

LAW OFFICE OF CLIFF GARDNER

1448 SAN PABLO AVENUE • BERKELEY, CA • 94702

PHONE: 510-524-1093 • FAX: 510-527-5812

Website: CliffGardner.com

September 19, 2017

**SUPREME COURT COPY**

Mr. Jorge E. Navarrete  
California Supreme Court  
350 McAllister St.  
San Francisco, CA 94102


Re: Supplemental Authorities in *People v. Rices*, S175851

Dear Mr. Navarrete:

I represent appellant in the above-captioned case currently set for argument on October 2, 2017. In Argument I of the opening brief, I contended the trial court erred in refusing to discharge for cause two jurors who said blacks and Hispanics were "more likely to be violent" than whites. Pursuant to Rule of Court 8.254 (a)-(c), I am writing to bring to the Court's attention two cases decided after briefing:

- 1) *Buck v. Davis* (2017) \_\_\_ U.S. \_\_\_, 137 S.Ct. 759, 775 (defense counsel representing black capital defendant presents penalty phase evidence that blacks are more prone to violence; held, counsel was ineffective for presenting such evidence and "[i]t would be patently unconstitutional for a state to argue that a defendant is liable to be a future danger because of his race.")
- 2) *Pena-Rodriguez v. Colorado* (2017) \_\_\_ U.S. \_\_\_, 137 S.Ct. 855, 869 (Mexican defendant convicted of sex crime provides juror declarations showing one juror said "I think he did it because he's Mexican," state court refused to consider the declarations based on state "no-impeachment" rule precluding inquiry into juror deliberations; held, the no-impeachment rule must fall "where a juror makes a clear statement that indicates he or she relied on racial stereotypes or animus to convict a criminal defendant . . . .")

Respectfully submitted,



Cliff Gardner  
Attorney for Appellant

**DEATH PENALTY**

CERTIFICATE OF SERVICE

I, the undersigned, declare as follows:

I am a citizen of the United States, over the age of 18 years and not a party to the within action. My business address is 1448 San Pablo Avenue, Berkeley, California 94702.

On September 19, 2017, I served the within

**LETTER OF SEPTEMBER 19, 2017, *PEOPLE V. RICES*, S175851**

upon the parties named below by depositing a true copy in a United States mailbox in Berkeley, California, in a sealed envelope, postage prepaid, and addressed as follows:

Jean Pierre Rices  
P-98772  
San Quentin State Prison  
San Quentin, California 94974

Alana Cohen Butler, Deputy Attorney General  
Office of the Attorney General  
P.O. Box 85266  
San Diego, California 92186-5266

California Appellate Project  
101 2<sup>nd</sup> Street  
San Francisco, California 94105

Hon. Lantz Lewis  
San Diego Superior Court  
250 E. Main Street  
El Cajon, California 92020

Office of the District Attorney  
250 E. Main Street  
El Cajon, California 92020

I declare under penalty of perjury that the foregoing is true. Executed on September 19, 2017, in Berkeley, California.

  
\_\_\_\_\_  
Declarant