

THE LAW OFFICE OF JOHN L. STALEY
12463 RANCHO BERNARDO ROAD, NO. 372
SAN DIEGO, CALIFORNIA, 92128-2143
(858) 335-2713; JohnLStaley@aol.com

CAPITAL CASE

October 24, 2022

Clerk's Office
California Supreme Court
350 McAllister St.
San Francisco, CA 94102-3600

RE: Additional Legal Authority in *People v. Thomas*,
Case No. S161781. Oral argument scheduled for
November 2, 2022

To the Court:

I am counsel for appellant. I am writing to provide additional citations relevant to the issues raised in the briefs.

Issue I; Admission of the Texas Incident.

People v. Jones (2011) 51 Cal.4th 346, 372 [defendant's failure to dispute intent to rob for home invasion robbery did not preclude prosecution from presenting evidence of other robberies; Defendant's assertion that his defense to the two charges was bound to focus upon identity, and not intent, would not eliminate the prosecution's burden to establish both intent and identity beyond a reasonable doubt].)

Issue III. Admission of Texas Murder Conviction to Prove Special Circumstance Allegation Making Appellant Eligible for the Death Penalty.

People v. Carothers (2017) 13 Cal.App.5th 459, 467-470 [record of 1978 Texas murder conviction did not contain all the elements of murder under California law].)

People v. Gallardo (2017) 4 Cal.4th 120, 128-140 [trial court may not engage in fact finding to find that prior conviction was a serious felony for purpose of enhancing the defendant's sentence].

People v. Strike (2020) 45 Cal.App.5th 143, 149-155 [the trial court erred under Gallardo by relying on the charging document to prove that a prior conviction was a strike].)

Issue IV. Robbery was Incidental to Noriega’s Death and did not Qualify as a Special Circumstance Allegation.

People v. Mora and Rangel (2018) 5 Cal.5th 442, 520-521 [conc & dis opn., J. Liu].)

Issue VI. Jury Instruction Failed to Instruct Jury Regarding Provocation.

People v. Rivera (2019) 7 Cal.5th 306, 328 [an instruction on provocation to raise reasonable doubt about premeditation and deliberation is a pinpoint instruction which must be requested by the defendant.

Issue XIII. Denial of Request for Self-Representation.

People v. Johnson (2019) 8 Cal.5th 475, 500-501.

Issue XV. Improper Inquiry into the Numerical Division of the Jury.

People v. Brooks (2017) 3 Cal.5th 1, 92 [rejecting claim the trial court erred by inquiring into the numerical division of the jury].)

Issue XVI. Penalty must be Reversed Because the Trial Court Failed to Instruct the Jury that the Aggravating Factors must Outweigh the Mitigating Factors.

People v. McDaniel (2021) 12 Cal.5th 97, 158- 176 [conc. opn, Liu, J.]

Sincerely,

/S/ John L. Staley

PROOF OF SERVICE

(People v. Thomas, Superior Court Case No. RIF-086792;
Supreme Court No. S161781)

I reside in the County of San Diego, State of California. I am over the age of 18 and not a party to the within action. My business address is 12463 Rancho Bernardo Road, No. 372, San Diego, CA 92128-2143. On October 24, 2022, I serve the foregoing document described as: **APPELLANT’S LETTER REGARDING ADDITIONAL AUTHORITY** on all parties to this action by placing a true copy thereof enclosed in a sealed envelope addressed as follows:

Via Truefiling:

Clerk’s Office
California Supreme Court
350 McAllister St.
San Francisco, CA 94102-3600

Docketing
California Appellate Project
234 California St
No. 1400
San Francisco, CA 9410

Office of the Attorney General
110 West A St.
P.O. Box 85266
San Diego, CA 92186-5266

Via United States Mail, first class postage prepaid:

Justin Thomas, G11032
CSP-SQ
San Quentin, CA 94974

I caused such envelope with postage prepaid to be placed in the United States mail in San Diego, California. Executed on October 24, 2022, in San Diego, California. I declare under penalty of perjury under the laws of the State of California that the above is true and correct.

/S/ John L. Staley

STATE OF CALIFORNIA
Supreme Court of California

PROOF OF SERVICE

STATE OF CALIFORNIA
Supreme Court of California

Case Name: **PEOPLE v. THOMAS (JUSTIN HEATH)**

Case Number: **S161781**

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: **johnlstaley@aol.com**
3. I served by email a copy of the following document(s) indicated below:

Title(s) of papers e-served:

Filing Type	Document Title
LETTER	S161781_ADD AUTHORITY_Thomas

Service Recipients:

Person Served	Email Address	Type	Date / Time
Lidia Hernandez Department of Justice, Office of the Attorney General-San Diego	Lidia.Hernandez@doj.ca.gov	e-Serve	10/24/2022 4:18:56 PM
Joanna Birney DOJ- AG	Joanna.Birney@doj.ca.gov	e-Serve	10/24/2022 4:18:56 PM
John Staley Court Added 129624	johnlstaley@aol.com	e-Serve	10/24/2022 4:18:56 PM
Office Office Of The State Attorney General Court Added	sdag.docketing@doj.ca.gov	e-Serve	10/24/2022 4:18:56 PM
Riverside Riverside Superior Court Court Added	appealsteam@riverside.courts.ca.gov	e-Serve	10/24/2022 4:18:56 PM
Ronald Jakob Deputy District Attorney 131763	ronald.jakob@doj.ca.gov	e-Serve	10/24/2022 4:18:56 PM
Michael Butera Office of the Attorney General 295601	Michael.Butera@doj.ca.gov	e-Serve	10/24/2022 4:18:56 PM
Attorney Attorney General - San Diego Office Holly Wilkens, Supervising Deputy Attorney General 88835	Holly.Wilkens@doj.ca.gov	e-Serve	10/24/2022 4:18:56 PM

This proof of service was automatically created, submitted and signed on my behalf through my agreements with TrueFiling and its contents are true to the best of my information, knowledge, and belief.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

10/24/2022

Date

/s/john staley

Signature

staley, john (129624)

Last Name, First Name (PNum)

John L. Staley, Attorney

Law Firm