentin, CA 94974

Also, on October 23, 2020, I served the same document electronically using the TrueFiling electronic filing system as follows:

CALIFORNIA ATTORNEY GENERAL, through TrueFiling:
SacAWTTrueFiling@doj.ca.gov and Kay.Lauterbach@doj.ca.gov

ERIC MULTHAUP, through TrueFiling: mullew@comcast.net

STEVE CRAWFORD, through TrueFiling: slcrawfordlaw@gmail.com

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct and that this declaration was executed on October 23, 2020, at San Francisco, California.

/s/ Neoma Kenwood
NEOMA KENWOOD

STATE OF CALIFORNIA
Supreme Court of California**PROOF OF SERVICE**STATE OF CALIFORNIA
Supreme Court of CaliforniaCase Name: **PEOPLE v. JOHNSEN (BRIAN DAVID)**Case Number: **S040704**

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: **nkenwood@sbcglobal.net**
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I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

10/23/2020

Date

/s/Neoma Kenwood

Signature

Kenwood, Neoma (101805)

Last Name, First Name (PNum)

Law Office of Neoma Kenwood

Law Firm