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Attorney for Appellant Jeffery Lee Hronis

SUPREME COURT OF THE STATE OF CALIFORNIA

APPLICATION FOR FORTY-FIVE
MINUTE ORAL ARGUMENT ON
BEHALF OF APPELLANT
HRONIS, FOR DIVISION OF TIME
BETWEEN TWO COUNSEL, AS
PROVIDED BY RULE 8.524 (f)(1),
(f)(2), AND 8.638 (b)(2), AND FOR
GUIDANCE ON HOW TO ORALLY
ARGUE A CLAIM THAT WAS
FILED UNDER SEAL

I, Mark E. Cutler, hereby declare under penalty of perjury:
I am an attorney and a member of the State Bar of California. I am
the attorney that has been appointed to represent Jeffery Lee Hronis on

his automatic appeal from a judgment of death imposed by the Sacramento County Superior Court. In view of the complexity of the issue (with multiple sub-issues) I plan to cover during oral argument, I believe at least forty-five minutes is required to effectively present oral argument, now scheduled for January 7, 2026.

Rule 8.524 implies that co-appellants are necessarily a single “side”. I believe this is fundamentally unfair and irrational, under the circumstances of the present case. This was an unusually complex case, with a record on appeal that is one of the longest (if not the longest) of any California capital case. (139,227-page record on appeal filed June 30, 2014.) A 598-page opening brief was filed by appellant Hronis, and an additional 420-page opening brief was filed by appellant Bertsch. Respondent’s brief was 565 pages long.

Many of the claims raised by each appellant are not applicable to the other appellant. Due to this lack of overlap, I believe fundamental fairness requires that each appellant be considered as separate sides. In particular, the issue on which I intend to focus at oral argument (Claim V from the opening brief) is 106 pages long in the opening brief and has no application whatsoever to appellant Bertsch. That claim has dozens of sub-parts and a complex factual background. It cannot be argued effectively in only 22.5 minutes (including rebuttal). Most capital appeals involve only one appellant, who may have a full 45 minutes for oral argument even when the case or claim being argued is far less complex (or 30 minutes for even the simplest claim). Therefore, it would violate the federal constitutional guaranty of equal protection under the law to allow

only 22.5 minutes on behalf of appellant Hronis, only because he happens to be one of the few with a co-appellant. The happenstance of a co-appellant has no rational connection to the time needed to effectively present oral argument, at least under the present circumstances.

For these reasons, I apply for treatment of the two appellants as two separate sides and allowance of a full 45 minutes of oral argument time on behalf of appellant Hronis, while still allowing appellant Bertsch whatever time is deemed appropriate on his behalf.

In the event that request is denied, the same reasons set forth above at least justify a conclusion that 45 minutes be allowed to appellants, rather than 30 minutes. (Rule 8.638 (b)(2).) Also, the reasons set forth above support the conclusion that the case requires permission for two counsel to argue – one on behalf of appellant Hronis and one on behalf of appellant Bertsch. (Rule 8.524 (f)(1) and (2); Rule 8.638 (b)(3).) In the event the two appellants are restricted to a total of 45 minutes, I (reluctantly and under protest) apply for permission to allow each appellant 22.5 minutes.

Finally, the claim I intend to orally argue – Claim V from the opening brief on behalf of appellant Hronis – was filed under seal on December 1, 2016, pursuant to this Court’s order dated November 16, 2016. I do not believe I can effectively argue this important claim without making direct reference to sealed matters, and to portions of that record that were sealed by the trial court. If the Court would permit a closed courtroom for my oral argument, and any argument pertaining to Claim V

by Respondent, that could resolve the problem. If that is not permitted, I seek guidance to any other solution the Court would permit.

WHEREFORE, I apply for treatment of the two co—appellants as separate “sides”, and for allowance of a full 45 minutes of oral argument time on behalf of appellant Hronis. In the event that is denied, I apply for the 45 minutes of oral argument permitted to appellants in capital cases (Rule 8.638 (b)(2)) and for that time to be divided equally between the counsel for the two co-appellants. I also apply for a closed courtroom or for any alternative solution for orally arguing a claim that has been filed under seal.

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

Executed this 20th day of December 2026, at Lincoln, California.

/s/ Mark E. Cutler
Mark E. Cutler

P. O. Box 501
Lincoln, California 95648
Telephone: (530) 530-305-5575

Attorney for Appellant Jeffery Lee Hronis

DECLARATION OF SERVICE BY MAIL

I, Mark E. Cutler, 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 place of employment and business address is P.O. Box 501, Lincoln, CA 95648-0501.

On December 20, 2025 I served the attached

**APPLICATION FOR FORTY-FIVE MINUTE ORAL ARGUMENT ON
BEHALF OF APPELLANT HRONIS, FOR DIVISION OF TIME
BETWEEN TWO COUNSEL, AS PROVIDED BY RULE 8.524 (f)(1), (f)(2),
AND 8.638 (b)(2), AND FOR GUIDANCE ON HOW TO ORALLY ARGUE
A CLAIM THAT WAS FILED UNDER SEAL**

by placing a true copy thereof in an envelope addressed to the persons named below at the addresses shown, and by sealing and depositing said envelope in the United States Mail at Lincoln, California, with postage thereon fully prepaid. There is delivery service by United States Mail at each of the places so addressed, or there is regular communication

Jeffery Hronis, T-03475
CHCF-Stockton
P.O. Box 213040,
Stockton, CA 95213

The following were served electronically (TrueFiling)

Attorney General - Sacramento Office
P.O. Box 944255
Sacramento, CA 94244-2550

California Appellate Project
425 California Street, Suite 800
San Francisco, CA 94104

Alex Coolman
Attorney-at-law
3268 Governor Dr., #390
San Diego, CA 92122-2902

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

Executed this 20th day of December 2025, at Lincoln, California.

/s/ _____
Mark E. Cutler