

OATH BREAKERS

Public Servants Willful Misconduct in Office

Government Accountability

101

A servant will not be corrected by mere words;
For though he understands, he will not respond.

Proverbs 29:19

LONNIE GLENN SCHMIDT

6333 Pacific Avenue, #124
Stockton, California 95207
209 420-8369
LonnieGSchmidt@mail.com

To whom it should concern

Re: **Kamala** and friends' malfeasance in office.

One voice silences the enemy – Truth. In California, there has not been a single valid felony prosecution, conviction or imprisonment of any person since Kamala Harris took office as District Attorney for San Francisco in 2004. And Kamala Harris, Vice President of the United States, Gavin Newsom, Governor of California and Ralph Diaz, former Secretary, California Department of Corrections and Rehabilitation (CDCR) having actual notice... have failed to correct this travesty of justice. Willful false imprisonment under color of law is criminal conduct.

OATH BREAKERS – December 2021 article/legal treatise documenting Legal Notice of illegal felony prosecutions and imprisonments to government officials for remedy.

Kamala Harris, U.S. Senator – February 2019 letter Re: **On Your Watch!** California's felony convictions via complaint: **none** are valid, no not one!; Malfeasance in office. NOTICE FELONY; DEMAND FOR RELIEF;

Gavin Newsom, Governor of California – April 2020 letter Re: **Newsom, we have a problem...** CALIFORNIA'S PRISONERS' CONFINEMENT VIOLATES THE CONSTITUTION AND LAWS OF CALIFORNIA AND THE UNITED STATES... **and we the People demand release!**; and

Ralph Diaz, CDCR Secretary – August 2020 letter Re: You're the man! Papers, please.

Without One Plea – December 2018/February 2023 article/legal treatise exposing illegal felony prosecutions via "felony complaint" by District Attorneys in every county in California.

Jesus Nut – March 2023 article/legal treatise confirming a CDCR Whistleblower's exposure of the illegal imprisonment "of all persons in the state prison system". **Check it out.**¹

The Party in power has the duty to abate and correct governmental violation of the Constitution. We the People have the duty to enforce compliance.

It's time to put on the whole armor and take a stand (Ephesians 6:10-13). Representing and presenting the Truth in California, God will bless our efforts to make America great again.

Lonnie G. Schmidt, One of the People

June 6, 2023

¹ Letters sent via U.S.P.S. Certified mail to Senator Kamala Harris (Cc to Governor Gavin Newsom and President Donald Trump); Governor Gavin Newsom; CDCR Secretary Ralph Diaz and **Oath Breakers, Without One Plea** and **Jesus Nut**, are available online at withoutoneplea.com (click on "State").

Oath Breakers

OATH BREAKERS

Unfaithful Stewards Betraying the Trust of the People

by

Lonnie G. Schmidt
RFB - Proverbs 21:31
December 7, 2021

This is the way of an Oath Breaker:
They eat and wipe their mouth, and say,
"I have done no wickedness." Proverbs 30:20 NKJV

In California, Officers of the State, District Attorneys, Defense Attorneys, Judges and Penal Custody Officials take an oath to support and defend both the State and Federal Constitutions.

Since at least 1951, the shared common denominator of those individuals involved in the criminal justice system, naively or not so naively, is... all are Oath Breakers ...exercising power to prosecute and imprison without enjoying the authority to do so in the mode and manner employed.

State Officers and CDCR Officials

This treatise is written as an addendum to the June 15, 2021 exposé "No JOC? Then Set Us Free! It's the Right Thing to Do... Right?" (withoutoneplea.com) which revealed the long-standing unlawful practice of the California Department of Corrections and Rehabilitation's (CDCR) Directors receiving persons from the jails of the 58 California Counties and confining them in the state's prisons: without any authority from the Courts.

The required authority? The final process in a criminal action, a "Judgment of Conviction" (JOC): A written, legal sentencing document signed by a judge and entered and filed in the Court's records. There are virtually none in the Superior Courts' records. Thus, none can be found in CDCR's files. Why? Such document has not been created by the Courts for over 70 years! If this be so, by what authority does CDCR claim to detain prisoners? An "Abstract of Judgment" (AOJ).

Ummm, come again?... an abstract of WHAT judgment?

Questions Anyone?

Does the California Constitution, Legislature, Penal Code or any Judicial Decision provide authority for detention of prisoners in the state prison pursuant to:

a JOC? Yes ... to an AOJ? No.

Is the Judicial Council required by law to prescribe an AOJ for use by the State as a commitment document for execution of a JOC? Yes. Has the Judicial Council so prescribed? No.

Does CDCR possess any legal authority to detain prisoners? No.

Is kidnaping and false imprisonment morally indefensible, Constitutionally untenable, a violation of the involved Officers' Oath of Office and a violation of the civil rights of persons detained? Yes!

There being no JOC of record and no AOJ authorized by law, is it not true that all persons detained by CDCR pursuant to an AOJ are wrongly imprisoned... and as a matter of law, must be immediately and unconditionally released? Yes!

Does God agree? "Free those who are wrongly imprisoned." Isaiah 58:6 NLT.

Many people today deny the existence of God. But the reason is suppression of the truth, not a lack of evidence.

Oath Breakers deny the requirement of lawful felony prosecutions and a JOC for imprisonment in the state's prisons. But the reason is suppression of the truth, not a lack of evidence.

Growing up in the 50's, when tempted to "bend" the truth in order to justify my actions and avoid discipline, I would remember my Dad's admonition: "A liar and a thief go together."

California's Attorney General (AG), Rob Bonta, has proven this reminder true. Confronted in Court with the fact of California's prisoners' illegal confinement in the absence of a valid prosecution and JOC, and demand that explanation be made... He lied when stating "CDCR may rely on an abstract of judgment to detain Schmidt [prisoners] ... a 'judgment of conviction' is a red herring."

He is a thief. Stealing the trust of the People to prosecute felonies according to law... and the Civil Rights, Due Process of Law, and the liberty of those prisoners confined by CDCR pursuant to an AOJ.

Is anyone above the law? Ought not those persons responsible cease and desist their unlawful conduct and be held accountable for their actions? The State and the People being victims, is not Retributive Justice still in vogue?

Oath Breakers, Meet The People.

Solomon (Circa 988-930 B.C.), declared the wisest man who ever has lived or will live (1 Kings 3:12 NKJV), was right when he said "A servant will not be corrected by mere words; for though he understands, he will not respond." Proverbs 29:19 NKJV.

In America the government is the servant of the "sovereign" People. The People are Sovereign. The Truth will out.

Suing For Freedom

The criminal courts' failure to address the merits of claims of illegal prosecution and false imprisonment, has forced the filing of a civil lawsuit by Lonnie G. Schmidt, Plaintiff (hereinafter "Plaintiff") naming State of California, California Department of Corrections and Rehabilitation, CSP Solano, Governor Gavin Newsom, CDCR Secretary Kathleen Allison and CSP Solano Warden Gigi Matteson as Defendants (hereinafter "Defendants")¹.

Defendants, servants of the People by Oath, have not responded to Plaintiff, One of the People, with any Constitutional, Legislative or Judicial authority in support of Defendants' contention that: (1) a felony prosecution brought by the state via complaint is legal, (2) that a JOC is not the final process in a criminal action, (3) that a filed JOC is not required for purpose of appeal, delivery and detention of a prisoner, and (4) that an AOJ can exist and provide authority to execute a judgment and detain any prisoner in the state prison, absent the judgment.

It may not be disputed that Defendants have publicly admitted that there have not been any valid felony prosecutions since 1951; that a JOC is necessary for imprisonment in the State's prisons and, that CDCR possesses none.

"Not A Single Valid Felony Conviction In California During Kamala Harris' Prosecutorial Career! Thousands Unlawfully Confined! Governor Orders Investigation And Prison Doors To Be Opened!" October 15, 2020 and "CDCR Memorandum November 12, 2020 M. Fregoso, Associate Warden" attached hereto and incorporated herein.

However, Defendants' Counsel, the Attorney General², also providing no Legislative or Judicial authority -- or logical explanation -- falsely declares that the AOJ held by CDCR is the only authority necessary to detain prisoners.

The civil lawsuit challenges the State and raises fraud causes of action, e.g., fraudulent deceit: The State's claim that an AOJ, absent the JOC, is sufficient authority to imprison Plaintiff and all other convicted persons.

"Defendants CDCR, Allison and Matteson practiced fraudulent deceit upon plaintiff by asserting as a fact, that which is not true, i.e., that an Abstract of Judgment, in the absence of an underlying Judgment of Conviction, is sufficient authority to receive and confine plaintiff in the State's prisons; when defendants have no reasonable ground for believing it to be true. CSP Associate Warden M. Fregoso's Letter To Inmates attached hereto and incorporated herein as Exhibit Five."

Defendants' Counsel filed a Demurrer to the Complaint. Plaintiff replied with a Motion to Strike Demurrer. Defendants countered with an Opposition and Memorandum of Points and Authorities, July 19, 2021. Defendants' Opposition, Section III, page 3, presents the state's position -- which is quoted and debunked in Plaintiff's August 4, 2021 Reply to Opposition, infra -- as follows:

"Schmidt argues that he must be released because the Department of Corrections and Rehabilitation does not have "judgment of conviction" to authorize his confinement. (Mem. P. & A. re: Motion to Strike at 6-7.) This argument is wrong because it confuses the judgment--an oral pronouncement from a judge--with the abstract of judgment--a document that memorializes the judgment. CDCR may rely on an abstract of judgment to detain Schmidt.

Rendition of judgment is an oral pronouncement made by a judge. (People v. Zachary (2007) 147 Cal.App.4th 380, 387.) The defendant is committed to State prison based on an abstract of judgment, however, which is a document that memorializes an oral judgment. (In re Black (1967) 66 Cal.2d 881, 890 ["Under section 1213 of the Penal Code] the certified abstract of the judgment constitutes the commitment"]. Schmidt does not dispute that the Department of Corrections and Rehabilitation possesses an abstract of judgment for him. Accordingly, Schmidt's argument about whether CDCR possesses a 'judgment of conviction' is a red herring." (Emphasis added.)

PLAINTIFF'S REPLY TO OPPOSITION

"Defendants' assertions that an abstract of judgment memorializes the judge's oral pronouncement; and, that CDCR, absent possession of a certified copy of a written judgment of conviction (JOC), may rely on an abstract of judgment (AOJ) to detain Schmidt, are wrong."

Pernicious Peddler of Taradiddle: Death Knell for CDCR³

The Attorney General has inexplicably taken the position that "CDCR may rely on an abstract of judgment to detain Schmidt ... a 'judgment of conviction' is a red herring."

It does violence to logic to suggest that the Legislature did not intend "abstract of the judgment" as used in Penal Code § 1213 to be preceded by the judgment of conviction mandated by § 1207*, since a written judgment is the essential ingredient for the existence of an abstract thereof.

Responding to such an insupportable and absurd statement of reliance by the Attorney General on behalf of the State, as sole authority for the unlawful imprisonment of Plaintiff and hundreds of thousands of persons over a period of at least 70 years, mandates following Solomon's advice "Answer a fool according to his folly, lest he be wise in his own eyes" (Proverbs 26:5 NKJV); and this travesty of justice continues.

Not to be outdone by Solomon, the American Bar Association prohibits Defendants' Counsel from controverting an issue with such a frivolous argument. "A lawyer shall not bring or defend a proceeding, or assert or controvert an issue therein, unless there is a basis in law and fact for doing so that is not frivolous." ABA Model Rules of Professional Conduct, Rule 3.1.

What are the odds of the State's argument prevailing on the merits of such reliance ... and this slavery continuing?

The Messiah Foretold

One of the most amazing examples of fulfilled Bible prophecy is the extensive number of specific mentions of the prophesied Messiah. The Old Testament contains more than 300 references to His coming. What are the odds of 300 prophecies all being fulfilled? In his book "Science Speaks", the late mathematician Peter Stoner (1888-1980) examined the probability of one person fulfilling just 48 of those prophecies. The chance of that happening would be one in 10^{157} . To put that in perspective, that would be like trying to find **one** specific electron out of **all** the electrons in **all** the known universe on the first attempt-- and that's considering just 48 of the 300 prophecies.⁴

* Undesignated statutory references are to the Penal Code.

Incredible!...yet those are better odds than the State faces when asking that Plaintiff, Court and People accept as fact that an **abstract of the judgment** (§ 1213) can exist in the absence of the judgment of conviction (§ 1207) it purports to summarize!

Fraudulent Abstract of Judgment

The Judicial Council has never prescribed an "Abstract of Judgment" for use with § 1213. The bogus AOJ possessed by CDCR is not one prescribed by the Judicial Council as required by law (§ 1213.5).

The "abstract" ascribed to Plaintiff and all California prisoners as the AOJ possessed and relied upon by CDCR, prima facie evidences it is not prescribed by the Judicial Council and is therefore unauthorized: a fraudulent document.

Defendants cite In re Black (1967) 66 Cal.2d 881, 890 for the proposition that "The defendant [Schmidt] is committed to State prison based on an abstract of judgment, however, which is a document that memorializes an oral judgment. ['Under section 1213 [of the Penal Code] the certified abstract of the judgment constitutes the commitment']." (Emphasis added.) Opp. Mem. P. & A. ¶ III. 3:2-5.

Defendants' citation to this authority in Black is from a 1955 case "wherein the form of abstract is entitled 'Commitment to State Prison.'" However, subsequent to 1955, § 1213.5 was amended. The required text in 1967, is found in Fn 6 of Black:

"The form of the abstract of judgment prescribed by section 1213.5 must be substantially such as will include, inter alia, the following: 'Pursuant to the aforesaid judgment, this is to command you, the said Sheriff, to deliver the above named Defendant into the custody of the Director of Corrections at the....at your earliest convenience'."

This text does not appear in the Abstract of Judgment in CDCR records of any prisoner.

No abstract of judgment is prescribed by the Judicial Council under § 1213.5 for § 1213. Defendants' odds are not improving!

Neither Black, § 1213, nor any other statute in the Penal Code contemplate nor mention Defendants' proposition that an "abstract of judgment... is a document which memorializes an oral judgment" and Defendants offer no authority for such a proposition. Once again, the AG is lying.

Contrary to Defendants' assertion, an oral judgment pronounced in a criminal case is "memorialized" by the judge signing and the Clerk filing the written judgment in the court's records.

Subsequent to the Clerk's entry of the judgment in the minutes, "a copy of the judgment of conviction shall be filed with the papers in the case." (§ 1207.)

In the realm of reality, only after a written copy of the judgment of conviction is signed by a judge, entered and filed with the papers in the case, can an "abstract" thereof become a possibility.

Abstract defined: "abstract - A concise statement of a text, esp. of a legal document; a summary." (Emphasis added.) Black's Law Dictionary Pocket Edition (1996) p. 3. **Statement of a text, NOT of an oral pronouncement.**

So do § 1213 and § 1213.5 describe and authorize an "abstract of judgment" in any circumstance? **NO!**

"§ 1213. Probationary order or judgment other than death; copy or abstract furnished to executing officer

(a) When a probationary order or a judgment, other than death, has been pronounced, a copy of the entry of that portion of the probationary order ordering the defendant confined in a city or county jail as a condition of probation, or a copy of the entry of the judgment, or, if the judgment is for imprisonment in the state prison or imprisonment pursuant to subdivision (h) of Section 1170, either a copy of the minute order or an abstract of the judgment [§ 1207] as provided in Section 1213.5, certified by the clerk of the court, and a Criminal Investigation and Identification (CII) number shall be forthwith furnished to the officer whose duty it is to

execute the probationary order or judgment, and no other warrant or authority is necessary to justify or require its execution. (Emphasis added.)

(b) If a copy of the minute order is used as the commitment document, the first page or pages shall be identical in form and content to that prescribed by the Judicial Council for an abstract of judgment, and other matters as appropriate may be added thereafter." (Emphasis added.)

"§ 1213.5. Abstract of judgment.

The abstract of judgment provided for in Section 1213 shall be prescribed by the Judicial Council." (Emphasis added.)

The legal term "abstract of judgment" makes its first and only appearances in the Penal Code in subdivision (b) of § 1213 and in § 1213.5 and then only for purpose of formatting a minute order. Abstract of judgment defined: "abstract of judgment - A copy or summary of a judgment that, when filed with the appropriate public office, creates a lien on the judgment debtor's nonexempt property." (Emphasis added), id. Black's Law Dictionary p. 4.

The Judicial Council has not prescribed an "abstract of judgment" for § 1213. See California Judicial Council Forms, Westlaw, and, Lexis-Nexis Automated Judicial Council Forms.

The only "abstract of judgment" ever prescribed by the Judicial Council, according to the Council's published listing of forms, is for § 1214: "ABSTRACT OF JUDGMENT--RESTITUTION" CR-111/JV-791 [Rev. July 1, 2015] pursuant to Penal Code §§ 1202.4(i),(m), 1214; Welfare and Institutions Code, § 730.6(i),(r); Code of Civil Procedure § 674. CR-111/JV-791 attached hereto and incorporated herein.

This document (CR-111/JV-791), is designed and intended for use, not by the state under § 1213, but by the beneficiary of a signed order (money judgment) for restitution (judgment creditor) under § 1214. Does CR-111/JV-791 appear to be similar to the "Abstract of Judgment" found in CDCR's inmate files... an instrument upon which allegedly, CDCR may rely to detain prisoners? No? CDCR's AOJ is a fraudulent document.

Defendants for years have misinterpreted and now misrepresent that § 1213(a) reference to "abstract of the judgment" is to be read as "abstract of judgment" and the only document required for execution of the sentence; by disregarding § 1213(a) mandate for delivery of a copy of the judgment of conviction to the executing officer.

The abstract of judgment is not the judgment of conviction. By its very nature, definition, and terms, it cannot add to or modify the judgment which it purports to digest or summarize. People v. Hartsell, (Cal.App. 4th Dist. August 23, (1973)), 34 Cal.App. 3d 8, 14 109 Cal. Rptr. 627.

Penal Code Section 1213 Analysis

Penal Code § 1213 controls the execution of the judgment of conviction filed in the case (§ 1207).

First and foremost § 1213 in relevant part mandates: "When...a judgment... has been pronounced... a copy of the entry of the judgment,... shall be forthwith furnished to the officer whose duty it is to execute the...judgment, and no other warrant or authority is necessary to justify or require its execution." Cross References: "Entry of judgment, see Penal Code 1207."

In addition to a certified copy of the judgment being delivered to the officer, § 1213 requires that an abstract of the judgment or minute order is also furnished only "...if the judgment is for imprisonment in the state prison or imprisonment pursuant to subdivision (h) of Section 1170..." and if so, then "...either a copy of the minute order or an abstract of the judgment... shall be furnished to the officer..." (§ 1213). (Emphasis added.)

Without a JOC in his possession -- it is impossible for the executing officer to determine whether or not the "judgment is for imprisonment in the state prison or imprisonment pursuant to Subdivision (h) of Section 1170" and thus require the additional documents (abstract/minute order) -- the officer is without authority to take custody of, and deliver the defendant to, CDCR.

In any event, a certified copy of the JOC is required to be furnished to the officer executing the judgment. Section 1213 Legislated requirements cite Ex parte Gibson, United States Supreme Court, *infra*, as controlling authority.

