

IN THE SUPREME COURT
OF THE STATE OF CALIFORNIA

THE PEOPLE OF THE STATE)	S165998
OF CALIFORNIA,)	
)	Orange County Case No.
Respondent,)	01HF0193
)	
v.)	
)	
NOEL JESSE PLATA)	
AND RONALD TRI TRAN,)	
)	
Appellant.)	
_____)	

APPELLANT’S SUPPLEMENTAL REPLY BRIEF

Appeal From The Judgment Of The Superior Court
Of The State Of California, Orange County

Honorable William R. Froeberg, Judge

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ARGUMENT

I. MR. TRAN JOINS PLATA'S REPLY TO RESPONDENT'S ARGUMENT THAT THERE WAS SUFFICIENT EVIDENCE THAT THE CRIME WAS COMMITTED FOR THE BENEFIT OF, AT THE DIRECTION OF, OR IN ASSOCIATION WITH A "CRIMINAL STREET GANG," AS DEFINED BY SECTION 186.22.

Pursuant to Rule 8.200 of the California Rules of Court, Mr. Tran hereby joins in Argument I of co-appellant Plata's reply brief. (*See* Plata's Appellant's Reply Brief ("PARB") 13-21.) In Argument VIII of his supplemental opening brief, Plata contended that the phrase "criminal street gang" in the first prong of section 186.22, subdivision (b)(1), has a different meaning than the phrase "gang members" in the second prong of section 186.22, subdivision (b)(1). (Plata's Appellant's Supplemental Opening Brief ("PSAOB") 26-31.) Plata further contended that "there was no evidence other than the expert's unsupported generalized conclusions that Mr. Plata or Tran relied on their gang membership and the apparatus of the VFL in committing the robbery and murder of Linda Park." (PSAOB 31-35.)

In Argument I of his supplemental opening brief, Mr. Tran joined Argument VIII of Plata's supplemental opening brief. (Supplemental Opening Brief ("SAOB") 4.) In response to Mr. Tran's supplemental opening brief, respondent "incorporates by reference Argument VII in Respondent's Brief (RB 121-128) and Argument[] XV . . . in Respondent's Supplemental Brief filed on August 31, 2018 (RSB 5-[10])." (Respondent's [Second] Supplemental Brief ("RSSB") 2.) In Argument I of its reply

brief, Mr. Plata responded to all respondent's relevant arguments raised in Respondent's Brief and Respondent's Supplemental Brief. (*See* PARB 13-21.) The facts and law underlying these arguments apply equally to Mr. Tran.

II. MR. TRAN JOINS PLATA’S REPLY TO RESPONDENT’S ARGUMENT THAT THE IMPOSITION OF THE DEATH PENALTY FOR CRIMES COMMITTED BY 20 YEAR OLDS DOES NOT VIOLATE DUE PROCESS AND THE EIGHTH AMENDMENT PROHIBITION AGAINST CRUEL AND UNUSUAL PUNISHMENT.

Pursuant to Rule 8.200 of the California Rules of Court, Mr. Tran hereby joins in Argument XIII of co-appellant Plata’s reply brief. (See PARB 54-70.) In Argument IX of his supplemental opening brief, Plata contended that the imposition of the death penalty for crimes committed by 18 to 20 year olds violates the Eighth Amendment’s prohibition against cruel and unusual punishment, principally relying on *Roper v. Simmons* (2005) 543 U.S. 551. (PSAOB 36-74.) In *Roper*, the United States Supreme Court banned the execution of persons under 18 years old at the time of their crimes. (543 U.S. at pp. 578-579.)

In Argument II of his supplemental opening brief, Mr. Tran joined Argument IX of Plata’s supplemental opening brief. (SAOB 5-6.) In response to Mr. Tran’s supplemental opening brief, respondent “incorporates by reference . . . Argument[] XVI . . . in Respondent’s Supplemental Brief filed on August 31, 2018 (RSB [11]-21).” (RSSB 2.) In Argument XIII of its reply brief, Mr. Plata responded to all respondent’s relevant arguments raised in Respondent’s Supplemental Brief. (See PARB 54-70.) The facts and law underlying these arguments apply equally to Mr. Tran.

CONCLUSION

For all these reasons, and for the reasons stated in Mr. Tran’s opening and reply briefs, and the briefing of his co-appellant in which Mr. Tran joined pursuant to California Rule of Court 8.200, reversal and/or remand is required.

DATED: August 16, 2019

Respectfully submitted,

 /s/ Catherine White
Catherine White
Attorney for Appellant
Ron Tri Tran

CERTIFICATE OF COMPLIANCE

I certify that the accompanying non-redacted brief is double spaced, that a 13-point proportional font was used, and that there are 532 words in the brief.

Dated: August 16, 2019

 /s/ Catherine White
Catherine White

CERTIFICATE OF SERVICE

I, Catherine White, the undersigned, declare as follows:

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I declare under penalty of perjury that the foregoing is true.

Executed on August 16, 2019, in San Diego, California.

/s/ Catherine White

Declarant

STATE OF CALIFORNIA
 Supreme Court of California

PROOF OF SERVICE

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 (RONALD)**

Case Number: **S165998**

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Date

/s/Catherine White

Signature

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