

Pursuant to Ninth Circuit Rule 32-2, Petitioner Armenia Levi Cudjo hereby moves to file a brief in excess of the 21,000-word and 75-page limitations for an appellant's opening brief in a capital case. Petitioner respectfully requests leave to file a brief containing approximately 27,259 words and 123 pages. A copy of the opening brief has been filed concurrently. The reasons for the requests are set forth in the attached declaration of Deputy Federal Public Defender John Littrell.

Respectfully submitted,

SEAN K. KENNEDY
Federal Public Defender

DATED: November 20, 2009 By /s/ John Littrell
JOHN L. LITTRELL
Deputy Federal Public Defender

Attorneys for Petitioner-Appellant
ARMENIA LEVI CUDJO

DECLARATION OF JOHN LITTRELL

I, John Littrell, hereby state and declare as follows:

1. I am a Deputy Federal Public Defender in the Central District of California. I am licensed to practice law in the State of California and I am admitted to practice in this Court. I represent Armenia Levi Cudjo in his capital habeas appeal. Three attorneys from my office – myself, Supervising Deputy Federal Public Defender Mark Drozdowski, and Deputy Federal Public Defender Katherine Black, are responsible for drafting and filing Mr. Cudjo’s opening brief.

2. I submit this application to file an oversize brief in excess of the 21,000-word and 75-page limits for opening briefs in capital cases. I am filing the brief concurrent with this request. The brief contains approximately 27,259 words. and spans approximately 123 pages.

3. In order to present the issues in this appeal concisely, my colleagues and I extensively edited the brief in order to eliminate unnecessary verbiage. We have briefed only the claims that we strongly believe to have merit. We have succeeded in cutting the length of our brief by over 20 percent. I am aware that this Court’s word and page limitations are imposed for good reason.

4. Nonetheless, given the number of meritorious issues that warrant review by this Court, and the complexity of those issues, I believe that it is necessary to submit a brief that exceeds the page limitation set by Ninth Circuit Rule 32-4. The California Supreme Court found numerous errors in Petitioner’s trial, and the district court agreed that Petitioner’s constitutional rights were violated in a number of respects. The district court’s order denying habeas relief spans 192 pages. Much of the district court’s analysis turned on whether Petitioner has shown prejudice.

5. The sheer number of serious constitutional claims presented in this appeal required a significant number of words. But in order to address the impact of those violations and the reasons this Court should grant relief, it was necessary to delve into detail regarding the inculpatory and exculpatory evidence presented at trial and establish why the facts of this case meet the varied standards of prejudice attendant to each of Petitioner's claims. In particular, because Petitioner claims that he was prejudiced by the fact that no mitigation evidence whatsoever was presented at the penalty phase of his trial, it was necessary to describe the extensive mitigating evidence that could have been presented at the penalty phase, but was not.

6. For the foregoing reasons, I believe that exceeding the page limitation set by this Court is necessary to effectively represent Petitioner and present meritorious claims to this Court. I therefore respectfully request that the Court permit me to file a brief that exceeds the page limitation.

7. On November 20, 2009, I spoke with Respondent's counsel, Deputy Attorney General Bill Bilderback, regarding this request. Mr. Bilderback indicated that he had no objection to my request to exceed the page limitation.

I declare under penalty of perjury that the foregoing is true and correct to the best of my knowledge.

DATED: November 20, 2009

/s/ John Littrell
JOHN LITTRELL
Deputy Federal Public Defender

CERTIFICATE OF SERVICE

I hereby certify that on November 20, 2009, I electronically filed the foregoing with the Clerk of the Court for the United States Court of Appeals for the Ninth Circuit by using the appellate CM/ECF system.

Participants in the case who are registered CM/ECF users will be served by the appellate CM/ECF system.

I further certify that some of the participants in the case are not registered CM/ECF users. I have mailed the foregoing document by First-Class Mail, postage prepared, or have dispatched it to a third party commercial carrier for delivery within 3 calendar days to the following non-CM/ECF participants:

Diana Elliott
Diana Elliott