

COPY SUPREME COURT COPY

IN THE SUPREME COURT OF THE STATE OF CALIFORNIA

_____)	No. S025520	
PEOPLE OF THE STATE OF CALIFORNIA,)		
)	San Diego County Superior	
Plaintiff and Respondent,)	Court No. CR82986	
v.)		
)		
BILLY RAY WALDON,)		SUPREME COURT
ALSO KNOWN AS N.I. SEQUOYAH,)		FILED
)		
Defendant and Appellant.)		AUG 26 2015
_____)		

Frank A. McGuire Clerk

APPELLANT'S REPLY BRIEF Deputy

Automatic Appeal from the Judgment of the Superior Court of the State of California for the County of San Diego

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DEATH PENALTY

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IN THE SUPREME COURT OF THE STATE OF CALIFORNIA

<hr/>)	No. S05520
PEOPLE OF THE STATE OF CALIFORNIA,))	
))	
Plaintiff and Respondent,))	San Diego County
))	Superior
v.))	Court No. CR82086
))	
BILLY RAY WALDON,))	
ALSO KNOWN AS N.I. SEQUOYAH,))	
))	
Defendant and Appellant.))	
<hr/>)	

APPELLANT’S REPLY BRIEF

INTRODUCTION

Appellant Billy Ray Waldon, aka N.I. Sequoyah, hereby submits his Reply to the Respondent’s Brief (hereinafter RB).¹

The trial of this capital case serves up a smorgasbord of error, primarily swirling around issues of Appellant’s competence to stand trial and section 1368 proceedings,² the unusual and complicated aspects of his

¹ In this reply, Appellant addresses some of the specific contentions made by respondent, but does not reply to those arguments by respondent that are addressed adequately in Appellant’s Opening Brief (hereinafter AOB). The failure to address any particular argument, sub-argument or allegation made by respondent, or to reassert any particular point made in the AOB, does not constitute a concession, abandonment or waiver of the point by Appellant (see *People v. Hill* (1992) 3 Cal.4th 959, 995, fn. 3), but rather reflects Appellant’s view that the issue has been presented adequately.

² All statutory citations are to the Penal Code unless otherwise noted.

mental state and delusions as related to his relationship with counsel and his self-representation, and the trial court's unprincipled and inappropriate rulings connected to those issues notwithstanding the trial judge's own recognition that Appellant's chosen defense once he was pro se was irrational and, in the words of the judge, "insane." Rather than addressing the big picture, Respondent's Brief defends seriatim each item on the lengthy list of errors in the AOB, typically contending that each issue was waived/forfeited, did not amount to error, did not cut at the fundamental fairness of Appellant's trial, and did not prejudice Appellant either singly or in combination.

With respect to Appellant's competence trial, Respondent again takes the piecemeal approach and argues that if this Court determines that either structural or prejudicial error occurred, the appropriate remedy is a remand with the guilt and penalty judgments intact, inviting the trial judge to consider making a retrospective determination, 20-plus years after the fact, based solely on the record, as to whether Appellant was competent when tried. The glaring flaw in this suggestion is not only that the evidence bearing on the competence determination was undeveloped, but also that the guilt and death sentence lack a whit of reliability given Appellant's self-representation during trial, including his presentation of the defense and mitigation cases that reached the jury.

The government provides very little discussion of the governing legal precedents. In essence, it is clear from the Respondent's Brief that it cannot see the forest for the trees, and it urges this Court similarly to ignore the woodland thicket of error that is this case, when doing so would be an egregious mistake. The fundamental constitutional principles of due process, the right to a fair trial with the assistance of counsel, and a reliable

penalty trial will not allow this Court to do so. Therefore, the competence, guilt, and penalty judgments must be reversed and the case remanded for a new trial if Appellant now is competent to stand trial.

Given the factual and legal complexity of this case, Appellant's Reply groups the arguments in the AOB around seven focal points: (1) the competence trial (Section A, correlating to AOB pp. 75-290); (2) the trial court's determination that Appellant could represent himself (Section B, correlating to AOB pp. 291-445); (3) errors in the appellate court's rulings, (Section C, AOB pp. 446-502); (4) the trial court's manner of handling Appellant's actions as a self-represented defendant, which included ignoring continuous reminders of Appellant's mental state and neglecting to declare a doubt while labeling Appellant's defense delusional, vesting control in the hands of "Advisory Counsel," abridging Appellant's right to present a defense, and allowing inherently prejudicial courtroom practices (Section D, AOB 533-774); (5) the trial court's allowing a mentally impaired capital defendant to represent himself (Section E, AOB 804-825); (6) the constant changing of trial court judges assigned to the case (Section F, AOB 775-803); and (7) whether the trial court had jurisdiction after the Court of Appeal issued the alternative writ on the competence petition (Supplemental AOB 1-31). No reply will be made with respect to pages 503-532 and 825-841 of the AOB.

* * * * *