ROB BONTA, State Bar No. 202668
Attorney General of California
LANCE E. WINTERS, State Bar No. 162357
Chief Assistant Attorney General
JAMES WILLIAM BILDERBACK II, State Bar No. 161306
Supervising Deputy Attorney General
ALICE B. LUSTRE, State Bar No. 241994
Supervising Deputy Attorney General
455 Golden Gate Avenue, Suite 11000
San Francisco, CA 94102-7004
Telephone: (415) 510-3821
Fax: (415) 703-1234
E-mail: Alice.Lustre@doj.ca.gov
Attorneys for Respondent

IN THE UNITED STATES DISTRICT COURT

FOR THE EASTERN DISTRICT OF CALIFORNIA

FRESNO DIVISION

LARRY ROBERTS, Petitioner, **v.** **JEFF LYNCH, Warden, California State Prison at Sacramento,**[1] Respondent.	**CAPITAL CASE** 2:93-cv-00254-DAD-DAD-DB **NOTICE OF INTENT TO FORGO RETRIAL AND REQUEST FOR ISSUANCE OF WRIT** Judge: The Honorable Dale A. Drozd

On October 28, 2022, this Court entered an order granting a conditional writ of habeas corpus vacating the guilty verdict in petitioner's case unless the state commenced a new trial within a reasonable time. [Doc. 569] Subsequent to that order the state undertook to review the case and to ascertain the current location of prosecution witnesses to determine whether a retrial was possible. As a part of that review it was determined that a number of witnesses were deceased, or of sufficiently advanced age that they would be unavailable to provide testimony at a

[1] As part of the closing of death row at San Quentin, petitioner has been transferred to the state prison at Sacramento.

new trial. Based on the extensive review, the California Attorney General has now determined that a retrial is not reasonably feasible. Counsel for petitioner has been notified of this decision.

In light of the state's decision to forgo retrial, respondent requests that the writ issue and the verdict in the murder of Charles Gardner be vacated. Respondent notes that at the time of Gardner's murder petitioner was serving a life sentence for a prior murder. That conviction remains intact.

Dated: June 21, 2024

Respectfully submitted,

ROB BONTA
Attorney General of California
LANCE E. WINTERS
Chief Assistant Attorney General
JAMES WILLIAM BILDERBACK II
Supervising Deputy Attorney General

/s/ Alice B. Lustre
ALICE B. LUSTRE
Supervising Deputy Attorney General
Attorneys for Respondent

SF1993XW0003
44187600.docx