While we're discussing the state's assertion that an "abstract of judgment" may function as a stand-alone judgment authorizing commitment to the state prison, we learn that Black finds authority for § 1213 in § 1213.5, which in turn, the section's Cross References, direct our attention for meaning and application of said § 1213.5 term "abstract of judgment" to the California Code of Civil Procedure § 697.310 et seq. "Lien of judgment imposing fine".

Thus, clarifying that the abstract of judgment is intended by the Legislature to be used only as a format for the first page or pages of the "minute order" and then only if the minute order is used as the commitment document (§ 1213(b)) and the judgment orders restitution (§§ 1202.4(i),(m), 1214).

Judgment Must Precede Execution Thereof

The Penal Code, Title 8 "OF JUDGMENT AND EXECUTION" commences with Chapter 1 THE JUDGMENT; beginning with § 1191 and encompasses Plaintiff's argument which is based on §§ 1202a and 1207.

Defendants totally ignore Chapter 1 as if it didn't exist. Wrong move. Chapter 1 is a necessary condition precedent to Chapter 2. Defendants focus and rely only upon Chapter 2 THE EXECUTION, which begins with § 1213 and wherein Defendants base their falacious argument.

Defendants take one Code section (1213) the execution phase of Title 8, totally out of context. This practice has resulted in the Executive Branch creating its own doctrine of law for imprisonment. However, in doing so, the state has built a house of straw (CDCR) in a smoldering fire-pit.

The Penal Code numbers its chapters and statutes in chronological order, e.g., "Chapter 1", "Chapter 2"; "§ 1207", "§ 1213".

Therefore, much to the chagrin of defendants, such sequence requires that a judgment of Chapter "1" precede an abstract thereof in Chapter "2". An abstract of judgment is not contemplated in Chapter 1 and is first mentioned in Chapter 2.

The textual gap between § 1193 (oral pronouncement of judgment) and § 1213 (execution) is bridged by § 1207 (entry and filing of the JOC). It is the written and entered judgment of conviction which gives rise and life to an abstract thereof.

There is no evidence of an entry of judgment (JOC) as required by Chapter 1, § 1207, ever being created and filed in court with the papers in any non-capital case since at least 1951.

Penal Code Section 1207 Analysis

Section 1207 contains the first reference to the generic term "judgment" as a "judgment of conviction"; a term of art coined by the Legislature to identify a specific type of legal instrument and is defined in Black's Law Dictionary Abridged Seventh Edition: "Judgment of conviction: the written record of a criminal judgment, consisting of the plea, the verdict or findings, the adjudication, and the sentence. Fed.R.Crim.P. 32(d)(1) [32(k)(1)]." (Emphasis added.) The Federal Rules of Criminal Procedure (F.R.Crim.P.) are state law compliant through the 5th Amendment.

Enactment of Rule 32(b) [now Rule 32(k)] had for its purpose prescribing of uniform practice for guidance of trial courts in pronouncing judgment so that by following its provisions confusion would not result. Sanders v. Johnston, 165 F.2d 736, 1948; 1948 U.S. App. LEXIS 1951 (9th Cir.) cert. denied, 334 U.S. 829, 68 S. Ct. 1328, 92 L. Ed. 1757, 1948 U.S. LEXIS 2166 (1948), reh'g denied, 335 U.S. 838, 69 S. Ct. 7, 93 L. Ed. 390, LEXIS 1914 (1948).

Federal Rule 32(k)(1) requires the judgment to be signed by a judge and entered by the clerk: "In the judgment of conviction, the court must set forth the plea, the jury verdict or the court's findings, the adjudication, and the sentence. ...The judge must sign the judgment and the clerk must enter it." (Emphasis added.) F.R.Cr.P. 32(k) Judgment.

Judgment of conviction is one signed by judge. Payne v. Madigan, 274 F.2d 702, 1960 U.S. App. LEXIS 5591 (9th Cir. 1960), aff'd, 366 U.S. 761, 81 S.Ct. 1670,, 6 L. Ed. 2d 853, 1961 U.S. LEXIS 1024 (1961) reh'g denied, 368 U.S. 871, 82 S.Ct. 22, 7 L. Ed. 2d 72, 1961 U.S. LEXIS 794 (1961).

Oral Pronouncement and Written Rendition of Judgment Required By Law

Clerk's minutes, signed by judge, is unimpeachable record of sentence imposed which appellate court must regard as true; if oral sentence does not conform to written sentence signed by judge, trial court alone has power to make this record conform to truth, if it does not already do so. (Emphasis added.) Meridith v. Gough, 168 F.2d 193, 1948 U.S. App. LEXIS 2030 (5th Cir.), cert. denied, 335 U.S. 873, 69 S. Ct. 161, 93 L. Ed. 417, 1948 U.S. LEXIS 1563 (1948).

In determining whether oral pronouncement of judgment is inconsistent with written judgment entered, appellate court looks to record as whole to determine court's intention in imposing sentence." (Emphasis added.) United States v. Duncan, 310 F.2d 367, 1962 U.S. App. LEXIS 3439 (7th Cir. 1962), cert. Denied, 373 U.S. 938, 83 S.Ct. 542, 10 L. Ed. 2d 693, 1963 U.S. LEXIS 1480 (1963).

It would seem that Rule 32 has, at minimum, enhanced prestige of written judgment, even though general rule still requires that any conflict between oral pronouncement and formal judgment and commitment must be resolved in favor of former, but where orally pronounced sentence is ambiguous, judgment and commitment may and should be used to clarify actual intention of sentencing judge. (Emphasis added.) Baca v. United States, 383 F.2d 154, 1967 U.S. App. LEXIS 4956 (10th Cir. 1967), cert. denied, 390 U.S. 929, 88 S. Ct. 868, 19 L. Ed. 2d 994, 1968 LEXIS 2624 (1968).

"The law is well settled that if there were any conflict between the oral pronouncement of judgment and the written judgment itself, the terms of the oral pronouncement would control. ... The actual intention of the sentencing judge is to be ascertained **both by what he said from the bench and by the terms of the order he signed**, or from his total acts. Authority for this holding is Baca United States, 10 Cir., 383 F.2d 154. As this court construes the oral pronouncement... and his written judgment of conviction," (Emphasis added.) Scott v. United States, 434 F.2d 11, 1970 U.S. App. LEXIS 6672 (5th Cir. 1970).

Where conflict is presented between oral and written sentence and commitment, former governs. (Emphasis added.) United States v. Mason, 440 F.2d 1293, 1971 U.S. App. LEXIS 10853 (10th Cir.), cert. denied, 404 U.S. 883, 92 S. Ct. 219, 30 L. Ed. 2d 165, 1971 U.S. LEXIS 813 (1971).

As set forth in Swift v. Daniels, (1980) 2nd Appellate Dist. Division Five 103 Cal. App. 3d 263, [162 Cal. Rptr. 863] 1980 Cal. App. LEXIS 1574: "A signed judgment is deemed indispensable to the validity of a judgment and that it be signed by a judge." (Emphasis added.) (46 Am Jur 2d § 90, Signature.)

See also, California Code of Civil Procedure (CCP) § 635 requires a judgment to be signed by a judge.

"In all cases where the decision of the court has been entered in its minutes, and when the judge who heard the case is unavailable, the formal judgment or order conforming to the minutes may [must] be signed by the presiding judge of the court or by a judge designated by the presiding judge." (Emphasis added.) CCP § 635.

Certified Copy Of Judgment Delivered To Officer

The Cross References of § 1207 require that a copy (certified) of the JOC be made part of the court's record and furnished to the executing officer. "Copy to be furnished officer, see Penal Code § 1213."

The executing officer should now have a certified copy of the JOC in his possession and may take and deliver the defendant to the warden of the state prison. Penal Code § 1216:

"If the judgment is for imprisonment in the state prison, the sheriff of the county shall, upon receipt of a certified abstract [copy]⁵ or minute order thereof, take and deliver the defendant to the warden of the state prison. The sheriff also shall deliver to the warden the certified abstract [copy] of the judgment or minute order, a Criminal Investigation and Identification (CII) number, a Confidential Medical/Mental Health Information Transfer Form indicating that the defendant is medically capable of being transported, and take from the warden a receipt for the defendant." (§ 1216.) Section 1216 Cross References: "Certified copy of entry of judgment to be furnished officer: Penal Code § 1213."

"When judgment of imprisonment is regularly entered, it becomes the clerk's duty, unless otherwise directed by the court, to make forthwith a certified copy of judgment, certified by him and the judge and delivered to proper officer." (Emphasis added.)

People v. Sourisseau, (1944) 62 Cal.App.2d 917, 929 145 P.2d 916, 1944 Cal.App. LEXIS 893.

"Upon pronouncement of judgment of conviction of manslaughter a certified copy thereof without further order of the court is required to be issued to the sheriff for execution of judgment, and it thereupon becomes its duty to deliver defendant to warden of state prison, when so delivered term of imprisonment, **pursuant to judgment**, commences to run and thereafter it continues to be duty of warden to hold defendant until his release by Order of State Board of Prison Directors under Indeterminate Sentence Law or otherwise legally discharged from his custody." (Emphasis added.) In re Application of Bost, (Cal. Oct. 24, 1931), 214 Cal. 150, P.2d 534, 1931 Cal. LEXIS 408.

Under the Legislative "Requirements" section of § 1213, California Supreme Court headnotes in 1867 declared dispositively in Ex parte Gibson: "A commitment to the state prison on conviction and sentence for felony should consist of **certified copy of judgment** as entered in minutes of court; commitment which does not contain a **certified copy of the judgment** as entered in the minutes of the court, but which consists only of a history of the proceedings against the prisoner, is not merely defective but is wholly unknown to the law of this state" and held:

"The final process in criminal actions is... a **certified copy of the judgment** as entered in the minutes of the Court ... when a judgment has been pronounced, a **certified copy of the entry thereof** shall be forthwith furnished to the officer whose duty it is to execute the judgment, and no other warrant or authority is necessary to justify or require the execution thereof ... the writ does not contain a **certified copy of the judgment**, nor does it appear that such copy was furnished to the officer whose duty it was to execute the judgment. The prisoner is therefore entitled to his discharge, and it is so ordered." (Emphasis added.) Ex parte Gibson (Cal. 1867), 31 Cal. 619, 622-623.

In Plaintiff's and hundreds of thousands of cases, the Courts' records had no JOC⁶ to deliver to the officer whose duty it was to execute the judgment... the officer had no JOC to deliver with Plaintiff or any other prisoner to the warden... the warden had no JOC to authorize receipt and detention of the prisoner. But wait! The warden does have an AOJ!

What is the Right thing to do?

Naive Oath Breaker... quit thinking about your position and how long you will be there, and think about those you govern and serve.

Our true heart is revealed when we put concern for others ahead of ourselves. (Phillipians 2:3,4 NKJV.)

Not so naive Oath Breaker... confess, repent and help fix the problem... or run Forrest run!

What will the People do?

Prisoner(s) must be discharged and Oath Breakers prosecuted.

"A wise king sifts out the wicked, and brings the threshing wheel over them." Proverbs 20:26 NKJV. To punish wickedness is entirely appropriate and the duty of the People. When the wicked are sifted out and punished with the severity that their crimes demand, all of society benefits. Some may consider kidnaping and imprisonment of citizens absent all authority, treason; mandating the death penalty (18 U.S.C. §§ 241, 242).

California can weather the exposed sunami of corruption in the criminal justice system... and be a great leader state again. How?

Turn to the One who has all the answers and wants only the best for us "if My people who are called by My name will humble themselves, and pray and seek My face, and turn from their wicked ways, then I will hear from heaven, and will forgive their sin and heal their land." 2 Chronicles 7:14 NKJV.

Why Is The JOC So Important?

A Judgment of Conviction is the final process in a criminal action. A JOC is the ONLY document authorizing appeal of the conviction, the Sheriff to execute sentence and transfer custody of the defendant from County to State jurisdiction, for CDCR to take custody and imprison any person, and for the Board of Parole Hearings to review and determine a prisoner's suitability for release on parole.

Penal Code § 1207 requires the JOC to be filed in the Court and delivered by the Clerk to the officer executing judgment.

Section 1207: "When judgment upon a conviction is rendered... A copy of the judgment of conviction shall be filed with the papers in the case." (Emphasis added.) Cross References "Copy to be furnished officer, see Penal Code § 1213."

Penal Code § 1202a requires the JOC in order to place the defendant into the custody of the CDCR Director for purpose of imprisonment. Without a JOC, CDCR has no authority to imprison any defendant... period.

Section 1202a: "If the judgment is for imprisonment in the state prison the judgment [JOC] shall direct that the defendant be delivered into the custody of the Director of Corrections at the state prison or institution designated by the Director of Corrections...". (Emphasis added.)

Penal Code § 2081.5 requires CDCR to keep complete records of all prisoners received from the court and make them available to the Board of Prison Terms.

Section 2081.5: "Case records shall include all information received by the Director of Corrections from the courts,".

Penal Code § 2900 requires the term of imprisonment be determined from the judgment.

Section 2900(a): "The term of imprisonment fixed by the judgment in a criminal action commences to run only upon the actual delivery of the defendant into the custody of the Director of Corrections". (Emphasis added.)

Penal Code § 3400 makes plain that the "judgment" referred to in §§ 1202a, 1213, 1216, 2900 is the "judgment of conviction" required to be filed with the papers in the case under § 1207.

Section 3400: "Such officer shall at the same time deliver to said institution a certified abstract of the judgment of conviction". (Emphasis added.) A most difficult task in absence of a JOC... no, an impossibility.

S U M M A R Y

Penal Code § 1207 has always required that a judgment of conviction be reduced to writing and that it be signed by a judge, entered by the clerk, furnished to the executing officer and delivered with the defendant to, and filed by, the warden. Penal Code § 1213 has always required a JOC to support and authorize an AOJ and/or a minute order.

Section 1213: in relevant part "if the judgment [JOC] is for imprisonment in the state prison or imprisonment pursuant to subdivision (h) of Section 1170, either a copy of the minute order or an abstract of the judgment [JOC] as prescribed in Section 1213.5. ...". (Emphasis added.)

Common sense and § 1213 (the law), dictate that an abstract of judgment require a supporting judgment. No AOJ has ever been authorized by the Penal Code or prescribed by the Judicial Council (§ 1213.5) for use with § 1213.

Any AOJ held by CDCR is a fraudulent document. A fraudulent document may not be relied upon by CDCR as lawful authority to receive and/or detain any person, fix or determine the term of imprisonment or, furnished to the Board of Parole Hearings for a valid review: nor insulate the State and involved Officers from liability for kidnaping and false imprisonment.

Defendants do not allege they possess a JOC for Plaintiff or for any other prisoner. The November 12, 2020 CDCR Memorandum is proof positive that CDCR does NOT have a JOC in CDCR's files concerning Plaintiff nor any other prisoner.

C O N C L U S I O N

Fraud in the Extreme. Defendants have legal and statutory duty to finalize process in a criminal action by filing a judgment of conviction with the papers in the case, which Defendants have failed to do. A written judgment of conviction signed by a judge, entered by the clerk and a certified copy thereof delivered to the officer executing the judgment, is a statutory condition precedent for creation of an abstract of the judgment, to execute a state prison sentence and to fix the term of imprisonment.

Defendants failed to create and file a judgment of conviction, yet point to a fraudulent abstract of judgment (CDCR's November 12, 2020 Memorandum) as sufficient authority to afford jurisdiction for CDCR to receive and detain Plaintiff and other persons in the State's prisons...and the AG agrees. The AG commits fraud. Fraud vitiates the most solemn of judgments.

It's not what the Attorney General believes the truth to be, it's what the truth is that sets the prisoner free.

The truth is, the AG's abstract of judgment argument is the red herring.

The Attorney General lied to Plaintiff, the Court, and the People when he declared unequivocally "CDCR may rely on an abstract of judgment to detain Schmidt." The AG is an Oath Breaker. The Oath Breaker regards his reckless and wanton misconduct without remorse, as if he were finishing a plate of food.

Inasmuch as there is no judgment of conviction rendered by a competent court of criminal jurisdiction of which a certified copy can be readily obtained, any Abstract of Judgment by which Plaintiff and other prisoners are detained by CDCR is fraudulent.

Therefore, Plaintiff and all other California prisoners are not lawfully imprisoned under the laws of California or the United States and must be discharged. See Gibson, supra.

Oath Breakers Hall Of Shame

The following Government Officers, Officials and Employees have been given actual and/or constructive notice of the illegal prosecution and confinement of California's prisoners... and have either made promises to release them or have the duty to see to it they are released... and, to the best of Plaintiff's knowledge, have not kept their promise nor made any effort to effect release... case in point, Plaintiff remains incarcerated.

Kamala Harris, Vice President of the United States
Gavin Newsom, Governor of California
Ralph Diaz, former Secretary of CDCR
Kathleen Allison, Secretary of CDCR
Rhonda Skipper-Dotta, Chief Deputy, Board of Parole Hearings
Gigi Matteson, Warden CSP Solano
Xavier Beccera, former Attorney General of California
Rob Bonta, Attorney General of California
Sharon Garske, Supervising Deputy Attorney General
Anthony Tartaglio, Deputy Attorney General of California
Anne Marie Schubert, District Attorney Sacramento County
Jeff Rosen, District Attorney Santa Clara County
Krishna Abrams, District Attorney Solano County
Michael Keitz, David Linn, Sally Moreno;
District Attorneys Madera County
Tori Verber-Salazar, District Attorney San Joaquin County

Civilian volunteers under Oath: The 2019-2020 Grand Juries in all 58 California counties.

Confirmation and verification of actual notice made by U.S.P.S. Certified Mail and constructive notice by publication of Legal Notice in San Francisco Chronicle, Sacramento Bee newspapers and six major county's Legal Journals (Legal Notice, attached hereto and incorporated herein) and Treatises Exposing California's criminal justice fraud: **withoutoneplea.com**.

None of the Officials named above have denied, rebutted or otherwise responded to the facts and/or issues set forth herein.

If the facts are not correct... it is their sworn duty to defend the State's integrity by responding with the truth. And the facts being undisputed and true, it is their sworn duty to correct the injustice.

E P I L O G U E

Some Gave All

Thanksgiving Day 1967, Republic of Vietnam; 118th Assault Helicopter Company, "Thunderbirds".

As Flight Leader "Thunderbird One" of a 10 ship UH-1 "Huey" formation, at twilight we were flying back to the "Birdcage" at Bien Hoa. Tired, after a full day of combat insertion and extraction of troops into "hot" landing zones, the FM radio was tuned to "easy listening" Saigon. Crew Chief and Door Gunner sprawled among spent brass on the floor of the aircraft and Co-pilot resting, I was thinking of home... and the turkey dinner awaiting our arrival at the base.

Abruptly, the emergency radio frequency crackled to life with "May day, may day, may day" the pilot giving his call sign and location, and calmly saying "I've just lost my main rotor system. Goodbye, good luck and God bless you all." Then silence. And again I remember... freedom is not free.

Remembering Pearl Harbor, 80 years ago today.

December 1967. My wife met me for R&R in Hawaii and we boarded a small boat for a tour of the site of the sunken USS Arizona. There, many sailors rest entombed, among the 2,403 American lives given for God and Country on December 7, 1941.

Circling the sacred vessel, the boat paused, and, leaning over the railing, we silently looked upon the silhouette of the battleship below. A drop of the ship's oil slowly rose and created a rainbow of color as it dispersed on the surface of the harbor, an event recurring every few minutes. It was as if ship and crew were reminding all... freedom is not free.

