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**DEPARTMENT OF JUSTICE**



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State Bar No. 258859

February 27, 2018

Jorge E. Navarrete  
Court Administrator and Clerk of the Supreme Court  
Earl Warren Building  
350 McAllister Street  
San Francisco, CA 94102-4797

RE: *People v. Charles E. Case*  
Case No. S057156

Dear Mr. Navarrete:

As a result of further examination of the issues in preparation for oral argument, respondent has reconsidered its position in Argument I, appellant's claim that his statements were admitted in violation of *Miranda v. Arizona* (1966) 384 U.S. 436. It is still respondent's position that appellant's invocation of his right to silence was limited to the robbery/murder at The Office bar. (See RB 59-64.) However, respondent now acknowledges that the police violated this limited invocation by asking appellant the following: "Oh, you were [at The Office bar] with your girlfriend?" (Aug. CT of 11/10/09 "Appendix A" at p. 4, line 8.)

Consequently, appellant's subsequent statements discussing the time he arrived at the bar (Aug. CT of 11/10/09 "Appendix A" at p. 4, lines 8-14; 21RT 7253); seeing coverage of the murder on television (Aug. CT of 11/10/09 "Appendix A" at p. 4, line 28 through p. 5, lines 1-2; 21RT 7252); the times at which he took Sue Burlingame home and returned to the bar (Aug. CT of 11/10/09 "Appendix A" at p. 5, lines 13-18; 21RT 7253); the length of time he stayed at the bar (Aug. CT of 11/10/09 "Appendix A" at p. 5, lines 22-28; 21RT 7254); playing pool at the bar by himself (Aug. CT of 11/10/09 "Appendix A" at p. 7, lines 5-9; 21RT 7254); the "barmaid" announcing she would close the bar at 9:00 p.m. (Aug. CT of 11/10/09 "Appendix A" at p. 7, lines 15-19; 21RT 7254-7255); the vehicle he drove to the bar and the place where he parked that vehicle (Aug. CT of 11/10/09 "Appendix A" at p. 7, lines 23-28 through p. 8, lines 1-6; 21RT 7255); his clothing (Aug. CT of 11/10/09 "Appendix A" at p. 11, lines 14-21; 21RT 7255-7256);

and his shaving injury (Aug. CT of 11/10/09 “Appendix A” at p. 18, lines 24-28 through p. 19 lines 1-11; 21RT 7256-7257) were inadmissible. However, for the reasons set forth in Respondent’s Brief, the error was harmless. (See RB 73-78.)

Sincerely,

/S/ Caely E. Fallini

CAELY E. FALLINI  
Deputy Attorney General  
State Bar No. 258859

For XAVIER BECERRA  
Attorney General

**DECLARATION OF ELECTRONIC SERVICE AND SERVICE BY U.S. MAIL**

Case Name: **People v. Case**  
No.: **S057156**

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 collecting and processing electronic and physical correspondence. 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. Correspondence that is submitted electronically is transmitted using the TrueFiling electronic filing system. Participants who are registered with TrueFiling will be served electronically. Participants in this case who are not registered with TrueFiling will receive hard copies of said correspondence through the mail via the United States Postal Service or a commercial carrier.

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San Francisco, CA 94105-3647

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 February 27, 2018, at Sacramento, California.

*/S/ B.Thalken*

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Signature

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STATE OF CALIFORNIA  
Supreme Court of California

**PROOF OF SERVICE**

STATE OF CALIFORNIA  
Supreme Court of California

Case Name: **PEOPLE v. CASE (CHARLES EDWARD)**  
Case Number: **S057156**  
Lower Court Case Number:

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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.

Date

/s/Caely Fallini

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Signature

Fallini, Caely (258859)

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Last Name, First Name (PNum)

DOJ Sacramento/Fresno AWT Crim

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Law Firm