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Attorney for Petitioner Samuel Villegas Lopez

IN THE SUPREME COURT OF THE STATE OF ARIZONA

STATE OF ARIZONA	)	<b>CAPITAL CASE</b>
	)	<b>EXECUTION SET MAY 16, 2012</b>
Respondent,	)	
	)	No. 12-0187-PC
v.	)	
	)	Maricopa County Superior Court
SAMUEL VILLEGAS LOPEZ	)	No. CR-163419
	)	
Petitioner.	)	Reply to Response to
_____	)	Petition for Review

¶1 The State of Arizona Claims that Petitioner did not request the lower court to recognize a constitutional right to effective assistance of counsel in post-conviction and that the issue is therefore waived. This is a blatant misstatement of the record. Lopez argued in the Superior Court:

First, this court must answer the threshold question of whether the State of Arizona should recognize the right to effective counsel under *Strickland* on initial collateral review when collateral review is Petitioner’s first opportunity to raise his clam of ineffectiveness of sentencing counsel. It should. The cornerstone of all death penalty jurisprudence is that the sentence must be reliable. “Because of that qualitative difference, there is a corresponding difference in the need for reliability in the determination that

death is the appropriate punishment in a specific case.” *Woodson v. North Carolina*, 428 U.S. 280, 305 (U.S. 1976). If there is no reliability in sentencing, then the sentence is unconstitutional. *Johnson v. Mississippi*, 486 U.S. 578 (1988). A sentence cannot be reliable without constitutionally effective counsel. *Porter v. McCollum*, 130 S.Ct. 447 (2009).

Pet.R.Rsp.Supp.PCR., p. 1.

¶ 2. On all other issues, Mr. Lopez stands on his Petition for Review and the record before this Court and in the Superior Court.

### CONCLUSION

WHEREFORE, for all the foregoing reasons and those raised in the lower court, the Petition for Review should be granted and further briefing and oral argument ordered.

Respectfully submitted this 25<sup>th</sup> day of April, 2012.

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Copy of the foregoing  
emailed this 25<sup>th</sup> day of  
April, 2012, to:

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