We who returned gave some... and we all kept our Oath. When thanked for our service, on behalf of all who served we say: "You were worth it."

Lonnie G. Schmidt, Captain USAR

E N D N O T E S

- 1 LONNIE GLENN SCHMIDT vs. STATE OF CALIFORNIA, et. al., Superior Court of California, County of Solano, Case No. FCS056153.
- 2 Rob Bonta, Attorney General of California, Sharon A. Garske, Supervising Deputy Attorney General, Anthony J. Tartaglio, Deputy Attorney General, 455 Golden Gate Avenue, Suite 11000, San Francisco, CA 94102-7004
Phone: (415) 510-3602, Fax: (415) 703-5480, Anthony.Tartaglio@doj.ca.gov
Attorneys for Defendants Gavin Newsom, G. Matteson, K. Allison, State of California, and CDCR.
- 3 Wicked; highly destructive promoter of pretentious nonsense.
- 4 But One Person did... all 300+ prophecies... Jesus of Nazareth, Circa 4 B.C. - A.D. 29. Luke 18:31 NKJV.
Is this not the kind of God you want to serve... One who keeps all His promises? Especially when He says "I will never leave you nor forsake you ... Call upon Me in the day of trouble; I will deliver you, and you shall glorify Me ... I am the way, the truth and the life. No one comes to the Father except through Me ... if you confess with your mouth the Lord Jesus and believe in your heart that God has raised Him from the dead, you will be saved ... For whoever calls on the name of the Lord shall be saved." Life is short. Eternity is real.
Hebrews 13:5; Psalm 50:15; John 14:6; Romans 10:9-13 NKJV.
- 5 Section 1216 enacted 1872; and first amended in 1951. 1951 Amendment: Substituted "abstract" for "copy" wherever it appears.
- 6 "if it is not in the record it did not happen." (James v. Desta (2018) 5 Cal.5th 594, 609, fn11 quoting Save Our Water v. County of Merced (2003) 110 Cal.App.4th 362, 364.)

W I T H O U T O N E P L E A . C O M .

Legal Professionals Continuing Education Series
"Blind for a Season"

CAMEL SWALLOWERS 101

"Blind guides, who strain out a gnat and swallow a camel!"
Matthew 23:24 NKJV

Treatises Exposing California Criminal Justice Fraud

I

Illegal Felony Prosecutions Via Complaint

The Truth, The Whole Truth... And Nothing But
February 21, 2018

Without One Plea
December 17, 2018

Handling the Truth
July 4, 2019

Newsom, We Have A Problem
May 1, 2020

Governor's Silence Speaks Volumes
May 9, 2020

Held To Answer
June 19, 2020

II
Judicial Failure to Create A JOC

You're the Man, Papers Please!
August 17, 2020

Immediate Release!
California's Governor Orders Mass Release of Prisoners!
And It Ain't CORONA, Sweetheart!
August 28, 2020

CDCR Secretary Ralph Diaz Admits
No Authority To Confine Prisoners!
September 1, 2020

Under Cover of CORONA
September 1, 2020

Kamala's Kriminal Konduct
Not A Single Valid Felony Conviction In California During Kamala
Harris' Prosecutorial Career! Thousands Unlawfully Confined!
Governor Orders Investigation And Prison Doors To Be Opened!
October 15, 2020

No JOC? Then Set Us Free!
It's the **Right** thing to do... **Right**?
June 15, 2021

III
Confined By CDCR Without Authority

OATH BREAKERS
December 7, 2021

Memorandum

Date: November 12, 2020

To: CSP-Solano Inmates

Subject: **REQUEST IMMEDIATE RELEASE PURSUANT TO CDCR SECRETARY RALPH DIAZ**

California Department of Corrections and Rehabilitation (CDCR) has received your letter in regards to a release pursuant to Secretary Ralph Diaz. The letter is titled "CDCR Secretary Ralph Diaz admits No Authority to Confine Prisoners!" In the context of the letter, you submitted it states that Governor Newsom acknowledges government wrongdoing in criminal prosecutions, and he initiated a sweeping reform. The letter further states the CDCR Secretary received directions from Governor Newsome to commence processing for release. Additionally, the letter states that a written Judgment of Conviction has not been created by the sentencing judge and filed in the courts as required by law. Therefore, your detention is unlawful.

Please be advised at this time, CDCR has not been directed, advised, or made aware of by the CDCR Secretary Kathleen Allison, and Governor Newsom's Order to facilitate an immediate release for inmates in conjunction with the letter you attached titled, "CDCR Secretary Ralph Diaz admits No Authority to Confine Prisoners!" CDCR does not have the authority to activate an immediate release without a direct order from the Governor, implementation of new laws, senate bills, or a judicial decision.

Please be advised one or more of the following legal documents such as the Abstract of Judgment, Minute Order, Sentencing Transcript, and Felony Complaint submitted by the Superior Court of California, the county of commitment, reveal you were appropriately convicted and sentenced to serve your term under the jurisdiction of CDCR. There is no noted discrepancy with your legal documents or sentencing factors.

Acknowledging this, your request for immediate release pursuant to the letter titled "CDCR Secretary Ralph Diaz admits No Authority to Confine Prisoners!" is not an appropriate measure to be undertaken.

I appreciate you taking the time to express your concerns regarding these matters.

Sincerely,



M. FREGOSO
Associate Warden
Business Services/Records
California State Prison, Solano

NOT A SINGLE VALID FELONY CONVICTION IN CALIFORNIA DURING KAMALA HARRIS' PROSECUTORIAL CAREER! THOUSANDS UNLAWFULLY CONFINED! GOVERNOR ORDERS INVESTIGATION AND PRISON DOORS TO BE OPENED!

KAMALA'S CRIMINAL PROSECUTORIAL AND POLITICAL HISTORY

Since 2009, Kamala Harris, in her official capacity as...

Deputy District Attorney: Initiated felony prosecutions by illegal felony complaint¹;

District Attorney: authorized and supervised illegal felony prosecutions by felony complaint;

Attorney General: Supervised all 58 County District Attorneys' filing of illegal felony complaints in the Superior Courts² and, did not demand the judges file final judgments of conviction in all but capital cases³; and

Senator: Member of the Judiciary Committee, after being notified of the above illegal conduct in 2019⁴, ignored the warnings and failed to act to correct the continuing illegal prosecutions and address the false imprisonment of almost all of California's prisoners.

Consequences: The Superior Courts lack jurisdiction of felony complaints initiated by the state and the convictions are void. In the absence of a written and filed judgment of conviction there is no authority for the state to imprison any person, and therefore no necessity for a Parole Board. Nancy Pelosi's request for One Trillion Dollars for California's prisoners' support and compensation in her proposed stimulus package is too conservative.

Prior to indictment for violation of oath of office and before invoking her right to an attorney, perhaps Ms. Harris has an explanation?

Do note also, won't you please, that Ms. Harris' criminal conduct is not limited to her alone, but is exemplary of the state's officials and officers involved in the state's criminal justice system. Confirmation may be had by reference to the following public statements of the Governor and other top law enforcement officials.

ATTORNEY GENERAL INVESTIGATION AND PRISON DOORS OPENED

Governor Gavin Newsom, former California Department of Corrections and Rehabilitation (CDCR) Secretary Ralph Diaz and Board of Parole Hearings (BPH) Chief Deputy Rhonda Skipper-Dotta have been provided with the facts and law concerning the state's illegal felony prosecutions, convictions, confinement and parole review fraud. When presented with proposed public statements acknowledging government wrongdoing, they did not dispute nor object to the statement or to its publication. Following are excerpts from their statements evidencing a care and concern for truth, justice, the righting of wrongs and a non-partisan desire to make America great again!

On June 26, 2020, Governor Gavin Newsom stated "I have recently been made aware of the illegal confinement of the majority of all prisoners in California's prisons...The California Constitution requires lawful prosecution for felony crimes punishable by confinement in the state prison to be by means of indictment of a grand jury or, conditionally by information. It appears, since at least 1951, almost all felonies in California have been prosecuted and persons confined in the state prison by neither an indictment nor a valid information...I have instructed the Attorney General [File No. 184136] and State Auditor to expand the current investigation...and to seek indictments of the involved public officials, officers of the law and officers of the court for prosecution to the fullest extent of the law. ...Today, I am ordering the Secretary of the California Department of Corrections and Rehabilitation to commence processing for immediate release, all prisoners from the California state prisons for whom no True Bill of indictment initiating the case under which they are held may be found".⁵

On September 1, 2020, CDCR Secretary Ralph Diaz acknowledged the Governor's June 26, 2020 order and offered a brief explanation of the Superior Courts' malfeasance in failing to create and provide necessary papers for detention of prisoners in the state's prisons (a "judgment of conviction"), stating "In simple terms, CDCR is without authority to confine you any longer".⁶

On September 21, 2020, Board of Parole Hearings Chief Deputy, Rhonda Skipper-Dotta stated "the decisions of the California Board of Parole Hearings (BPH) since its inception have been based upon fraudulent documents, i.e., Abstracts of Judgment for which no Judgment of Conviction is in either CDCR Central Files, the sentencing Court's Clerk's Record or Judgment Docket or is there any evidence that it exists at all...Today, I am recommending to Governor Newsom that he exercise emergency powers and commute the sentences of all persons currently incarcerated in the state's prisons for whom BPH has denied parole in times past and to order those persons immediate and unconditional release from CDCR custody".

So let it be written, so let it be done!

Lonnie G. Schmidt, October 15, 2020.

1 No Constitutional or statutory authority for use of a felony complaint by the state: Penal Code (PC) § 949. No plea available for a defendant in a felony complaint: PC §§ 1002, 1016.

2 Filing false or forged document in Superior Court: Felony, PC § 115(a).

3 Required by law: PC § 1207; CA Court Rule 8.320(b)(8); F.R.Cr.P. Rule 32(k).

4 "Letter to Kamala Harris";

5 "IMMEDIATE RELEASE! CALIFORNIA'S GOVERNOR ORDERS MASS RELEASE OF PRISONERS! AND IT AIN'T CORONA, SWEETHEART!";

6 "CDCR SECRETARY RALPH DIAZ ADMITS NO AUTHORITY TO CONFINE PRISONERS!"; and

7 "SPECIAL REPORT! CALIFORNIA'S BOARD OF PAROLE HEARINGS' CHIEF DEPUTY ADMITS COMMISSIONERS' RELIANCE UPON FRAUDULENT RECORDS TO DENY PAROLE! RECOMMENDS GOVERNOR RELEASE PRISONERS DENIED PAROLE AND TERMINATE PAROLE STATUS OF ALL PAROLEES!". See withoutaplea.com (Click on "state").

ATTORNEY OR PERSON WITHOUT ATTORNEY (Name, State Bar number, and address):

Recording requested by and return to:

TELEPHONE NO.: FAX NO. (Optional):

E-MAIL ADDRESS (Optional):

ATTORNEY FOR: JUDGMENT CREDITOR ASSIGNEE OF RECORD

SUPERIOR COURT OF CALIFORNIA, COUNTY OF

STREET ADDRESS:

MAILING ADDRESS:

CITY AND ZIP CODE:

BRANCH NAME:

FOR RECORDER'S USE ONLY

CASE NUMBER:

CASE NAME:

ABSTRACT OF JUDGMENT—RESTITUTION Amended

FOR COURT USE ONLY

1. The judgment creditor assignee of record other (specify):

applies for an abstract of judgment and represents the following:

a. Judgment debtor's

Name and last known address

[] []

[] []

b. Driver's license no. [last 4 digits] and state:

Unknown

c. Social security no. [last 4 digits]:

Unknown

d. Date of birth:

Unknown

Date:

(TYPE OR PRINT NAME)

▶ _____
(SIGNATURE OF APPLICANT OR ATTORNEY)
 ON INFORMATION AND BELIEF

CASE NAME:	CASE NUMBER:
------------	--------------

CERTIFICATION

2. I certify that the following is a true and correct judgment entered in this action.

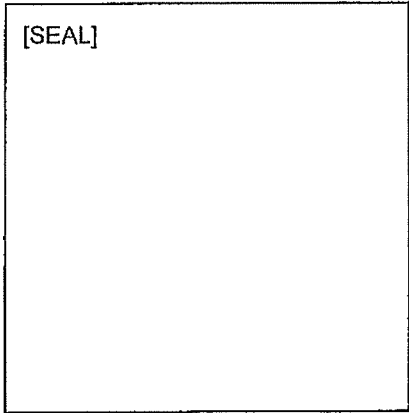
3. Judgment creditor (*name*):
 whose address or whose attorney's address appears on this form above the court's name.

4. Judgment debtor (*full name as it appears in judgment*):

5. Judgment entered on (*date*):

6. Total amount of judgment as entered or last renewed: \$

7. A stay of enforcement was ordered on: _____ and is effective until:
 A stay of enforcement was not ordered.



This abstract of judgment was issued on (*date*):

Clerk, by _____, Deputy

San Francisco

SFCHRONICLE.COM | Tuesday, July 20, 2021 | CONTAINS RECYCLED PAPER | \$2.00 *****

LEGAL NOTICES VISIT SFGATE.COM/LEGALNOTICES

LEGAL NOTICE

ATTENTION all Persons employed by, associated, contracting with, providing services to, and officers and officials of the California Department of Corrections and Rehabilitation (CDCR); **PLEASE TAKE NOTICE** that CDCR has publicly stated CDCR has NO legal authority to imprison and continue to retain any person in the state's prisons without a judgment in the criminal case, (judgment of conviction (JOC) being on file in CDCR's records(1). California law requires a JOC to be filed with the papers in the case; directing "that the defendant be delivered into the custody of the Director of Corrections"; to be imprisoned for the "term of imprisonment fixed by the judgment"; California Penal Code (PC) §§ 1207, 1202a, 2900.(2). A JOC is the ONLY legal document authorizing CDCR to take custody, fix the term of imprisonment and imprison a person. CDCR admits to not having a JOC for any prisoner. Why? **The Court did not create one!**

Those persons currently imprisoned by CDCR may confirm the absence of a JOC in their case files with the Records Department of the facility in which they are retained and demand immediate and unconditional release from CDCR custody (3). Continued detention without authority (JOC) after actual notice and demand for release by either the prisoner, family or friends, is willful and malicious violation of the laws and Constitutions of California and the United States; actionable in the civil and criminal arenas.

California Correctional Peace Officers Association (CCPOA) State President Glen Stailey has been notified of the illegal custody issue in order that he might advise CCPOA members of the ramifications, of aiding and abetting kidnaping and false imprisonment (4). This **NOTICE** serves to provide the same advisement to all above named persons and those who ought to take notice.

NOTICE TO THE AGENT IS NOTICE TO THE PRINCIPAL; NOTICE TO THE PRINCIPAL IS NOTICE TO THE AGENT.

The State and CDCR being dilatory in responding to prisoner, demands for release, must now respond to multiple lawsuits (5) naming the State, Governor Gavin Newsom, CDCR, CDCR Secretary Kathleen Allison and CSP Solano Warden Gigi Matteson as defendants, represented by the Attorney General of California. Contact information: Anthony J. Tartaglio, Deputy Attorney General, Office of the Attorney General, 455 Golden Gate Avenue, Suite 11000, San Francisco, CA 94102-7004, 415 510-4400 (Public), 415 510-3602 (telephone), 415 703-5480 (Facsimile), E-Mail: Anthony.Tartaglio@doj.ca.gov.

Legal Notice by Lonnie G. Schmidt, Captain USAR A23544 CSP Solano 21-3-41, PO, Box 4000, Vacaville, CA 95696; Plaintiff, Schmidt v. State of California, et al., Case FCS056153, Superior Court of California, County of Solano, Fairfield, CA. Free those who are wrongly imprisoned! Isaiah 58.6 NLT

For further information see "Breaking News!", Attorney General letter; CDCR 1-Secretary Ralph Diaz Admits No Authority To Confine Prisoners" 2-"Under Cover of CORONA "No JOC? Then Set Us Free!"; "No Judgment? No Prison! Home?? No Question!!" and "Held To Answer?" at withoutoneplea.com. 3-CDCR Secretary Kathleen Allison, 1515 S Street, Sacramento, CA 95814. 4-CCPOA letter, at withoutoneplea.com. RFB-Proverbs 21:31 5-Harris v. State, FCS056147; Jackson v. State, FCS056157, Solano County.

Published in the following:

San Francisco Chronicle
July 18, 19, 20, 21, 22, 23, 24, 2021

Sacramento Bee
July 25, 2021

San Francisco Daily Journal
August 13-16, 2021

Los Angeles Journal
August 16-17, 2021

The Daily Recorder Sacramento
August 16-17, 2021

Orange County Recorder,
Santa Ana
August 20-23, 2021

Business Journal Riverside
August 24-25, 2021

The Daily Transcript,
San Diego
August 26-27, 2021

LEGAL NOTICE

ATTENTION all persons employed by, associated, contracting with, providing services to, and officers and officials of the **California Department of Corrections and Rehabilitation (CDCR): PLEASE TAKE NOTICE** that CDCR has publicly stated CDCR has **NO** legal authority to imprison and continue to retain any person in the state's prisons without a judgment in the criminal case (judgment of conviction (JOC)) being on file in CDCR's records.¹ California law requires a JOC to be "filed with the papers in the case"; directing "that the defendant be delivered into the custody of the Director of Corrections"; to be imprisoned for "the term of imprisonment fixed by the judgment": California Penal Code (PC) §§ 1207, 1202a, 2900.² A JOC is the **ONLY** legal document authorizing CDCR to take custody, fix the term of imprisonment and imprison a person. CDCR admits to not having a JOC for any prisoner. Why? **The Court did not create one!**

Those persons currently imprisoned by CDCR may confirm the absence of a JOC in their case files with the Records Department of the facility in which they are retained and demand immediate and unconditional release from CDCR custody.³ Continued detention without authority (JOC) after actual notice and demand for release by either the prisoner, family or friends, is willful and malicious violation of the laws and Constitutions of California and the United States; actionable in the civil and criminal arenas.

California Correctional Peace Officers Association (CCPOA) State President Glen Stailey has been notified of the illegal custody issue in order that he might advise CCPOA members of the ramifications of aiding and abetting kidnaping and false imprisonment.⁴ This **NOTICE** serves to provide the same advisement to all above named persons and those who ought to take notice.

**NOTICE TO THE AGENT IS NOTICE TO THE PRINCIPAL;
NOTICE TO THE PRINCIPAL IS NOTICE TO THE AGENT.**

The State and CDCR being dilatory in responding to prisoner demands for release, must now respond to multiple lawsuits⁵ naming the State, Governor Gavin Newsom, CDCR, CDCR Secretary Kathleen Allison and CSP Solano Warden Gigi Matteson as defendants, represented by the Attorney General of California. Contact information: Anthony J. Tartaglio, Deputy Attorney General, Office of the Attorney General, 455 Golden Gate Avenue, Suite 11000, San Francisco, CA 94102-7004, 415 510-4400 (Public), 415 510-3602 (Telephone), 415 703-5480 (Facsimile), E-Mail: Anthony.Tartaglio@doj.ca.gov.

