

No. S189373

IN THE SUPREME COURT OF THE STATE OF CALIFORNIA

PEOPLE OF THE STATE OF CALIFORNIA,)	CAPITAL CASE
)	
Plaintiff and Respondent,)	Superior Court
)	No. RIF079858
v.)	
)	AUTOMATIC APPEAL
LESTER HARLAND WILSON,)	
)	
Appellant.)	
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AUTOMATIC APPEAL FROM THE JUDGMENT OF THE
SUPERIOR COURT OF RIVERSIDE COUNTY

THE HONORABLE ELISABETH SICHEL

**APPELLANT'S REQUEST FOR
JUDICIAL NOTICE**

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Under appointment of the
California Supreme Court

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TO THE HONORABLE PATRICIA GUERRERO, CHIEF JUSTICE, AND TO
THE HONORABLE ASSOCIATE JUSTICES OF THE SUPREME COURT OF THE
STATE OF CALIFORNIA:

This is an appeal from a death judgment following a penalty phase retrial.

Under rules 8.252 and 8.366(a) of the California Rules of Court, appellant,
Lester Harland Wilson, respectfully requests that this Court take judicial notice of

the pleadings filed in his prior appeal (S089623) and petition for writ of habeas corpus petition (S152074). (Evid. Code, §§ 452, subd. (d)(1), 453, and 459, subd. (a).)

This request is based on the present moving papers, the supporting memorandum of points and authorities, and the briefs filed in this appeal.

Dated: January 23, 2023

Respectfully submitted,

s/Patrick Morgan Ford
PATRICK MORGAN FORD,
Attorney for Appellant
LESTER HARLAND WILSON

**MEMORANDUM OF POINTS AND AUTHORITIES IN
SUPPORT OF JUDICIAL NOTICE**

Statement of Facts Supporting Judicial Notice

Appellant Lester Wilson was convicted of capital murder and sentenced to death. His death sentence was later reversed by this Court on direct appeal (S089623). While the direct appeal was pending, counsel for appellant filed a petition for writ of habeas corpus claiming, among other things, that trial counsel rendered ineffective assistance at the penalty phase of the trial by failing to investigate or present evidence of appellant's mental impairment at the time of the killing.

The same attorney was appointed for the penalty phase retrial, and counsel again failed to investigate or present evidence of mental impairment, which is standard in the defense case during the penalty phase of capital cases.

Appellant asserts in the present direct appeal that there was a conflict of interest caused by counsel's failure to present mental impairment evidence at the retrial at the same time he was being criticized for not presenting the evidence at his original trial.

He presently seeks judicial notice of the pleadings from the first appeal and habeas corpus proceedings.

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Discussion

Evidence Code section 459, subdivision (a), specifies that a reviewing court shall take judicial notice of each matter properly noticed by the trial court and each matter that the trial court was required to notice under Evidence Code section 451 or 453. It further provides that a reviewing court may take judicial notice of any matter specified in Evidence Code section 452. Section 452, subdivision (d)(1), permits judicial notice of the records of any court of this state.

Judicial notice should be taken of the requested pleadings here as inclusion in the record is necessary to a primary issue raised in the present appeal.

The habeas corpus petition will show that trial counsel was given a thorough outline on how to properly prepare the penalty retrial case. The plan called for a comprehensive social history and extensive neuro-psychological testing. These are the basic components of a defense in all penalty phase trials, and the failure to pursue the mental impairment evidence is relevant to the conflict of interest claim raised in the present appeal.

CONCLUSION

For the foregoing reasons, appellant requests that judicial notice be

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granted.

Dated: January 24, 2023

Respectfully submitted,

s/Patrick Morgan Ford
PATRICK MORGAN FORD,
Attorney for Appellant
LESTER HARLAND WILSON

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

I, Esther F. Rowe, say: I am a citizen of the United States, over 18 years of age, and employed in the County of San Diego, California, in which county the within-mentioned delivery occurred, and not a party to the subject case. My business address is 1901 First Avenue, Suite 400, San Diego, CA 92101. I hereby certify that on January 24, 2023, I mailed or e-served the following document *Appellant's Request for Judicial Notice* as follows:

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P.O. Box 85266
San Diego, CA 92186
sdag.docketing@doj.ca.gov

Riverside Co. Superior Court
4100 Main St.
Riverside, CA 92501

California Appellate Project
345 California St., St. 1400
San Francisco, CA 94104

Lester Harlan Wilson
c/o Patrick Morgan Ford
1901 First Avenue, Ste. 400
San Diego, CA 92101

Executed on January 24, 2023, at San Diego, California.

Esther F. Rowe
Esther F. Rowe

STATE OF CALIFORNIA
Supreme Court of California

PROOF OF SERVICE

STATE OF CALIFORNIA
Supreme Court of California

Case Name: **PEOPLE v. WILSON (LESTER HARLAND)**

Case Number: **S189373**

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: **ljlegal@sbcglobal.net**
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Patrick Ford Attorney at Law 114398	ljlegal@sbcglobal.net	e-Serve	1/24/2023 1:00:20 PM

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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.

1/24/2023

Date

/s/Patrick Ford

Signature

Ford, Patrick (114398)

Last Name, First Name (PNum)

Law Office of Patrick Morgan Ford

Law Firm