

Michael Ogul
Attorney at Law
Chief Deputy Public Defender,
Solano County
California State Bar No. 95812
Tel. (707) 784-6719

Denise Gragg
Attorney at Law
Senior Deputy Public Defender,
Orange County
California State Bar No. 98387
Tel. (714) 834-2144

Attorneys for Amici Curiae
California Public Defenders Association and
California Attorneys for Criminal Justice

**SUPREME COURT
FILED**

MAY - 5 2008

IN THE SUPREME COURT
OF THE STATE OF CALIFORNIA

Frederick K. Ohlrich Clerk

Deputy

PEOPLE OF THE STATE OF CALIFORNIA,	)	No. S148029
)	
Plaintiff and Respondent,	)	Court of Appeal No. F048115
)	
v.	)	APPLICATION FOR PERMISSION TO
	)	FILE UNTIMELY BRIEF OF AMICI
ARTHUR LOURDES LENIX,	)	CURIAE CALIFORNIA PUBLIC
	)	DEFENDERS ASSOCIATION AND
Defendant and Petitioner.	)	CALIFORNIA ATTORNEYS FOR
	)	CRIMINAL JUSTICE ON BEHALF OF
	)	DEFENDANT/APPELLANT [Cal.
	)	Rules of Court 8.520, subd (f)(2)

TO: THE HONORABLE RONALD GEORGE, CHIEF JUSTICE OF THE SUPREME COURT OF CALIFORNIA, AND TO THE HONORABLE ASSOCIATE JUSTICES OF THE COURT:

The California Public Defenders Association (hereinafter, "CPDA") and California Attorneys for Criminal Justice (hereinafter, "CACJ") hereby move this Court, pursuant to California Rules of Court, rule 8.520, subdivision (f)(2), for permission to

file an untimely amicus brief in support of defendant/appellant Arthur Lourdes Lenix. The proposed amicus brief, together with an application to permit amici to appear, is being lodged with the Clerk of this Court herewith.

CPDA and CACJ recognize that the present application is untimely under subdivision (f) of Rule 8.520, California Rules of Court. However, CPDA and CACJ respectfully ask this Court to accept filing of the application because of the unusual circumstances in which this Court requested supplemental briefing in this case. Specifically, the issue addressed in the attached amicus brief was raised by this Court on March 26, 2008, when this Court requested supplemental briefing from the parties “on the issue of whether an appellate court must perform a comparative juror analysis for the first time on appeal to evaluate the genuineness of the prosecutor's reasons for peremptorily challenging prospective jurors.” Both parties then filed their supplemental letter briefs on April 7, 2008, and respondent filed a supplemental reply brief on April 17, 2008. The present application of CPDA and CACJ to file the attached amicus brief is being submitted well within the 30 day limitation ordinarily allotted under subdivision (f)(2) of Rule 8.520.

CPDA and CACJ respectfully submit that good cause for permitting the untimely filing of their amicus brief is established by the foregoing facts, which are a matter of public record and demonstrated by the court record and files of this Court in the case at hand, *People v. Arthur Lourdes Lenix*, Supreme Court No. S148029. Further, given the

extremely short length of the proposed amicus brief, consisting of a mere 4 pages, CPDA and CACJ respectfully urge this Court to find good cause to allow filing of the untimely application.

DATED: _____.

Respectfully submitted,

MICHAEL OGUL
DENISE GRAGG

By Michael Ogul
California State Bar No. 95812
Attorneys for Amicus
CPDA and CACJ

DECLARATION OF SERVICE BY MAIL

The undersigned deposes and says:

That I am an employee of the County of Solano; that I am over the age of 18 years and not a party to the above-mentioned action; that my business address is the Office of the Public Defender, 675 Texas Street, Suite 3500, Fairfield, California 94533-6339.

That I served a true copies of the Application for Permission to File Untimely Brief of Amicus Curiae California Public Defenders Association and California Attorneys for Criminal Justice as Amicus Curiae in Support of Appellant Arthur Lourdes Lenix, Supreme Court No. S148029, (Kern County Superior Court No. BF100124B) by placing said copies in envelopes addressed to:

Edmund G. Brown, Jr.
Attorney General
Daniel Bernstein
Deputy Attorney General
1300 I Street, Suite 1100
Sacramento, CA 94244

Edward R. Jagels
District Attorney of Kern County
1215 Truxton Avenue, Suite 4018
Bakersfield, CA 93301

Law Offices of A.M. Weisman
P. O. Box 4236
Diamond Bar, CA 91765

Hon. Arthur E. Wallace, Judge
Kern County Superior Court
1415 Truxton Avenue
Bakersfield, CA 93301

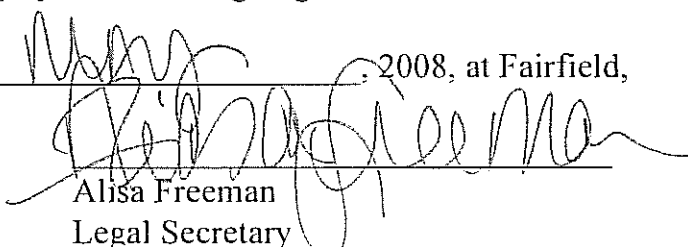
Clerk
Fifth District Court of Appeal
2525 Capitol Street
Fresno, CA 93721

Cliff Gardner, Esq.
19 Embarcadero Cove
Oakland, CA 94606

and thereafter on MM 5, 2008, deposited said copies in the United States Mail at Fairfield, California.

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

Executed this 5th day of MM, 2008, at Fairfield, California.


Alisa Freeman
Legal Secretary