Legal Notice by Lonnie G. Schmidt, Captain USAR AZ3544 CSP Solano 21-3-4L, P.O. Box 4000, Vacaville, CA 95696; Plaintiff, Schmidt v. State of California, et al., Case FCS056153, Superior Court of California, County of Solano, Fairfield, CA. Free those who are wrongly imprisoned! Isaiah 58:6 NLT

- For further information see "Breaking News!", Attorney General letter;
¹ "CDCR Secretary Ralph Diaz Admits No Authority To Confine Prisoners";
² "Under Cover of CORONA", "No JOC? Then Set Us Free!"; "No Judgment? No Prison! Home?? No Question!!" and "Held To Answer" at withoutoneplea.com.
³ CDCR Secretary Kathleen Allison, 1515 S Street, Sacramento, CA 95814.
⁴ CCPOA letter, at withoutoneplea.com. RFB-Proverbs 21:31
⁵ Harris v. State, FCS056147; Jackson v. State, FCS056157; Solano County.

Kamala Harris

February 10, 2019

Lonnie G. Schmidt AZ3544
CSP Solano 21-3-4L
PO Box 4000
Vacaville, CA 95696

Kamala Harris, Senator
Senate Office Building
112 Hart
Washington, D.C. 20510
U.S.P.S. Certified Mail RRR No.: 7002 0510 0003 4495 4044

Re: **On Your Watch!** California's felony convictions via complaint; **none** are valid, no not one!; Malfeasance in office. NOTICE FELONY; DEMAND FOR RELIEF.

Dear Senator Harris:

Congratulations on your recent announcement to run for the office of President of the United States; a noble aspiration.

This letter concerns your and your subordinate's malfeasance while employed as law enforcement officers in the Executive branch of Government. And how, now as a member of the Legislature, it is your duty to oversee the abrogation of the unlawful actions.

The manner in which you respond to the indisputable facts of wrongdoing as set forth herein, and your willingness to admit and move to correct the wrongs, may well determine whether you enjoy the campaign and perhaps a term in the White House, or, whether you leave a legacy of shame and endure a term in Central California Women's Facility.

"He who covers his sins will not prosper, but whoever confesses and forsakes them will have mercy" and "the wise shall inherit glory, but shame shall be the legacy of fools." Proverbs 28:13; 3:35 NKJV.

MALFEASANCE IN OFFICE

The wrongdoing: prosecution of felonies via complaint, a form and mode of charging offenses not authorized by law.

"A court can acquire no jurisdiction to try a person for a criminal offense unless he has been charged with the commission of the particular offense and charged in the particular form and mode required by law. ...A person may not be punished for a crime without a formal and sufficient accusation even though he voluntarily submits to the jurisdiction of the court. Such is the undisputed law in all jurisdictions" Albrecht v. United States 273 U.S. 1 (1927).

Authority for the state to prosecute felonies via complaint is that which remains after you pop a soap bubble.

During your tenure as a Deputy District Attorney, District Attorney and Attorney General for California, you were involved with, authorized and supervised the preparation, investigation and filing of felony complaints.

You knew or should have known, that a felony complaint is not a form or mode of charging offenses authorized by law. Penal Code § 949.

You knew or should have known, that your predecessor in the office of Attorney General, Bill Lockyer, had publicly stated the government's position on the use of felony complaints to initiate prosecutions as unlawful by declaring "the government may not even be involved with the preparation, investigation and filing of a felony complaint." People v. Viray, (2005) 134 Cal. App.4th 1186, 1201.

You knew or should have known, that California's Constitution and Penal Code require that all felonies shall be prosecuted by indictment or information. Article I, § 14 CA Const.; PC §§ 682, 737, 739, 917, 949; People v. Wallach, 79 Cal.App 605, 608 (1926).

You knew or should have known, that an unauthorized accusatory pleading is insufficient to confer jurisdiction upon the court and that any judgment obtained thereby is void: "a judgment is void ... if the trial court lacked subject matter jurisdiction." People v. Alanis, (2008) 158 Cal.App.4th 1467, 1473.

It may be of little comfort to learn that this unlawful practice is not unique to your tenure, but appears to have been in vogue for more than 50 years prior. However, this fact offers you and your ilk no excuse for violating the Constitution, long standing practice notwithstanding, prosecution via felony complaint is not authorized by law, and when accomplished as in my three cases and those of thousands of persons, violates the Constitution.

"It is obviously correct that no one acquires a vested or protected right in violation of the Constitution by long use, even when that span of time covers our entire National existence and even predates it." Waltz v. Tax Commission of New York City 397 U.S. 664, 678 (1970).

Therefore, your unlawful participation in the prosecution of felonies via complaint violated your oath of office and the due process rights of the accused; resulting in void judgments and the false imprisonment of thousands of persons. The handwriting is on the wall, you have been weighed in the balances and found wanting: guilty of malfeasance in office.

NOTICE FELONY

The prosecution and imprisonment of persons without any authority to do so, may be considered by some to be, inter alia, criminal conduct and actionable under Penal Code §§ 661, 115(a), 182(a)(1-5) and federal law Title 18 U.S.C. §§ 241, 242.

In order to avoid conclusion of misprision of felony (18 U.S.C. § 4 and the California analog thereto), I hereby give notice of the willful, knowing and malicious violation of my Constitutional rights by agents of the state acting under color of law and in concert in the arrest, detention, prosecution and imprisonment of my person in the absence of any and all authority;

as evidenced by felony complaints filed in Superior Court of California for the counties of Sacramento (Case No. 13F07578), Santa Clara (Case No. 1348325) and Solano (Case No. 317874) in January 2013, December 2013 and November 2015.

Discussion

Please find enclosed a Press Release and article titled “Without One Plea” dated December 17, 2018, quoting the Honorable J.S. Penny commenting on the scope and impact of the unlawful practice of prosecution via felony complaint.

“It should be pointed out that as a practical matter almost all felony prosecutions in the state are initiate through the filing of a complaint signed by a deputy district attorney. According to the petitioner’s argument, virtually every felony conviction and every pending felony prosecution in the state is invalid.”

It is clear that this error is one of statewide significance and Constitutional magnitude having enormous legal, moral and financial implications of unquantifiable proportions. And impacting thousands of persons who have been, are being, and will continue to be, prosecuted via felony complaint, absent intervention.

Since discovery of the error in November 2017, I have sent certified mail to various District Attorneys (see Without One Plea) outlining the issue of bogus filings and demanding cessation of the practice. As of this date, I have received no response ... and the prosecutions continue.

“Silence can only be equated with fraud where there is a legal and moral duty to speak and where an inquiry left unanswered would be intentionally misleading.”
U.S. v. Tweel, 550 F2d 297, 300 (1977).

Is this practice and refusal to admit error and to cease and desist the unlawful activity a fraud and conspiracy of major proportions? Or simply ignorance on the part of yourself and the entire state law enforcement community as to the requirements of the law? In either event, the practice must stop now!

Now you, Senator Harris, sworn to uphold the law and defend, inter alia, the 4th and 5th and 14th Amendment rights of the people— having failed miserably in the past to so do as a law enforcement officer —must choose to be part of the solution, or, continue to be a part of the problem.

Paradigm shifts are almost always difficult, particularly when you abruptly get knocked off your horse, blinded by the light of truth, and find that your life’s work in the pursuit of justice was anything but. Despair not, for God always gives us another chance to fulfill our purpose in life.

As you consider your options, I recommend that while you remain in the D.C. area, you visit the Martin Luther King, Jr. Memorial and contemplate the inscription it bears:

“But let justice run down like water, and righteousness like a mighty stream.”
Amos 5:24 NKJV.

I encourage you to “apply your heart to instruction and your ears to words of knowledge’ and to ‘open your mouth, judge righteously, and plead the cause of the poor and needy {unlawfully imprisoned}’ inasmuch as ‘it is a joy for the just to do justice.” Proverbs 23:12; 31:9; 21:15 NKJV.

Do not think in your heart that you will escape in the Senate any more than all the other prosecutors, past and present. For if you remain completely silent at this time, relief and deliverance will arise for the unlawfully imprisoned from another place, but you and your subordinates will go to prison. Yet who know whether you have come to the kingdom for such a time as this? See Esther 4:13 et seq., NKJV.

DEMAND FOR RELIEF

In my capacity as one of the People, native Californian, Captain USAR, Victim Aggrieved, I, Lonnie Glenn Schmidt hereby DEMAND that you, Senator Kamala Harris, take, at a minimum, the following actions, to wit:

1. Notify the Governor and the Executive, Legislature and Judicial branches of government of the unlawful prosecutions.
2. Obtain emergency orders for the immediate cessation of any further preparation, investigation and filing of felony complaints by government personnel.
3. Secure the immediate and unconditional release from prison of myself and all persons prosecuted and imprisoned via a felony complaint; regardless of “charges” or length of sentence.
4. Provide for financial relief, e.g., per Senate Bill 1134, at time of release, and for continuing health care.
5. Notify the Attorney General of the United States and request a special prosecutor be appointed to investigate the wrongdoings.

“Therefor, to him who knows to do good and does not do it, to him it is sin.” James 4:17 NKJV.

Summary

On your watch as a law enforcement officer with ever increasing levels of responsibility and supervision, thousands of persons were prosecuted and imprisoned pursuant to charges brought by felony complaint; an unlawful form and mode for prosecution of felonies.

You have a legal and moral duty to speak and act to end that which, when the dust settles, can only be seen as a continuation of the societal evil of slavery in America.

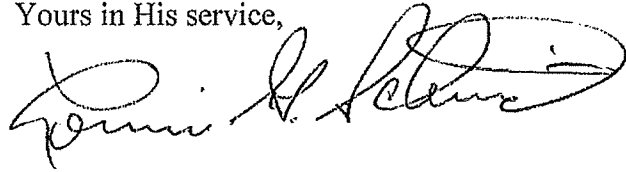
Your career, legacy, and the liberty of many rest with your decision ... I suggest that you make it prayerfully.

"I will instruct you and teach you in the way you should go; I will guide you with my eye." Psalm 32:8 NKJV.

Therefore and otherwise Ms. Harris, and to all to whom these presents come, please conduct yourself accordingly.

I would have written you a shorter letter, but I didn't have the time.

Yours in His service,

A handwritten signature in black ink, appearing to read "Lonnie G. Schmidt". The signature is fluid and cursive, with a large, sweeping flourish at the end.

Lonnie G. Schmidt

Encl.: Press Release; Without One Plea

Cc: Donald Trump, President U.S.P.S. Certified Mail RRR No. 7001 1940 0000 7188 5722

Gavin Newsom, Governor U.S.P.S. Certified Mail RRR No. 7001 1940 0000 7188 5739

William Barr, U.S. Attorney General

Xavier Becerra, Attorney General

William Shubb, Judge, USDC EDC

Jay Sekulow, Chief Counsel, ACLJ

Lisa Gonzales, KCRA 3 News

Without One Plea

by

Lounie G. Schmidt
RFB - Proverbs 21:31
December 17, 2018

To require a person to plea to a complaint for which no plea exists, strains the confines of credulity.

It should be pointed out that as a practical matter almost all felony prosecutions in the state are initiated through the filing of a complaint signed by a deputy district attorney. According to the petitioner's argument, virtually every felony conviction and every pending felony prosecution in the state is invalid.

Honorable J. S. Fry¹

The Attorney General², chief law officer for the state and direct supervisor of district attorneys and all other law enforcement officers³ has publicly declared that "the government may not even be involved in the preparation, investigation and filing of a felony complaint."⁴

What's wrong with this picture? Without a plea authorized for a felony complaint⁵, the courts accepting for filing felony complaints, and law enforcement disavowing authority to file a felony complaint? There appears to be a conflict between the executive and judiciary branches as to proper understanding and application of the law in criminal actions. What sayeth the law?

Article I, § 14 of the California Constitution mandates that "Felonies shall be prosecuted by indictment or, after examination and commitment by a magistrate, by information." The California Penal Code ("PC") requires that all felonies be prosecuted by either indictment or information. (PC §§ 682, 737, 739, 917 and 949.)

Despite constitutional jurisdictional mandatory subject matter prerequisite and their Supervisor's prohibition, District Attorneys in every county in California have been bringing cases via felony complaint. This unlawful activity by state actors violates their oath of office and the due process rights of the accused. And, as a matter of law, regardless of the charged crime, violent or not, or length of sentence or when imposed, any conviction obtained is VOID ab initio and the prisoner is entitled to immediate and unconditional release.⁶

In the interest of justice and giving opportunity to cure their aberrant and abhorrent behavior, early this year I sent by U.S.P.S. Certified Mail letters informing of error and demanding the cessation of prosecution via felony complaint, to the following District Attorneys:

Anne Marie Schubert, Sacramento County; Jeff Rosen, Santa Clara County; Krishna Abrams, Solano County, and Allison Haley, Napa County.

Each letter directed the District Attorney's attention to the Constitution and Penal Code, exposing their lack of authority. None have responded ... and they continue the unlawful activity.

Solomon was right when he said "A servant will not be corrected by mere words; though he understands, he will not respond."⁷

The District Attorney is a public servant holding office at the will of the electorate and sworn to uphold the law. The People have mandated the proper mode for prosecuting felonies to be by indictment or information ... not by complaint.

What will it take to make our public servants respond to legitimate demands to perform their duties in accordance with the law? Perhaps, since this is an election year, and the incumbent or newly positioned elected are settling into office, We the People should demand the production of authority to prosecute felonies via complaint. If they ignore us and continue their unlawful conduct, demand they turn in their badge. And, explain to the People how and why releasing more than 117,000 prisoners is in the best interests of the community.

The District Attorneys and those acting in concert to unlawfully prosecute and imprison California citizens is a violation of their oath of office and actionable as criminal conduct under state⁸ and federal⁹ law.

Now that YOU know the truth¹⁰ ... how will you respond?

"Therefore, to him who knows to do good, and does not do it, to him it is sin." James 4:17 (NKV).

Lonnie G. Schmidt
One of the People
Captain USAR
Victim Aggrieved as Thrice Charged by Felony Complaint

Notes

- 1 Jeffrey S. Penny, Judge of the Superior Court, Placer County, California. In re Brooks, (May 18, 2018) Case WHC-1611 Order Denying Petition for Writ of Habeas Corpus page 3, lines 6-10.
- 2 Bill Lockyear, Attorney General, Robert R. Anderson, Chief Assistant Attorney General, Gerald A. Engler, Senior Assistant Attorney General, Gregg E. Zwicke, Deputy Attorney General and Mark S. Howell, Deputy Attorney General.
- 3 Article V, § 13 of the California Constitution; People v. Municipal Court for Ventura Judicial District, (1972) 27 Cal.App.3d 193, 208.
- 4 Bill Lockyear and executive staff (N. 2, supra) as Respondent People v. Viray, (2005) 134 Cal.App.4th 1186, 1201.
- 5 The Penal Code states that a defendant has one pleading available to him, either a demurrer or plea. (§ 1002.) Demurrer authority is found at PC § 1004 and plea at PC § 1016. There are six kinds of pleas to an indictment, or to an information, or to a complaint charging a misdemeanor or infraction: Guilty, Not Guilty, etc. (PC § 1016.) But not one plea for a defendant named in a complaint charging a felony.
- 6 A court can acquire no jurisdiction nor punish a person for a crime without a formal and sufficient accusation in the form and mode required by law. Such is the undisputed law in all jurisdictions. Albrecht v. United States 273 U.S. 1, 8; People v. Alaniz (2008) 158 Cal.App.4th 1467, 1473 "A judgment is void ... if the trial court lacked subject matter jurisdiction."
- 7 Proverbs 29:19 (Holy Bible, NKJV).
8. Penal Code §§ 24 (removal from office), 115(a) (filing false instruments), 182(a)(1-5) (conspiracy to falsely imprison).
- 9 Title 18, United States Code, §§ 241 and 242 (conspiracy to deprive a person of their civil rights, false imprisonment, kidnapping, hold for ransom, etc.).
- 10 February 21, 2018, the day Dr. Billy Graham, "Pastor to America" died, I wrote a legal research paper entitled "The Truth, The Whole Truth...And Nothing But" documenting from authorities the disclosures found herein. I will close this article as Dr. Graham closed his many Crusades, with an invitation for freedom that the state can't give. Charlotte Elliot's beloved hymn: Just as I am without one plea, but that Thy blood was shed for me. And that thou bidst me come to Thee, O Lamb of God, I come, I come. John 3:16, Romans 10:9-13.

PROSECUTION OF FELONIES BY COMPLAINT IS ILLEGAL!
117,000 California prisoners could be home for Christmas 2019!
Prison overcrowding resolved!

Article I, § 14 of the California Constitution mandates that "Felonies shall be prosecuted by indictment or, after examination and commitment by a magistrate, by information." California's Penal Code ("PC") requires that all felonies be prosecuted by indictment or information. (PC §§ 682, 737, 739, 917, 949.)

California's Attorney General, chief law officer for the state and direct supervisor of District Attorneys (prosecutors) and all other state law enforcement officers, has publicly declared that "the government may not even be involved in the preparation, investigation and filing of a felony complaint." People v. Viray, (2005) 134 Cal.App.4th 1186, 1201.

Despite this mandatory subject matter jurisdictional prerequisite, and their Supervisor's admonition, District Attorneys in every county in California, for over 60 years, have been bringing felony cases via complaint.

This unauthorized mode of prosecution of felonies violates the prosecutor's oath of office and the due process rights of the accused. As a matter of law, regardless of the crime, violent or not, or length of sentence or when imposed, any conviction obtained by such complaint is void ab initio. The prisoner is entitled to immediate and unconditional release.

Source: "Without One Plea" (December 17, 2018).

FOR INFORMATION

www.withoutoneplea.com

Posted on the web page for informational purposes only:

Articles: Without One Plea (3 pages);
The Truth, The Whole Truth ... And Nothing But
(14 pages) containing legal points and authorities.

Examples: Letter to Court to get copy of your complaint.
Habeas Corpus with Grounds For Relief (24 pages).
DEMAND letter to your prosecuting attorney.

Gavin Newsom

April 17, 2020

Lonnie G. Schmidt AZ3544
CSP Solano 21-3-4L
P.O. Box 4000
Vacaville, California 95696

Gavin Newsom, Governor
State Capitol
Capitol Mall
Sacramento, California 95814
U.S.P.S. Certified Mail RRR No.: 7002 0510 0003 4495 4006

Re: **Newsom, we have a problem...**
CALIFORNIA'S PRISONERS' CONFINEMENT VIOLATES
THE CONSTITUTION AND LAWS OF CALIFORNIA AND
THE UNITED STATES...and we the People demand release!

Dear Governor Newsom:

Congratulations on your tremendous effort to safeguard all of California from the spreading Coronavirus. Thank you.

I bring to your attention another insidious virus long in incubation and far more destructive than the current one you are dealing with...the unlawful confinement in the state prison of the majority, if not all, inmates.

I am sure you are unaware of this problem, as if aware, you would have implemented corrective measures by this time. Hindsight evidences you have demonstrated exceptional foresight in halting death-row executions...perhaps for just such a time as this revelation.

For the past three years, I've done all in my power to bring this problem to the state's attention but, to no avail.

In March of 2020, I wrote a "Breaking News!" press release "District Attorney Blows DeAngelo Case!" At last some interest!

I followed up with an "Analysis" which provides a layman's view of the government debacle. Analysis and legal argument "Grounds For Relief" (as presented for the legal community's comprehension) are available on-line at www.withoutoneplea.com.

I now give you a synopsis of the problem for your review, understanding and action. Grab a cup of coffee, relax and be advised of the burgeoning tidal wave of interest in justice and true prison reform.

The import of "Breaking News!" (enclosed), is that the illegal prosecution of notorious Joseph DeAngelo is indicative of a greater problem: the consequences of the longstanding practice of this state's District Attorneys' failure to follow the law and prosecute infamous¹ crimes by mode of indictment.

What are the consequences? Illegal convictions...false imprisonment...prison violence, suicides...unquantifiable state financial liability...and no justice for the victims.

After almost two years in the Sacramento County Jail, Mr. DeAngelo, accused of multiple murders and rapes in various counties, is not indicted. Why? How many other unindicted persons have been, are being and will continue to be illegally prosecuted and confined in the state prison?

The United States Constitution is the supreme law of the land and requires as a condition precedent to confinement in the state prison, that prosecution of an infamous (felony) crime be commenced by indictment of a **Grand Jury**.

"No person shall be held to answer for a capital, or otherwise infamous crime, unless on a presentment or indictment of a Grand Jury," (U.S. Const. amend. V.)

California law requires that a felony² prosecution for confinement **in the state prison**³ commence by indictment of a grand jury.

"Felonies shall be prosecuted as provided by law, either by indictment or, after examination and commitment by a magistrate, by information." (Cal. Const. art. I, § 14.)

As a matter of California and U.S. Constitutional law, only an indictment is authorized for use by the state for prosecution of an infamous crime and is required for entry into the state prison enterprise. No indictment...no prison.

A felony charge requiring confinement **in the county jail**⁴ requires prosecution to commence by information⁵. Contrary to popular belief and practice by the state for many years, an information filed by a district attorney is not an authorized alternative to indictment of a grand jury nor is it sufficient for confinement in the state prison.

Perhaps a review of how a prosecution for confinement in a county jail is intended to proceed will put a spotlight on the state's error, i.e., prosecuting all "felonies" by a "felony complaint" filed by the government. Thus, disregarding the statutory mandate governing prosecution, i.e., "in the state prison" (indictment required) or "in a county jail" (information required).

An information may not be utilized by the state unless a complaint is first made by a private (non-government) person to an officer charging a violation of law⁶ and the offense is determined to be chargeable as a misdemeanor; and, after a preliminary hearing, a complaint charging a misdemeanor is filed by the state⁷ and prosecuted by information as a misdemeanor, or, as a felony at the request of the defendant⁸. However, the charge remains a misdemeanor for all purposes and upon conviction, time is served in the county jail⁹.

A complaint is not authorized for government usage to charge a felony. This was made clear in 2005 by then Attorney General Bill Lockyer's public statement "the government may not even be involved in the preparation, investigation and filing of a felony complaint."¹⁰ The only complaint the government may bring before the magistrate is one charging a misdemeanor¹¹.

In sum, an indictment is required for lawful prosecution of infamous crimes and for confinement in the state prison.

Notwithstanding the Attorney General's prohibition, District Attorney Anne Marie Schubert, a government person, procured the felony complaint to be filed by her Deputy in the Superior Court of Sacramento County against Joseph James DeAngelo. Subsequent proceedings, such as a plea of guilty or preliminary hearing (currently scheduled for May 12, 2020) pursuant to the felony complaint, are a nullity. Any resulting judgment of conviction is void. Confinement in the state prison is unlawful. Remedy is release. Unless sooner indicted in another interested county, **DEANGELO WILL WALK!**

The California Penal Code gives the county grand jury authority to investigate and indict public and private persons for violations of law within the county. (§§ 888, 911, 917(a), 919(c)*.) And, to inquire into the case of every person imprisoned in the county jail and not indicted. (§ 919(a).)

Q. Why has the Attorney General been requested to investigate the District Attorney's Office in all counties?

A. There are so few indictments of record.

Why? According to the Honorable J.S. Penny, Superior Court Judge, Placer County, California in May 2018:

"It should be pointed out that as a practical matter almost all felony prosecutions in the state are initiated through the filing of a complaint signed by a deputy district attorney. According to the petitioner's argument, virtually every felony conviction and every pending felony prosecution in the state is invalid."¹²

Ms. Schubert and district attorneys who, in the absence of a private person's complaint do not seek indictment of a person they wish to accuse of a capital or infamous crime, but instead file a felony complaint, violate the law and their oath of office. And deprive the state of authority to confine persons convicted thereby in the state prison.

This conduct constitutes willful misconduct in office which must be investigated when evidence is presented to the county grand jury. The evidence is the "felony complaint" filed in the superior court which is an unauthorized accusatory pleading on the part of the people and the filing of which is a felony. An officer of the law is not above the law and cannot violate the law in order to enforce the law.

See "Citizen Complaint, Sacramento County Grand Jury" (DeAngelo felony complaint and April 28, 2018 notice to DA attached), "Attorney General Complaint", "Handling The Truth" and "Grounds For Relief" for points, authorities and more information at www.withoutoneplea.com.

* Undesignated statutory references are to the California Penal Code.

SUMMARY

The state is authorized to hold in the state prison system (California Department of Corrections and Rehabilitation (CDCR)) only persons prosecuted and convicted pursuant to an indictment of a grand jury. All other persons held by the state in CDCR prisons are unlawfully confined¹³.

DEMAND FOR RELEASE

On behalf of, as one of, and by authority of, the People of the United States and the Constitution of the United States, specifically the Fifth Amendment, wherein it is mandated that "No person shall be held to answer for a capital, or otherwise infamous crime, unless on a presentment or indictment of a Grand Jury," and as Captain in the United States Army Reserve, Citizen of California, Resident of Sacramento County and Victim Aggrieved as one confined in the state prison and not indicted:

I, Lonnie Glenn Schmidt, hereby demand that you, Gavin Newsom, in your official capacity as Governor of the State of California, order CDCR Secretary Ralph Diaz, to effect the immediate cessation of intake into CDCR of all persons remanded to CDCR custody by the California Courts who are not indicted by a grand jury; and, order the immediate and unconditional release of myself as a person not indicted; and to effect the release of all persons confined for whom a True Bill of Indictment by a grand jury cannot be produced.

CONCLUSION

Now that you are aware, it would be easier to hide an elephant under a rug than to avoid confronting and resolving this problem¹⁴.

Failure on your part to take immediate action may be considered by some to be a violation of your oath of office and to knowingly and willfully participate in the continuing unlawful imprisonment of myself and other persons not indicted, yet, confined by the state in the state prison¹⁵.

"Hate evil, love good; establish justice in the gate...
let justice run down like water, and righteousness like a
mighty stream...Free those who are wrongfully imprisoned"
Amos 5:13, 24 NKJV; Isaiah 58:6 NLT.

Therefore and otherwise, conduct yourself accordingly¹⁶.

Respectfully,



Lonnie G. Schmidt

Encl.: Breaking News! DA Blows DeAngelo Case!

Cc: Ralph Diaz, Secretary, CDCR
Xavier Becerra, Attorney General (File No.: 184136)
Elaine Howle, Auditor (Case No.: 12019-1960)
Mike Pence, Vice President of the United States
Dave Patterson, Pastor, The Father's House
Carl Specht, Chaplain, Chapel of the Good Shepherd
Lisa Gonzales, KCRA 3 News

Footnotes

1 Infamous: "punishable by imprisonment in a penitentiary (said of certain crimes, usually felonies)" Webster's New World Dict., 1991 p. 691.
"Conduct punishable in the state prison." Black's Law Dict., Fourth Pocket Ed. 2011 p. 380.

Penitentiary: "a prison, a State or Federal prison for persons convicted of serious crime." Webster's New World Dict., 1991 p. 999.

2 Felony: § 17(a) "A felony is a crime that is punishable with death, by imprisonment in the state prison, or notwithstanding any other provision of law, by imprisonment in a county jail under the provisions of subdivision (h) of Section 1170."

The place of confinement is established in each penalty portion of the Penal Code. §17(a) definition of "felony" includes both places of confinement, the state prison and county jail.

3 Punishment in the state prison for serious crime requires prosecution by mode of indictment.

For example: Crimes Against the Person - §§ 187, 190 Murder, mandate punishment "in the state prison": CSP Solano, Gary Eberly AZ2842 (not indicted, but confined in the state prison).

Crimes Against Property § 451(c) Arson, mandates punishment "in the state prison": CSP Solano, Kenneth Jackson AU4656 (not indicted, but confined in the state prison)(3 years eligible Prop. 57).

4 Punishment in the county jail for minor offenses and brief terms (one year - misdemeanors; felonies 16 month - 3 years) requires prosecution by mode of information.

§ 17(a) definition of "felony" also includes those crimes where the term "in the state prison" does not appear in the code section and the term of sentence shall be served in "a county jail". These crimes are to be prosecuted by information. See § 17(a) reference to § 1170(h)(1) "where the term is not specified in the underlying offense shall be punishable by a term of imprisonment in a county jail...".

For example: § 115(a), Filing false instruments, is punishable by a term of imprisonment "in a county jail": CSP Solano, Lonnie Schmidt AZ3544 (not indicted, but confined in the state prison (not a county jail) (3 years eligible Prop. 57).)

§ 1170(h)(2) "a felony punishable pursuant to this subdivision shall be punishable by imprisonment in a county jail for the term described in the underlying offense."

For example: § 422, Criminal threats, punishable by term described "in a county jail not to exceed one year,": CSP Solano, Wayde Harris G36394 (not indicted, but confined in the state prison (not in a county jail)).

Neither Gary Eberly, Kenneth Jackson, Wayde Harris, nor myself should be in the state prison...felony complaints all: none indicted.

5 Information: "A formal accusation of a crime made by a prosecuting officer as distinguished from an indictment presented by a grand jury" Webster's New Collegiate Dict., 1999 p. 599.

6 "The term 'complaint' is a technical one descriptive of proceedings before magistrates. It is and has been defined to be the preliminary charge

or accusation against an offender, made by a private person or an informer to a justice of the peace or other officer, charging that the accused has violated the law." (Emphasis added.)

Rupley v. Johnson, 120 Cal.App.2d 548, 552 (1953); 22 C.J.S. Criminal Law, § 303 [pages 456, 457]. (Construction of § 806.)

7 "Before an information is filed there must be a preliminary examination of the case against the defendant and an order holding him to answer under Section 872. The proceeding for a preliminary examination must be commenced by written complaint, as provided elsewhere in this code." (Emphasis added.) (§§ 738, 740; (806).)

8 §§ 17(b)(4), 806.

9 § 17(b).

10 People v. Viray, (2005) 134 Cal.App.4th 1186, 1201.

11 § 740.

12 For citation, see "Handling The Truth" p. 7.

13 Notwithstanding § 1170(h)(3); which requires for enforcement a prior indicted offense and valid prosecution and confinement pursuant thereto.

14 Don't think this can be left to the courts...they have NOT addressed this issue: either on Direct Appeal or 21 Habeas Corpus petitions to the California Supreme Court; the court citing irrelevant procedural bars in order to avoid reaching the merits. No surprise as it is the courts and the judges thereof the "gatekeepers" of our liberty, who have permitted the illegal prosecutions to proceed and sentence all who appeared before them to the state prison...in the absence of all authority. So please, handle this problem at the Executive level. You are the holder of the keys to our freedom...inasmuch you don't hold the necessary papers...True Bills of Indictment...nor can the courts produce them for you...to justify or confinement. You've got trouble, right here in River City!

15 Those of us non-violent, several years qualified for Prop. 57 release, elderly (like me; 75) and all threatened by the Coronavirus, would benefit, as would the state, from your public announcement of our immediate release. Delay only increases criminal and financial liability for the state.

May I suggest you give first live media coverage to Lisa Gonzales, KCRA 3 TV News, since I've sent her most of my correspondence for 3 years.

16 This problem is presented and pursued for resolution in loving memory of my best friend, the finest man I'll ever meet, Daniel Glenn Schmidt July 24, 1969 - April 17, 2018, my son. Dan said to me concerning this matter of injustice a few days before stepping into the presence of the Lord, "Dad, you're right, but they don't care, they just don't care." I assured him that there are those honorable persons in government who do care, they just don't know the truth and it's our duty as the People to see to it that they are informed and given opportunity to perform their sworn duty. I love you son...you didn't give up on me...and I won't give up until justice is done: in honor of you, our Country and our God.

BREAKING NEWS!

BREAKING NEWS!

BREAKING NEWS!

DISTRICT ATTORNEY BLOWS DEANGELO CASE! SPOTLIGHT ON ILLEGAL PROSECUTIONS STATEWIDE! AG INVESTIGATES DA IN ALL COUNTIES! Tomorrow's Headlines: DEANGELO RELEASED, DA INDICTED.

Sacramento, CA. In spite of repeated warnings to seek indictment of Joseph James DeAngelo, alleged East Area Rapist aka Golden State Killer, Sacramento County District Attorney Anne Marie Schubert stubbornly refused and chose rather to file charges via "felony complaint", a common practice of District Attorneys in this state.

According to public statements by California's Attorney Generals Bill Lockyer and Xavier Becerra, "government may not even be involved in the preparation, investigation and filing of a felony complaint"... "a felony complaint does not confer trial jurisdiction."

As early as the day following Mr. DeAngelo's much publicized arrest on April 27, 2018, Ms. Schubert was given actual notice of the illegal charging by felony complaint and foreseeable consequences. Information and evidence just released as submitted to the Sacramento County Grand Jury confirms notification and that the filing of a felony complaint by the government in a Superior Court is not authorized by law, deprives the court of jurisdiction, voids the conviction, violates due process and requires release of the accused.

The Attorney General has been notified to convene a grand jury in order to obtain indictments against Jeff Rosen, District Attorney of Santa Clara County and his Deputies for just such illegal prosecutions and, has been asked to extend the investigation to all California counties.

Charges of obstruction of justice, filing false and forged documents with the Court, false imprisonment, conspiracy and violation of oath of office are among the many violations of law by public officers which must be considered by the grand jury. See, withoutoneplea.com "Citizen Complaint, Sacramento County"; "Attorney General Complaint". 3/08/2020

Press Release

IMMEDIATE RELEASE!

IMMEDIATE RELEASE!

IMMEDIATE RELEASE!

CALIFORNIA'S GOVERNOR ORDERS MASS RELEASE OF PRISONERS!
AND IT AIN'T CORONA, SWEETHEART!

Sacramento, CA. In an unprecedented admission of government wrongdoing, Governor Gavin Newsom has ordered the immediate release of the majority of the state's prison population. The announcement was made in this statement by the Governor released **June 26, 2020:**

"People of the state of California. I have recently been made aware of the illegal confinement of the majority of all prisoners in California's prisons. This travesty of justice began long before I took office as your Governor, but will not continue any longer on my watch. The justice system as we know it is broken and must be fixed...and I am up to the task. The California Constitution requires lawful prosecution for felony crimes punishable by confinement in the state prison to be by means of indictment of a grand jury or, conditionally, by information. It appears, since at least 1951, almost all felonies in California have been prosecuted and persons confined in the state prison by neither an indictment nor a valid information.

"On behalf of a government dedicated and sworn to uphold both the federal and state Constitutions and afford due process of law to all who enter the exterior boundaries of California, I apologize to the people of this state, the United States and the watching and concerned World, for the illegal prosecutions and the unlawful confinement of persons in this state's prisons.

"I have instructed the Attorney General and State Auditor to expand the current investigation of every county's District Attorneys to now include defense attorneys and judges of the Superior Courts and to seek indictments of the involved public officials, officers of the law and officers of the court for prosecution to the fullest extent of the law.

"Today, I am ordering the Secretary of the California Department of Corrections and Rehabilitation to commence processing for unconditional release, all prisoners from the California state prisons for whom no True Bill of indictment initiating the case under which they are held may be found.

"Further, the California Victims Compensation Board provides a sum equivalent to \$140 per day of incarceration served for the pecuniary injury sustained by those persons through their erroneous conviction and imprisonment.

"In the interest of justice and abating and mitigating damages, for the benefit of any wrongly confined person not unconditionally discharged from the state prison by July 4, 2020, I agree, by Executive Order or otherwise, to increase the above sum of \$140 to \$1,400 per day and, for each and every day of continued deprivation of the liberty of any person so unlawfully confined, an additional and not less than, amount of \$2,000, per day."

The historical announcement follows six months of continuing investigations by the state's Attorney General and Auditor's Offices into the illegal prosecutions, prompted by a Whistle-blower Complaint, many letters to the Governor and citizens' complaints to every county Grand Jury. See, "Attorney General Complaint", "June 11, 2020 Demand For Release" and "Citizen Complaint, Sacramento County" at www.withoutoneplea.com. June 26, 2020.

VALIDATION and VERIFICATION

The June 11, 2020 letter to Governor Newsom, from which this press release "Immediate Release" on the opposite side of this page is made, was sent by U.S.P.S. Certified Mail No.: 7002 0510 0003 4495 3306 and received June 17, 2020 5:42 a.m.. The statement is available for verification/validation and download at www.withoutoneplea.co. (Click on "state"; see June 11, 2020 Demand For Release.)

The Governor's agreement for his public statement as found in NOTICE OF INTENT TO PUBLISH portion of the letter (pp. 7-8), is obtained through the settled legal principle of acquiescence by silence or inaction. If he acts in a timely manner, publication will be unnecessary...mission accomplished...justice served. If he fails to act when he has the duty to do so, publication occurs. If he still fails to act...what will we the People do? **Ask him!** Governor Newsom may be reached for comment at 916 445-2841.

Ralph Diaz

August 17, 2020

Lonnie G. Schmidt AZ3544
CSP Solano 21-3-4L
P.O. Box 4000
Vacaville, CA 95696

Ralph Diaz, Secretary
California Department of Corrections and Rehabilitation
1515 S Street
Sacramento, California 95814
U.S.P.S. Certified Mail RRR No. 7019 2280 0001 4629 4511

Re: You're the man! Papers, please.

Dear Brother Diaz:

The purpose of this letter is four-fold:

- 1) to thank you for promptly responding to the Governor's June 26, 2020 Order to commence releasing unindicted prisoners;
- 2) to caution you not delay release of any person for which CDCR cannot confirm a written **Judgment of Conviction** authorizing the Secretary of CDCR to receive and hold the prisoner;
- 3) make personal and intercessory demand for release; and,
- 4) give notice of intent to publish CDCR statement to inmates concerning illegal confinement and release plan.

Thank You!

I thank and commend you on your expeditious handling of the Governor's Order to commence processing for release all illegally held persons. A lot of us are wanting to know where we appear on CDCR or our Warden's release list, and of course, how and when we collect our "back pay". I'm enclosing a copy of the short request letter regarding these questions we've sent to Warden G. Matteson, CSP Solano, and copied to the Governor and yourself. We anticipate a prompt response.

CAUTION! DANGER AHEAD! DO NOT DELAY RELEASE!

CBS Channel 13 TV News, Thursday, August 6, 2020:
"California officials say as many as 17,600 inmates may be released'...'a total that victims and police say includes dangerous criminals'...'prison officials say Corrections Secretary Ralph Diaz is likely to block the release of about 5,500, in part because many are serving life sentences."

Brother Diaz, you're walking into a trap! Notwithstanding the Governor's order, which deals with illegal prosecutions and convictions, you, as Secretary of CDCR, for want of required paperwork, are without authority to receive and hold almost all inmates, regardless of the length of sentence!

Therefore, as Secretary of CDCR, you have NO authority to block the release of those "serving life sentences"!

To warn you is why I'm writing. "A prudent man foresees evil and hides himself,..." (Proverbs 22:3 NKJV).

I recently reviewed an article concerning illegal confinement of California's prisoners, an issue near and dear to my heart. I believe the premise to be true and correct: my research in the subject of jurisdiction for the past 37 years confirms it is. Grab a cup of coffee, read carefully; 15 minutes could save... lives, the state a lot of money and, your career!

"Every individual convicted and sentenced in the State of California, who does not have a "Judgment of Conviction" signed by a California Superior Court judge is being held in direct violation of State and Federal law, and are being restrained in a limbo of involuntary servitude, in direct violation of the 13th Amendment, unlawfully and illegally!"
Dr. Sean-David Morton, PhD, KSJ The American's Sovereign Bulletin, March/April 2012.

No Judgment of Conviction? Detention is illegal. Slavery?

The Governor's June 26, 2020 statement "Immediate Release!" (enclosed) points out how unlawful imprisonment of individuals can result in the criminal prosecution of the involved state officers.

The factual issue I now bring to your attention directly impacts yourself, CDCR staff and employees. Proper paperwork is required to legally confine a person: a "Judgment of Conviction." And CDCR has none.

Absent a written judgment of conviction signed by the judge and entered on the Superior Court record by the Clerk, an abstract of the judgment cannot legally exist; and the abstract entered on the Court record and held by CDCR, is null and void.

The Clerk of the Superior Court commits a crime by certifying and filing a bogus Abstract of Judgment: fraud (§ 115(a))¹.

Delivery by the executing officer of the convict to CDCR or the warden, receipt by CDCR or the warden and confinement in the state's prisons of the convict, pursuant to a Minute Order and/or bogus Abstract of Judgment is unlawful.

Continued confinement of individuals by state officers and employees subsequent to actual notice of the lack of a Judgment of Conviction, and that any abstract of judgment relied upon for authority to confine the individual is bogus, is a crime: False imprisonment (§ 236).

Involved state officers and employees are guilty of criminal conduct and are candidates for trading places with those individuals now unlawfully imprisoned. They are without excuse. The "I was just following orders" defense didn't work at Nuremberg and it won't work now.

Discussion

Judgment of conviction.

"The written record of a criminal judgment, consisting of the plea, the verdict or findings, the adjudication, and the sentence. Fed. R. Crim. P. 32(d)(1)." Black's Law Dictionary, Abridged 7th Edition, p. 680.

Notice is hereby given that no written "Judgment of Conviction" signed by a judge exists on the Superior Court Clerk's Record in any of my three cases: Sacramento County Case 13F07578, Santa Clara County Case C1348325, or Solano County Case FCR317874.

On information and belief, and on that basis, I declare that no written judgment of conviction signed by a judge exists on any Superior Court Clerk's Record in any non-capital case of any person currently confined by the state of California in the state's prisons.

¹ Undesignated statutory references are to the California Penal Code

Failure of a written judgment of conviction to be entered on the Court's record as required by law (§ 1207; F.R.Cr.P. Rule 32(k)) constitutes a statutory violation mandating release of the prisoner.

"Our circuit has held that a collateral attack based on a violation of a state rule of criminal procedure will succeed, and a due process violation will be found when the petitioner shows that he was prejudiced or that his rights were affected thereby." (Emphasis added.) Carter v. McCarthy, 806, F.2d 1373, 1376 Fn2 (9th Cir. 1986).

Individuals are prejudiced, as absent a written judgment of conviction, the individual is denied protection of the Bill of Rights, e.g., the Due Process Clause of the 5th Amendment.

For example: An individual completes a valid sentence term in the state's prisons. Unfortunately, he finds himself accused of the same offense and is arrested. This time, the state seeks and obtains an indictment from the grand jury. Without a judgment of conviction signed by a judge on file in a court, there is nothing to prevent a second prosecution for the same offense.

However, with a judgment of conviction on file, the Double Jeopardy Clause of the Fifth Amendment establishes several distinct protections (not all of which are raised by a plea of once in jeopardy). But in this case, such plea may be raised: Prosecution for the same offense after a conviction. (U.S. v. Dixon (1993) 509 U.S. 688, 125 L. Ed. 2d 556, 113 S.Ct. 2849; and protection afforded. No detention, no trial.

The Federal Rules of Criminal Procedure (F.R.Cr.P.) are compliant through the 5th Amendment. F.R.Cr.P. 32(k) Judgment. (1) In General; states in relevant part: "In the judgment of conviction, the court must set forth the plea, the jury verdict or the court's findings, the adjudication, and the sentence. ...The judge must sign the judgment and the clerk must enter it." (Emphasis added.) "Judgment of conviction is one signed by the judge." Payne v. Madigan (1990 CA 9 Cal) 274 F.2d 702, affmd (1961) 366 U.S. 761, 6 L Ed 2d 853, 81 S.Ct. 7, re. den. (1961) 368 U.S. 871, 7 L. Ed 3d 72, 82 S.Ct. 2 et seq.

As set forth in the case of Swift v. Daniels, 2nd Dist. 103 Cal. App. 3d 263, 162 Cal. Rptr. 863: "A signed judgment is deemed indispensable to the validity of a judgment and that it be signed by a judge." (46 Am Jur 2d § 90, Signature).

Historically, American judicial procedure finds root in Roman jurisprudence. Wherein, the requirement for a written judgment of conviction signed by the judge is absolute.

This can best be illustrated in the trial and crucifixion of Christ conducted by Procurator Pontius Pilate.

"Now Pilate wrote a title and put it on the cross. And the writing was: JESUS OF NAZARETH, THE KING OF THE JEWS' ...'Pilate answered, "What I have written, I have written.'" (John 19:19, 22 NKJV.)

The California Penal Code, Section 1207 mandates: "...a copy of the judgment of conviction shall be filed with the papers in the case."

Executing the judgment: "When judgment of imprisonment is regularly entered, it becomes the clerk's duty, unless otherwise directed by the court, to make forthwith a certified copy of the judgment certified by him and the judge and delivered to the proper officer." People v. Sourisseau, (1994) 62 CA 2d 145 P. 2d 916.

The statute from which the Penal Code (§ 1207) is derived, has always required that a judgment of conviction be reduced to writing and that it be signed by a judge, entered by the clerk, delivered with the convict to, and filed by, the warden. as stipulated in People v. Howard, (1925) 72 C 561, 237 P. 780: "A certified copy of judgment of conviction delivered with the convict and filed by the warden of the state prison, as commitment may be held by reasonable construction of the language of public writing in California CCP § 1888, and within a class of such writings designated as 'other official documents' in CCP § 1894 sub d." (Emphasis added.)

Inasmuch as no judgment of conviction exists, it is understandable why it is not delivered to, and filed by, the warden. This is not looking good for CDCR!

Part of the 5th Amendment deals with "Procedural Due Process" and "Substantive Due Process" and certain essential guarantees must be adhered to as shown in United States v. Battista (1969 CA 3 Pa) 1418 F.2d 572, which mandates the following: "Since the order of the court below was not a final appealable order, and since no judgment of conviction or sentence in accordance with Rule 32, Court of Appeals' judgment as to that order, was void, since the court was without jurisdiction to adjudicate the appeal."

Absent a judgment of conviction in its inmate Central files, CDCR is without authority to hold an individual.

There exists no judgment of conviction on any court record and none in CDCR's Central files in my case. In my and most inmates' cases, CDCR's files hold only delivery documents: a minute order and/or an "abstract of the judgment" (§ 1216). The abstract of the judgment which CDCR does hold, sans a Judgment of Conviction document, is a fraudulent instrument.

It appears that since at least 1951, Directors of CDCR have been accepting and holding individuals without the proper papers. Minute orders and abstracts of judgment are not the proper papers. Only a Judgment of Conviction signed by the Judge and entered upon the Court Clerk's Record will suffice.

Abstract of Judgment.

As defined in Black's Law Dictionary, 5th Edition, an Abstract of Judgment is: "A copy or summary of a judgment that, when filed with the appropriate public office, creates a lien on the judgment debtor's non-exempt property." People are exempt.

An "Abstract of Judgment" is not a judgment or judgment of conviction as originally stated in an original jurisdiction court in the case of People v. Hartsell, (1973) 34 CA 3d 8, 109 Cal. Rptr. 627 "The Abstract of Judgment is not the judgment of conviction. By its very nature, definition, and terms, it cannot add or modify the judgment which it purports to digest or summarizes." Abstract of judgment is not signed by a judge.

The "Felony Abstract of Judgment - Determinate" possessed by CDCR (CR-290(A) revised July 1, 2012, p. 2, paragraph 17) states: "The defendant is remanded to the custody of the Sheriff to be delivered to the reception center designated by the director of the CDCR." CR-292 "Abstract of Judgment - Prison Commitment - Indeterminate" (effective January 1, 1993) states at paragraph 10: "Defendant is remanded to the custody of the Sheriff, to be delivered: into custody of the Director of Corrections."

Minute Order.

Black's Law Dictionary 5th Edition defines the "Minute Order" as: 1) An order recorded in the minutes of the court rather than directly on the case docket. Although practices vary, traditionally, when a trial judge is sitting officially, with or without a court reporter, the clerk or the deputy clerk keeps minutes. It is therefore a Minute Order. Also termed a "Minute Entry."

2) A court order not directly relating to a case, such as an order adopting a local order of the court.

There can be variations between oral sentences and written judgments as defined in the case of Meredith v. Gough, (1948 C AS Cal) 168 F.2d 193, cert den. (1948) 335 U.S. 873, 93 L. Ed 417, 69 S.Ct. 166: "Clerk's minutes, signed by a judge, is the unimpeachable record of the sentence imposed which the appellate court must regard as true, if oral sentence does not conform to the written sentence signed by the judge, the trial court alone has the power to make this record conform to the truth, if it does not already do so."

Minute orders are transfer documents only (1216). Those possessed by CDCR state: "Defendant is committed to the custody of the Director of Corrections (that's you Brother Diaz, you're the man). CDCR possesses NO Minute Order committing an individual to CDCR custody signed by a judge.

In all, documents, orders, contracts or instruments that require some type of enforcement of a right, and agreement or stipulation, it is an indispensable part of such a document that it be memorialized and signed in order for the document, order, contract or instrument to have any vitality. (Corbin on Contracts.) (Emphasis added.)

The courts will not even accept unsigned pleadings or an unsigned declaration or sworn affidavit that is not signed and notarized by a State approved and licensed Notary.

So why would the California courts permit an unsigned "abstract of judgment" which has not been authenticated by a California Superior Court judge who presided over the case, to be filed in the court Clerk's record (docket) and delivered to the executing officer (§ 1216) as authority to transport a convict?

In my humble opinion...plausible denyability. The Judge, knowing that no judgment of conviction was prepared and signed by him, can claim lack of authority to sign an abstract of judgment, or to cause its entry on the record. The Clerk becomes the fall-guy and takes the heat, if and when it comes, to protect the judge and status quo of the scheme.

Why no judgment of conviction to be found? Perhaps because the violated statutes require punishment in "the state prison" which would, of necessity, need be stated in the sentence portion of the written judgment of conviction. For example, § 17 which defines felonies, "A felony is a crime that is punishable with death, by imprisonment in the state prison," (Emphasis added.) The Cross References of § 17 state: "Prison or state prison defined for purposes of this Code, see Penal Code § 6081." The terms "prison" and "state prison" are clearly defined in § 6081 as being limited to one specific prison: "include the California Institution for Women." As used in this Section, the word "include" is one of limitation: ("include" [To contain as a part of something; Black's Law Dict. Abridged 7th Ed., p. 611]).

Any crime where the punishment is prescribed as imprisonment in the "state prison" (e.g, §§ 18, 115(a)), 187, 190, et seq.) requires punishment as stated in the statute.

Expressio unius est exclusio alterius [Law Latin] A cannon of construction holding that to express or include one thing implies the exclusion of the other, or of the alternative. Black's Law Dict. 7th Ed. p. 476.) Hmmm, interesting.

Evidently the named institution in § 6081 is not under the jurisdiction of CDCR, or it would have been included in those prisons which are, per § 6082.

Sentencing a lot of male individuals to a women's institution just might raise some eyebrows...and expose the judiciary to some uncomfortable questioning. So, better to remain silent and be thought a fool, than for the judge to put it in writing and remove all doubt? But let's leave that argument for another day, ok?

In any event, it is the Abstract of Judgment (CR-290, 292) upon which CDCR relies upon for authority to receive individuals (§ 1216) and to hold an individual in the state's prisons (§§ 1213, 1213.5, 2901). Section 1213. Probationary order or judgment other than death; copy of abstract furnished to executing officer. This section states in relevant part: "a copy of the entry of the judgment, or, if the judgment is for imprisonment in the state prison".

The implementing authority of this section is entirely drawn from § 1207 "Entry of Judgment; filing with papers in the case", which mandates in relevant part: "A copy of the judgment of conviction shall be filed with the papers in the case." (Emphasis added.)

The Director of CDCR, for many years, has been accepting delivery of individuals from the Superior Courts of California with only an unsigned minute order or unsigned abstract of judgment as authority. An abstract of judgment, signed or unsigned and unsupported by a written judgment of conviction provides no authority to CDCR to receive and hold an individual.

An easy way to detect the fraudulent abstract of the judgment held in CDCR's Central files, is to note that it is not signed by a judge or the Clerk as an original, independent document. However, it is certified by the Clerk of Court: "I hereby certify the foregoing to be a correct abstract of the judgment made in this action." Absent a written judgment of conviction of record, this is a false statement and violates the law when it is filed in the Court Clerk's Record (Docket)².

The Clerk prepares the false written instrument (Abstract of Judgment) with the intent that it be accepted by the court, the defendant, Director of CDCR (Ralph Diaz) and the warden of the state's prisons as a genuine and true instrument. However, the bogus abstract is not sufficient to satisfy the requirements of §§ 1207, 1213, 1213.5, 1216, 2901 nor to validate the fraudulent criminal prosecution and conviction and effect the transfer of the convict to, and confinement in, the state's prisons.

Now, it appears, that upon delivery and receipt of the "convict" via the bogus abstract of judgment, that the Director is receiving stolen property from the Superior Court.

Title to the "property" (individual) ostensibly comes from the Judgment of Conviction (oops) and even a valid abstract creates only a lien...and people are not lien-able. See, the Declaration of Independence, July 4, 1776 "We hold these truths to be self-evident, that all men are created equal; that they are endowed by their Creator with certain UN-A-LIEN-ABLE rights and that among these are life, liberty and the pursuit of happiness." (Emphasis added.)

So what's really going on? When the judicial officers (Clerk and Judge) conspired together to prepare and file the abstract of judgment, with knowledge that no judgment of conviction existed to support the abstract, they perverted and obstructed justice, acted maliciously and without authority³ and effectively joined the public officers' (District Attorney, Defense counsel) conspiracy to imprison individuals under color of law, in violation of §§ 182(a) (1-5), 236; 18 U.S.C. §§ 241, 242.

Such conduct by the judicial officers violates their oath of office to support and defend both the state and federal constitutions. And in addition to the specific crimes enumerated above, may be considered by some to be treason.

"We [judges, attorneys] have no more right to decline the exercise of jurisdiction which is given, than to usurp that which is not given. The one or the other would be treason to the Constitution." Cohens v. Virginia, 6 Wheat (19 U.S.) 264, 404 (1821).

As the Governor has so adroitly articulated (see "Immediate Release!") and I'm sure you now know, the public officers obtained neither an indictment nor a valid information at the outset of any case as commanded by law: a condition precedent to the court acquiring jurisdiction of the action and necessary for prosecution and confinement of any individual in the state's prisons.

Assuming arguendo a valid prosecution and conviction in the first instance, the neglect of the officers to follow the law and obtain the required written judgment of conviction instrument signed by the judge of the Superior Court - prior to causing the transport and imprisonment of my Person and those thousands of individuals currently confined in the state's prisons - constitutes willful omission to perform their duty and violates their oath of office. Such malfeasance is a public offense punishable by imprisonment and removal from office. (§§ 96.5, 98 (see Fn3), 661; Government Code ("GC") § 1222.)

"The duty enjoined by law for the performance of which the officer is punishable relates to acts to be performed by the incumbent in his official capacity." Ex parte Harold, (Cal. October 1, 1873) 47 Cal. 129, 1873.

Certainly, Brother Diaz, you and CDCR staff do not want to be party to the above revealed criminal conspiracy by accepting delivery of any additional individuals from the Superior Courts, via minute order or abstract of judgment, without confirmation of a supporting judgment of conviction.

Certainly Brother Diaz, you and CDCR staff do not want to continue unlawfully and illegally detaining individuals absent proper papers - proof of judgment of conviction supporting the abstract of the judgment - in CDCR's Central files do you?

Verification of the existence of written filed judgments of conviction in each case may be obtained from the Clerk of the Superior Court, within minutes. Suggest the look in the case docket for an entry just prior to the Abstract of Judgment.

How long will CDCR continue to confine individuals absent such verification? Let's do a trial run...start with me.

PERSONAL DEMAND FOR RELEASE

I, Lonnie Glenn Schmidt, victim aggrieved as one confined in the state's prisons without indictment and without a written judgment of conviction on record, hereby demand that Ralph Diaz, Secretary of CDCR produce or order G. Matteson, Warden, CSP Solano, Vacaville, California to produce, a certified copy of a written Judgment of Conviction signed by a judge of the Superior Court Sacramento County bearing the name Lonnie Glenn Schmidt and ante-dated my receipt by CDCR March 16, 2016, and confinement in the state's prisons.

Failure of Secretary Ralph Diaz or Warden G. Matteson to produce a valid, authenticated Judgment of Conviction within 72 hours of receipt of this demand letter, is an admission that G. Matteson, Warden, and Ralph Diaz, Secretary of CDCR, do not possess a Judgment of Conviction from any of my cases and are unlawfully and illegally detaining my Person against my will and over my demands for release and, that as a matter of law, must effect my immediate release for want of authority to confine my Person. And if such be the case, I demand the immediate and unconditional release of my Person from the state's prisons and custody of CDCR and to the custody of none other.

I declare under penalty of perjury under the laws of California that the foregoing is true and correct. Executed at Vacaville, California this 17th day of August, 2020.


Lonnie G. Schmidt

INTERCESSORY DEMAND FOR RELEASE

Further, inasmuch as I am an American, Native Californian, Captain in the U.S. Army (Reserve) and never released from my oath to defend both state and federal Constitutions against all enemies, foreign (RVN 1967-68) and domestic (injustice in government) and as a victim aggrieved by unlawful prosecution, conviction and confinement, I enjoy standing to intercede and make demand that all persons confined by the Director of CDCR in the state's prisons for whom a Judgment of Conviction cannot be produced from the Inmate's Central file and/or the files of CDCR and, in conjunction with Governor Newsom's June 26, 2020 order, to be immediately processed for release; and notified within 10 days of receipt of this letter, the anticipated date of release.

NOTICE OF INTENT TO PUBLISH CDCR STATEMENT

In the event California Department of Corrections and Rehabilitation, led by yourself, Ralph Diaz, Secretary, fails to effect the unconditional release of my person and, publicly announce the eminent release of other wrongly imprisoned persons from the state' prisons within Ten (10) days of your receipt of this letter, you, Ralph Diaz, Secretary, CDCR, agree to the following publication as your personal statement and intentions regarding this matter and to its release to the public and to make no objection thereto, to wit:

"California Department of Corrections and Rehabilitation
Office of the Secretary
P.O. Box 942883
Sacramento, CA 94283-001

To all incarcerated people:

On June 26, 2020, Governor Newsom, acknowledging widespread government wrongdoing in criminal prosecutions, apologized and initiated sweeping prison reform. He gave direction to myself as Secretary of CDCR to commence processing for release, prisoners "for whom no True Bill of indictment initiating the case under which they are held may be found."

This action came as a result of illegal felony prosecutions by the District Attorneys in California's 58 counties and the Judges of the Superior Courts exercising a jurisdiction they do not have. CDCR is now reviewing inmate files and processing for release, the first cohort of 17,600 began in August.

I have just recently been made aware that because of the Court's malfeasance, it appears that the paperwork necessary for your transfer to, receipt and detention by CDCR, a written Judgment of Conviction, has not been created by the sentencing Judge and filed in the Court as required by law. Essentially, this means the Abstract of Judgment in CDCR's files, and upon which CDCR has relied for authority, is unsupported by a judgment. In simple terms, CDCR is without authority to confine you any longer.

I have ordered that all inmate files be reviewed again to ascertain the facts in each case.

Please understand the logistics of the task we have undertaken to begin out-processing over 100,000 people takes a certain amount of time. I am committed to expediting your release as soon as each case is reviewed and CDCR confirms no Judgment of Conviction exist. You will be notified of your anticipated release date as soon as possible, but no later than September 30, 2020. Until your release, the money due each of you will continue to accrue at the per diem rate promised by the Governor, \$3,400 per day from July 4, 2020 until you are released. While this will in no way make up for the years of impact to your lives and those of your loved ones, its the best we can do at the moment.

Let's recognize God's hand in this unprecedented release as an extension of His grace. He is giving us all a second chance for an abundant life, to go...and sin no more.

We can honor Him and get through this time of transition with understanding, patience and support.

With gratitude,
Ralph Diaz, Secretary" End of statement.

NOTICE: Pursuant to Section 69, Subdivision (1)(b) of the Restatement of Contracts where silence or inaction operates as acceptance of the obligation to perform the act set forth above, I now give you every reason to believe and understand that assent by yourself Ralph Diaz, Secretary of the California Department of Corrections and Rehabilitation ("offeree"), may be manifested by silence or inaction and the offeree by remaining silent and inactive intends to make no objection to the publication of the above statement as though made by offeree in the first person; for reason of the unlawful imprisonment and continuing illegal confinement of my person and those persons similarly situated, that is, those persons for whom no Judgment of Conviction may be found in the records of the committing Superior Court or Central files of CDCR necessary to support the Abstract of Judgment upon which CDCR relies for authority.

NOTICE TO THE AGENT IS NOTICE TO THE PRINCIPAL;
NOTICE TO THE PRINCIPAL IS NOTICE TO THE AGENT.

SUMMARY

Brother Diaz: I've approached you as a Christian brother with whom I will spend eternity. I've followed Matthew 18:15 and brought the illegal prosecutions by Felony Complaint mandating release of unindicted prisoners to your and the Governor's attention. The onus for remedy and restructure is on the Governor. He has ordered you to commence processing us for release.

I have now brought to your attention the fact that you as Secretary (Director) of CDCR, in your dealings with the Courts, do not have the necessary legal documents to accept delivery and confine myself and the majority, if not all, individuals in the state's prisons. What to do?

Josiah comes to mind (2 Chronicles 34).

As he, I believe you have tried your best to do what was right in the sight of the Lord in your state position as Secretary of CDCR. Life was good!

Then along came Lonnie who, falsely imprisoned, looked into the Book of the Law (Penal Code) and under God's tutelage deciphered it...and brought his findings to you.

"Thus it happened, when the king heard the words of the Law, that he tore his clothes." And cleaned house!

Now, perhaps you didn't tear your clothes, but maybe pulled a few hairs upon realizing the impact of holding so many for so long without any authority to so do. Time to clean the government's house!

District Attorneys, Defense Counsel and Judges of California have been "caught in the very act" of participating in the false imprisonment of citizens under color of law. That's them.

You now have opportunity to separate yourself as an honest government employee from the stigma of the corruption.

From my perspective, CDCR can, at best, be accused of negligence. And you have moved quickly to remedy the problem.

Confirm your information, bring it to the attention of your superiors; and refuse to accept any additional "convicts" from the Superior Courts sans a Judgment of Conviction and, immediately notify all inmates for which you do not hold a Judgment of Conviction that they will be released on a date certain with sufficient advance of funds against accruing state debt owed them, to start a new life.

Recent correspondence I and others have sent you has been returned, and staff here at CSP Solano's Memo says "CDCR does not have the authority to release you." Well, CDCR doesn't have the authority to hold us either. Check. Its your move.

Let freedom ring! "Free those who are wrongly imprisoned." (Isaiah 58:6 NLT.)

Thanks to your integrity and resolve (Micah 6:8) I am confident this travesty of justice is soon coming to an end for all concerned! To God be the glory!

I would have written you a shorter letter, but I didn't have the time! Therefore and otherwise, conduct yourself as an Ambassador of Christ.

Yours in His service,



Lonnie G. Schmidt

Encl.: Immediate Release!

Cc: G. Matteson, Warden CSP Solano
Xavier Becerra, Attorney General (File No. 184136)
Gavin Newsom, Governor
Carl Specht, Chaplain, Chapel of the Good Shepherd
Dave Patterson, Pastor, The Father's House

NOTES

2 Acts of commission. The public officers violated the prohibitions of the law when they conspired to unlawfully imprison persons illegally convicted of a crime; the overt act being, in the absence of a judgment of conviction signed by a judge, the preparation, offering in evidence, certification and filing of a false and forged instrument (abstract of judgment) in a public office. (§§ 182(a)(1-5), 115(a), 132, 134.)

§ 115(a) Procuring or offering false or forged instrument for record; violations; punishment.

"(a) Every person who knowingly procures or offers any false or forged instrument to be filed, registered, or recorded in any public office within this state, which instrument, if genuine, might be filed, registered, or recorded under any law of this state or of the United States, is guilty of a felony." (Emphasis added.)

§ 132 Offering forged, altered, or ante-dated book, document, or record.

"Every person who upon any trial, proceeding, inquiry, or investigation whatever, authorized or permitted by law, offers in evidence, as genuine or true, any book, paper, document, record, or other instrument in writing, knowing the same to have been forged or fraudulently altered or ante-dated, is guilty of felony." (Emphasis added; forged: to make (something false) for purpose of deception or fraud.)

Entry of judgment of conviction and abstract of judgment following felony prosecutions are proceedings authorized by law. The offering of the bogus written instrument (abstract of judgment) in evidence as a genuine and true digest or summary of a non-extant commitment instrument is fraud.

The instrument is known by the public officers (Clerk of the court and the judge) to be forged.

§ 134 Preparing false documentary evidence.

"Every person guilty of preparing any false or ante-dated book, paper, record, instrument in writing, or other matter or thing, with intent to produce it, or allow it to be produced for any fraudulent or deceitful purpose, as genuine or true, upon any trial, proceeding, or inquiry whatever, authorized by law, is guilty of felony." (Emphasis added.)

3 § 96.5 Perversion or obstruction of justice by judicial officer, court commissioner or referee.

(a) Every judicial officer, court commissioner, or referee who commits any act that he or she knows perverts or obstructs justice, is guilty of a public offense punishable by imprisonment in a county jail for not more than one year.

(b) Nothing in this section prohibits prosecution under paragraph (5) of subdivision (a) of Section 182 of the Penal Code or any other law."

§ 98 Forfeiture of and disqualification from holding office.

"Every officer convicted of any crime defined in this Chapter, in addition to the punishment prescribed, forfeits his office and is forever disqualified from holding any office in this State."

IMMEDIATE RELEASE!

IMMEDIATE RELEASE!

IMMEDIATE RELEASE!

CALIFORNIA'S GOVERNOR ORDERS MASS RELEASE OF PRISONERS!
AND IT AIN'T CORONA, SWEETHEART!

Sacramento, CA. In an unprecedented admission of government wrongdoing, Governor Gavin Newsom has ordered the immediate release of the majority of the state's prison population. The announcement was made in this statement by the Governor released **June 26, 2020:**

"People of the state of California. I have recently been made aware of the illegal confinement of the majority of all prisoners in California's prisons. This travesty of justice began long before I took office as your Governor, but will not continue any longer on my watch. The justice system as we know it is broken and must be fixed...and I am up to the task. The California Constitution requires lawful prosecution for felony crimes punishable by confinement in the state prison to be by means of indictment of a grand jury or, conditionally, by information. It appears, since at least 1951, almost all felonies in California have been prosecuted and persons confined in the state prison by neither an indictment nor a valid information.

"On behalf of a government dedicated and sworn to uphold both the federal and state Constitutions and afford due process of law to all who enter the exterior boundaries of California, I apologize to the people of this state, the United States and the watching and concerned World, for the illegal prosecutions and the unlawful confinement of persons in this state's prisons.

"I have instructed the Attorney General and State Auditor to expand the current investigation of every county's District Attorneys to now include defense attorneys and judges of the Superior Courts and to seek indictments of the involved public officials, officers of the law and officers of the court for prosecution to the fullest extent of the law.

"Today, I am ordering the Secretary of the California Department of Corrections and Rehabilitation to commence processing for unconditional release, all prisoners from the California state prisons for whom no True Bill of indictment initiating the case under which they are held may be found.

"Further, the California Victims Compensation Board provides a sum equivalent to \$140 per day of incarceration served for the pecuniary injury sustained by those persons through their erroneous conviction and imprisonment.

"In the interest of justice and abating and mitigating damages, for the benefit of any wrongly confined person not unconditionally discharged from the state prison by July 4, 2020, I agree, by Executive Order or otherwise, to increase the above sum of \$140 to \$1,400 per day and, for each and every day of continued deprivation of the liberty of any person so unlawfully confined, an additional and not less than, amount of \$2,000, per day."

The historical announcement follows six months of continuing investigations by the state's Attorney General and Auditor's Offices into the illegal prosecutions, prompted by a Whistle-blower Complaint, many letters to the Governor and citizens' complaints to every county Grand Jury. See, "Attorney General Complaint", "June 11, 2020 Demand For Release" and "Citizen Complaint, Sacramento County" at www.withoutoneplea.com. June 26, 2020.

VALIDATION and VERIFICATION

The June 11, 2020 letter to Governor Newsom, from which this press release "Immediate Release" on the opposite side of this page is made, was sent by U.S.P.S. Certified Mail No.: 7002 0510 0003 4495 3306 and received June 17, 2020 5:42 a.m.. The Governor's statement¹ is available for verification/validation and download at www.withoutoneplea.com. (Click on "state"; see, "June 11, 2020 Demand For Release".)

The Governor's agreement for publication of his statement as found in NOTICE OF INTENT TO PUBLISH portion of the letter (pages 7-8), is obtained through the settled legal principle of acquiescence by silence or inaction. (If he acts in a timely manner, publication is unnecessary. If he fails to act when he has the duty to do so, publication occurs.) If he still fails to act...what will we the People do? **Ask him!**
Governor Newsom may be reached for comment at 916 445-2841.

Date: August 10, 2020

G. Matteson, Warden
CSP Solano
2100 Peabody Road
Vacaville, CA 95696

Dear Warden Matteson:

The reverse side of this letter "Immediate Release!" states Governor Newsom, on June 26, 2020, ordered your boss, Ralph Diaz, Secretary of CDCR, to commence processing for release, prisoners who are incarcerated without being indicted. I have not been indicted. I have not been notified of my release date.

Demand: I hereby demand to be notified immediately of the date I will be released in order that the stress of uncertainty may be relieved and arrangements for return to my family may be made.

While I appreciate the \$1,400 dollars per day for each day of my illegal incarceration prior to the 4th of July, 2020, and the \$3,400 dollars per day accruing since the 4th of July until my release, I prefer to be home with my family; and therefore, I demand to be released as soon as possible.

Question: Will the money promised by the Governor for my illegal confinement as set forth above, be paid upon my release? If not, how soon following my release will it be paid?

Thank you for your expeditious response.

Signature:

Print Name and CDCR #: Lonnie G. Schmidt
CSP Solano Housing: 21-3-4L

Cc: Ralph Diaz, Secretary CDCR
1515 S Street, Sacramento, CA 95814

Gavin Newsom, Governor
State Capitol, Capitol Mall,
Sacramento, CA 95814

¹ Honoring his Oath and His Order: "Free those who are wrongly imprisoned." Isaiah 58:6 (NLT)

CDCR No Authority

**CDCR SECRETARY RALPH DIAZ ADMITS
NO AUTHORITY TO CONFINE PRISONERS!**

Sacramento, CA. August 28, 2020. Governor Newsom today announced he has accepted the resignation of CDCR Secretary Ralph Diaz effective October 1, 2020. Prior to his resignation, Mr. Diaz authorized this statement for release on September 1, 2020:

California Department of Corrections and Rehabilitation
Office of the Secretary
P.O. Box 942883
Sacramento, CA 94283-001

To all incarcerated people:

On June 26, 2020, Governor Newsom, acknowledging widespread government wrongdoing in criminal prosecutions, apologized and initiated sweeping prison reform. He gave direction to myself as Secretary of CDCR to commence processing for release, prisoners "for whom no True Bill of indictment initiating the case under which they are held may be found."

This action came as a result of illegal felony prosecutions by the District Attorneys in California's 58 counties and the Judges of the Superior Courts exercising a jurisdiction they do not have. CDCR is now reviewing inmate files and processing for release, the first cohort of 17,600 began in August.

I have just recently been made aware that because of the Court's malfeasance, it appears that the paperwork necessary for your transfer to, receipt and detention by CDCR, a written Judgment of Conviction, has not been created by the sentencing Judge and filed in the Court as required by law. Essentially, this means the Abstract of Judgment in CDCR's files, and upon which CDCR has relied for authority, is unsupported by a judgment.

In simple terms, CDCR is without authority to confine you any longer.

I have ordered that all inmate files be reviewed again to ascertain the facts in each case.

Please understand the logistics of the task we have undertaken to begin out-processing over 100,000 people takes a certain amount of time.

I am committed to expediting your release as soon as each case is reviewed and CDCR confirms no Judgment of Conviction exist. You will be notified of your anticipated release date as soon as possible, but no later than September 30, 2020.

Until your release, the money due each of you will continue to accrue at the per diem rate promised by the Governor, \$3,400 per day from July 4, 2020 until you are released.

While this will in no way make up for the years of impact to your lives and those of your loved ones, its the best we can do at the moment.

Let's recognize God's hand in this unprecedented release as an extension of His grace. He is giving us all a second chance for an abundant life, to go...and sin no more.

We can honor Him and get through this time of transition with understanding, patience and support.

With gratitude,
Ralph Diaz, Secretary

During his two years in Office, Secretary Diaz has been vocal and un-apologetic about his Christian faith, values and the necessity for God in the process of a person's successful rehabilitation. His firm position that prison reform and reduction of prison population begins with the Courts' return to lawful prosecutions and judgments has, surprisingly, been aggressively criticized by prosecutors throughout the state. Mr. Diaz enjoys well researched and enthusiastic support for his views. See, "Under Cover of CORONA", "Held To Answer" and "Newsom, we have a problem...", June 11, 2020 letter to the Governor, "Immediate Release!" at www.withoutoneplea.com.

September 1, 2020

VALIDATION and VERIFICATION

The August 17, 2020 letter to CDCR Secretary Ralph Diaz from which this "Press Release" is drawn, was sent by U.S.P.S. Certified Mail No.: 7019 2280 0001 4629 4511 and received August 21, 2020 11:43 a.m..

The Secretary's statement is available for verification/validation at www.withoutoneplea.com. (Click on "state", Breaking News!; see August 17, 2020 "You're the man! Papers, please.")

CDCR Secretary Ralph Diaz' authorization for publication of his statement is found in NOTICE OF INTENT TO PUBLISH portion of the letter (pages 13,14) and obtained through the settled legal principle of acquiescence by silence or inaction. (If he responds or acts in a timely manner, publication is unnecessary. If he fails to respond or act when he has the duty to do so, publication occurs.)

Governor Newsom may be reached for comment at 916 445-2841.

Without One Plea

Without One Plea

by

Lonnie G. Schmidt
RFB - Proverbs 21:31
December 17, 2018

There is no plea to a felony complaint. To compel a plea to a complaint for which no plea exists, strains the confines of credulity.

"It should be pointed out that as a practical matter almost all felony prosecutions in the state are initiated through the filing of a complaint signed by a deputy district attorney. According to petitioner's argument, virtually every felony conviction and every pending felony prosecution in the state is invalid." J. Penny, Judge¹

The Attorney General², chief law officer for the state and direct supervisor of district attorneys and all other law enforcement officers³, has publicly declared "the government may not even be involved in the preparation, investigation and filing of a felony complaint."⁴

What's wrong with this picture? Without a plea authorized for a felony complaint⁵, the courts accepting for filing felony complaints and law enforcement disavowing authority to file a felony complaint? There appears to be a conflict between the Executive and Judicial branches as to proper understanding and application of the law in criminal actions. What sayeth the law?

Article I, § 14 of the California Constitution mandates "Felonies shall be prosecuted by indictment or, after examination and commitment by a magistrate, by information." The California Penal Code (PC) requires that all felonies be prosecuted by either indictment or information. PC §§ 682, 737, 739, 917, 949.

Despite constitutional jurisdictional mandatory subject matter prerequisite and their Supervisor's prohibition, District Attorneys in every county in California have been prosecuting cases via felony complaint. This unlawful activity violates their oath of office and the due process rights of the accused. And, as a matter of law, regardless of the charged crime, violent or not, or length of sentence or when imposed, any conviction obtained is void ab initio and the prisoner is entitled to immediate and unconditional release.⁶

In the interest of justice and giving opportunity to cure their aberrant and abhorrent behavior, early in 2018 I sent by U.S.P.S. Certified Mail letters informing of error and demanding the cessation of prosecution via felony complaint, to the following District Attorneys:

Anne Marie Schubert, Sacramento County, Jeff Rosen, Santa Clara County, Krishna Abrams, Solano County, and Allison Haley, Napa County.

Each letter directed the District Attorney's attention to the Constitution and Penal Code, exposing their lack of authority. None have responded ... and they continue the unlawful activity. Solomon was right when he said "A servant will not be corrected by mere words; for though he understands, he will not respond." Proverbs 29:19 (NKJV).

The District Attorney is a public servant holding office at the will of the electorate and sworn to uphold the law. The People have mandated the proper mode for prosecuting felonies to be by indictment or information ... not by complaint.

What will it take to make our public servants respond to legitimate demands to perform their duties in accordance with the law? Perhaps, since this is an election year, and the incumbent or newly positioned elected are settling into office, We the People should demand production of authority to prosecute felonies via complaint. If they ignore us and continue their unlawful conduct, demand they turn in their badge. And, explain to the People how and why releasing more than 117,000 prisoners is in the best interests of the community.

The District Attorneys and those acting in concert to unlawfully prosecute and imprison California citizens is a violation of their oath of office and actionable as criminal conduct under state⁷ and federal⁸ law for which no immunity exists.⁹

"Therefore, to him who knows to do good, and does not do it, to him it is sin." James 4:17 (NKJV).

Now that YOU know the truth¹⁰ ... how will you respond?

Lonnie G. Schmidt
One of the People,
Captain USAR,
Victim aggrieved, as thrice charged via Felony Complaint.

NOTES

1 Jeffrey S. Penny, Judge of the Superior Court, Placer County, California. In re Brooks, (May 18, 2018) Case WHC-1611 Order Denying Petition for Writ of Habeas Corpus, page 3, lines 6-10.

2 Bill Lockyer, Attorney General, Robert R. Anderson, Chief Assistant Attorney General, Gerald A. Engler, Senior Assistant Attorney General, Gregg E. Zwicke, Deputy Attorney General, and Mark S. Howell, Deputy Attorney General.

3 Article V, § 13 Calif. Const.; People v. Municipal Court for Ventura Judicial District, (1972) 27 Cal. App. 3d 193, 208.

4 Attorney General Bill Lockyer and executive staff (fn. 2, supra) as Respondent, People v. Viray, (2005) 134 Cal. App. 4th 1186, 1201.

5 The Penal Code states that a defendant has one pleading available to him (§ 1002), either a demurrer (§ 1004) or plea (§ 1016). There are six kinds of pleas to an indictment, or to an information, or to a complaint charging a misdemeanor or infraction: Guilty, Not Guilty, etc. PC 1016. But not one plea for a defendant named in a complaint charging a felony.

6 "A court can acquire no jurisdiction nor punish a person for a crime without a formal and sufficient accusation in the form and mode required by law. Such is the undisputed law in all jurisdictions." Albrecht v. United States, (1927) 273 U.S. 1, 8. People v. Alanis, (2008) 158 Cal. App. 4th 1467, 1473 "A judgment is void ... if the trial court lacked subject matter jurisdiction."

7 Penal Code §§ 661 (removal from office), 115(a) (filing false instruments), 182(a)(1-5) (conspiracy to falsely imprison).

8 Title 18, United States Code, §§ 241, 242 (conspiracy to deprive a person of their civil rights, false imprisonment, kidnaping, hold for ransom, etc.).

9 Government Code § 820.4 (immunity for acts or omission of public employees exercising due care, excluding false arrest or false imprisonment). "...false arrest and imprisonment causes of action are viable actions against public employees pursuant to Government Code section 820.4." Allison v. County of Ventura, (Cal. App. 2d Dist. Mar 30, 1977), 68 Cal. App. 3d 689, 697 1977 Cal. App. LEXIS 1356.

This article first published in 2018, was reviewed for accuracy on February 14, 2023 and a Memorandum of Points & Authorities distilled from research on the subject matter, illegal felony prosecutions and false imprisonment, was added in support of a pleading in the nature of a motion to dismiss a case prosecuted by the state via felony complaint and is appended on page 4 for legal counsel review. Such a motion raising a question of jurisdiction, may be filed in the trial court at any time; before or after trial.

10 February 21, 2018, the day Dr. Billy Graham "Pastor to America" died, I wrote a legal research paper titled "The Truth, The Whole Truth...And Nothing But" and documented with points and authorities the disclosures found herein, and, as with this article, and more, is available at withoutoneplea.com.

As did Dr. Graham his many Crusades, I close this article with hymn of invitation to experience real freedom -- the Truth (John 3:16, 14:6; Romans 10:9-13): "Just as I am without one plea, but that Thy blood was shed for me. And that Thou bidst me come to Thee O Lamb of God, I come, I come".

MEMORANDUM OF POINTS & AUTHORITIES

ABSENCE OF FELONY COMPLAINT JURISDICTION VIOLATES CALIF. CONST.,
Art. I § 14; U.S. CONST., 5th & 14th AMENDMENTS.

In the case at bar, a preliminary examination in Superior Court was held pursuant to a "felony complaint" brought by a prosecutor on behalf of The State; i.e., no grand jury.

This Court is asked to determine whether there is state constitutional or statutory authority (standing) for The State to initiate a felony prosecution by felony complaint, rather than by a private person (or non-government informant) as required by law, as there appears to be no plea available to a defendant to answer a felony complaint brought by The State. See Penal Code §§ 806, 948, 949, 1002, and 1016.

Our Courts hold: People v. Talle (1952) 111 Cal. App. 2d 650, 678-679 ["If a conviction is secured by means not sanctioned by law, the conviction cannot stand"]; Rupley v. Johnson (1953) 120 Cal. App. 2d 548, 552, citing C.J.S. Criminal Law § 303, pp. 456, 457; People v. Viray (2005) 134 Cal. App. 4th 1186, 1201, 1205 ["the government may not even be involved in the preparation, investigation and filing of a felony complaint...a commitment from which only a court can grant relief"]; Serna v. Superior Court (1985) 40 Cal. 3d 239, 257, "felony complaint...does not confer trial jurisdiction"; 22 C.J.S. Criminal Law, § 324, p. 390.

Apparently, an information was not available to the State for felony prosecution. Guillory v. Superior Court (2003) 31 Cal. 4th 168, 173-174; Carter v. McCarthy (9th Cir. 1986) 806 F.2d 1373, 1376, fn. 2.; People v. Vasilyan (2009) 174 Cal. App. 4th 443, 450.

Therefore, dismissal is requested on this ground.

Jesus Nut

Jesus Nut

by

Lonnie G. Schmidt
RFB - Proverbs 21:31
March 13, 2023

"Without Me you can do nothing." John 15:5 NKJV

On a helicopter, the last piece affixed -- the Main Rotor Retaining Nut -- is of the first importance. Without it you can't get off the ground. Its loss in flight, your only hope a prayer. A single point of catastrophic structural failure.

In a criminal prosecution, the last act of the trial judge -- the signing and entry of a judgment of conviction -- is of the first importance. Without it there is no conviction, no possibility of appeal, and, no authority for imprisonment. The accused must be freed. A single point of catastrophic failure in the criminal justice system.

1966 - U.S. Army Advanced Helicopter Flight Training, Fort Rucker, Alabama. Warrant Officer Candidates are introduced to the Bell UH1 "Huey", primary troop transport in Vietnam. Joining my Instructor Pilot (IP) on top of the aircraft for my first pre-flight, the IP explained what to look for as he watched me check the push-pull rods, swash plate and blades. Pointing to the 4" nut safety wired to the top of the mast securing the rotor system, he said in his best Southern drawl "This here is what we call the Jesus nut. If you lose it, all you can say is 'Oh Jesus!'".

The hardest people to help are those who need it and don't know it.

I freed a thousand slaves. I could have freed a thousand more if they had known they were enslaved. Harriet Tubman

Prisoners want to go home but don't know they are illegally imprisoned.

"Jesus Nut" confirms the findings of a CDCR Whistle-blower exposing the illegal imprisonment of all persons in the state prison system by the California Department of Corrections and Rehabilitation (CDCR). The intake and detention of persons pursuant to fraudulent court documents and without the documentary evidence required by law of a felony conviction and sentence to state prison.

Presenting evidence from CDCR's own books and records of failure to follow the rules, regulations and statutes mandated by law for lawful imprisonment, "Jesus Nut" administers the coup de grace to CDCR.

He who reads has to believe the facts presented herein. CDCR, you've held us in a lie long enough. Mr. Secretary, you can hold us no longer.

Kindergarten in 1949 and growing up in the 50's, emphasis was heavy on the three R's ("reading, riting and rithmetic"). I recall corporate magazine and billboard ads pleading "Send me a man who reads!". It seems such plea has been lost on succeeding generations.

Well, revival time! Heard the quip "Going by the book"? Grab a cup of coffee, pull up a chair and read with me from "the books" governing administration of the state prison system (boring, you think?). Let's see for ourselves what they say ... and don't say about imprisonment authority. Knowing, believing and holding to the truth can set you free. Fifteen minutes could save you a life-time in prison!

The "books" reviewed and presented here are those referenced by CDCR Associate Director, Division of Policy Research and Internal Oversight, Howard Moseley in his efforts to alert and encourage CDCR¹ to receive (intake) and detain persons according to law: a judgment. Comprised of the California Penal Code (PC), California Code of Regulations (CCR) and CDCR Department Operations Manual (DOM) these guides to lawful administration of the State's prison system are mandatory reading by CDCR employees and require compliance. Persons confined and residing in facilities of the department are subject to the rules and regulations of the Secretary and expected to conduct themselves in accordance therewith and are issued a copy of the Rules and Regulations. Title 15 C.C.R. §§ 3001, 3002, 3005.

The books-- ostensibly finding authority in the Federal and State Constitutions in order to ensure due process of law --fill the interstices between the Legislative and Executive branches' intent to provide guidance to government agents in the implementation of the imprisonment decisions of the Judicial branch. These books uniformly articulate that the only document authorizing imprisonment of a convicted felon in the state prison is a judgment signed by a judge and entered on the superior court record directing the defendant be delivered into the custody of the Director of Corrections. The term of imprisonment is to be determined from the judgment. Neither the books nor past nor present judicial decision provide for, or authorize, the use of a substitute document, i.e., an "abstract".

As evidenced by the Director of CDCR admittedly not receiving a judgment of conviction from the officer executing judgment (delivering defendant to state prison), and, CDCR personnel admittedly accepting delivery with substituted paperwork (abstract) in place of the required judgment, these books have apparently been sitting on the shelf unread.

Hear Ye, Hear Ye, Hear Ye!

NOTICE is hereby given that the present Secretary and all past CDCR Secretaries, and, as applicable, present and past Wardens, and, as applicable, present and past State Executive Branch officials, are presently and have been in violation of State and Federal law for the past, present and continuing unlawful imprisonment of all persons for whom a judgment of conviction is not found in CDCR records.

Executive branch liability for personal injury and damages arises due to CDCR Secretary and the department's official maintenance of a fraudulent "abstract of judgment" as alleged authority for the imprisonment of persons, while knowing (at least since notice in 2020)² said "abstract" to be fraudulent for lack of any underlying or supporting "judgment" on record in any State or Federal court -- though for lack of published authority, the matter glaringly apparent since the unlawful reception of the first arrival processed by CDCR Receiving and Release personnel.

Statutes (PC) are the law. Rules (DOM) and Regulations (CCR) have the force and effect of law. The laws are codified in the books. The following analysis tells the simple story: authority is either in the books or it is not. Any action taken by the state not in the books is unlawful. Imprisonment and calculation of term pursuant to an abstract of judgment is not in the books: unlawful. Imprisonment and calculation of term pursuant to a judgment is in the books: lawful.

THE TRUTH IS FOUND IN THE BOOKS

This analysis quotes the Penal Code and miscellaneous definitions. Relevant pages from the DOM and CCR as referenced are found in the "NOTES" for visual verification (seeing is believing) and are attached hereto and incorporated herein as Appendix I and II respectively.

CDCR Authority To Receive Inmates Requires A Judgment

CDCR DOM Initial Intake Procedure § 72020.1: departmental policy is to receive inmates³ - pursuant to authority of CCR Title 15 Initial Intake § 3075(e): Inmates received by the department⁴ - pursuant to authority of PC § 1202a: If judgment is for imprisonment in the state prison...judgment directs defendant delivery into the custody of the Director of Corrections⁵.

A "defendant" delivered to the State for imprisonment becomes an "inmate" only when accepted by the Director of Corrections. Inmate is a term applicable only to one class of persons: those committed to the custody of the Director of Corrections⁶. Persons sentenced to imprisonment in the state prison are committed to the custody of the Director of Corrections by a judgment⁷ signed by a judge and entered in the superior court record by the Clerk⁸ who must furnish a certified copy of the entry of the judgment to the officer executing the judgment^{8a}. The term of imprisonment is fixed by the judgment⁹. The Warden is mandated to receive persons sentenced to imprisonment in a State prison¹⁰.

CDCR DOM Mandates Judgment.

DOM §§ 72020.1: policy requires proper documentation and authorization must accompany inmate¹¹; 72020.4.1: receiving responsibility requires verification and certification of court order (judgment)¹²; 72020.5: for case summary purposes only permits usage of Abstract of Judgment¹³; and 72020.5.4.1: processing of commitments requires calculation of term from the sentence fixed by the judgment¹⁴.

For more than 70 years, State Executive Branch officials, assuming that an "abstract of judgment" is a document which authorizes imprisonment in the state prison and calculation of imprisonment term, have learned and become loyal to a lie.

There is no authorization for such usage of an "Abstract of Judgment" or "abstract of the judgment" to be found in the above authorities... or anywhere. Such usage of an unauthorized document-- and failure to use the authorized document mandated by (which has been, and is, the practice of CDCR) --has been held to be a due process violation.

Federal law for the Ninth Circuit holds "that a collateral attack based on a violation of a state rule of criminal procedure will succeed, and a due process violation will be found when the petitioner shows that he was prejudiced or that his rights were effected thereby." Carter v. McCarthy, 806 F.2d 1373, 1376 fn2 (9th Cir. 1986).

Habeas Corpus is the normal procedure for a person unlawfully imprisoned to seek relief. However, inasmuch as CDCR did not receive authority from any court to receive and detain a person imprisoned pursuant to a "judgment", but pursuant to a fraudulent "abstract of judgment", demand should first be made to CDCR for release.

A certified mail letter dated February 22, 2023 your author sent to CDCR Secretary Jeffrey Macomber may be used as an example for your suggested use and is attached hereto. In the event relief is not obtained, your letter may be used as evidence of exhausted administrative remedies, normally a prerequisite to Habeas Corpus Application for release, and for civil rights action for damages for false imprisonment.

For legal counsel review, a Memorandum of Points and Authorities (merits and supporting case law on the issue of requirement of judgment for imprisonment by the state) is annexed hereto as an example of a cause of action for dismissal of the criminal case in the trial court. A jurisdictional issue may be raised at any time.

NOTES

1 See "**UNSHACKLED**" (CDCR Whistle-blower proposes regulation change to clarify requirement of a judgment for imprisonment) at withoutoneplea.com (click on "state").

2 See **Press releases** - "California's Governor Orders Mass Release of Prisoners! And It Ain't Corona, Sweetheart!" June 26, 2020, "CDCR Secretary Ralph Diaz Admits No Authority To Confine Prisoners!" September 1, 2020, San Francisco Chronicle "Legal Notice - CDCR" July 20, 2021 at withoutoneplea.com.

California Department of Corrections and Rehabilitation
Operations Manual, Chapter 7 - Adult Case Records Information
Article 4 - Initial Intake Procedure
(Attached hereto as Appendix I, Pages 605-608)

3 See Appendix I, p. 605: **72020.1 Policy:** "Inmates received by the department..."

California Department of Corrections and Rehabilitation
Code of Regulations, Title 15. Crime Prevention and Corrections,
Division 3. Adult Institutions, Programs and Parole,
Chapter 1, Rules and Regulations of Adult Operations and Programs
Article 6.5 Intake, Release and Discharge of Inmates
(Attached hereto as Appendix II, Pages 66, 67)

4 See Appendix II, p. 66: 15 CCR § 3075 Initial Intake

Page 67: § 3075(e) "Inmates received by the department..."

NOTE: Authority cited: Penal Code. Reference: Sections 1202a [relevant re "judgment shall direct that the defendant be delivered into the custody of the Director of Corrections"].

5 PC § 1202a: If the judgment is for imprisonment in the state prison the judgment [court order] shall direct that the defendant be delivered into the custody of the Director of Corrections (Secretary per PC § 5050) at the state prison or institution designated by the Director of Corrections as the place for the reception of persons convicted of felonies,

6 15 CCR 2000 Rules of Construction and Definitions

2000(a)(3) "Inmate", "prisoner", or "parolee" applies to any person who is or has been committed to the custody of the Director of Corrections, including inmates, residents, parolees, and dischargees, regardless of that person's present status.

7 See Note5, supra.

8 PC § 1207: When judgment upon conviction is rendered, the clerk must enter the judgment in the minutes, stating briefly the offense for which the conviction was had, and the fact of a prior conviction, if any. A copy of the judgment of conviction (court order) shall be filed with the papers in the case.

8a PC § 1207 **Cross References:** Requirement that certified copy of entry of judgment be furnished officer whose duty it is to execute judgment: PC § 1213.

9 PC § 2900: The term of imprisonment fixed by the judgment in a criminal action commences to run only upon the actual delivery of the defendant into the custody of the Director of Corrections...

10 PC § 2901: Admission of persons convicted; Duration of detention. It is hereby the duty of the wardens of the State prisons to receive persons sentenced to imprisonment in a State prison and such persons shall be imprisoned until duly released according to the law. (Absent a judgment it is not possible to determine sentence to state prison or term of imprisonment; PC §§ 1202a, 2900.)
Cross references: Execution of judgment of imprisonment. PC § 1213. (Absent a judgment abstract cannot exist.)

11 See **Note3**, supra. 72020.1 "accompanied by proper documentation and authorization," see Appendix I, p. 605.

12 See Appendix I, p. 605: **72020.4.1 Receiving Responsibility**: In processing arrivals the R&R sergeant shall: Verify that new/additional commitments are valid and certified. The court order is deemed certified if it has any two of the following: Original judge's signature. Original county/court clerk's signature. Original county seal.

13 See Appendix I, p. 607: **72020.5 Case Summary**
Information from the following documents may be used in the preparation of the case summary. Abstracts of Judgment... .
Note: No mention of "abstract" usage as a commitment document (judgment or court order) or to calculate term. Usage limited to summarizing the case. (Absent a judgment, an abstract thereof cannot exist and it is not possible confirm a case summarized by a fraudulent abstract.)

14 See Appendix I, p. 607: **72020.5.4.1 Procedures for Processing Commitments**.
DSL, Upon receiving a judgment... LPU shall process the case as follows: Term(s) shall be calculated ... ISL, Term(s) shall be recalculated.
See "Definitions", infra, for "judgment", "judgment of conviction", "F.R.Cr.P. 32(k)(1)". Note: No mention of "abstract" usage to calculate term. (Absent a judgment, there is no sentence and it is not possible to calculate term or expiration thereof.)

See also Appendix I, p. 608: Article 4 References § 72020.8 - **References** (relevant):
PC §§ 2081.5 (documents furnished by the court: no judgment), 2900 (term of imprisonment fixed by the judgment: no judgment - no term) 2901 (admission of persons convicted and duration of imprisonment: no judgment - no conviction).
Note: No Penal Code section pertaining to judgment committing defendant to Director of Corrections (§ 1202a) or execution of judgment (§ 1213, 1216, 1217) are referenced.

Definitions applicable to DOM and CCR.

15 CCR 2000(a)(5) - "Shall" is mandatory.
Order: A written directive or command delivered by a court or judge. Also termed court order or judicial order. Black's Law Dictionary Abridged, 7th Ed.
Court order: Final order: final decision or judgment for purposes of an appeal.
Judgment: The term "judgment" includes a decree and any order from which an appeal lies. Black's Law Dictionary, 7th Ed.
Judgment of conviction: The written record of a criminal judgment, consisting of the plea, the verdict or findings the adjudication, and the sentence. Fed. R. Crim. P. 32(d)(1) [32(k)(1)]." Black's Law Dictionary, 7th Ed.
Fed. R. Crim. P. Rule 32(k) Judgment. (1) In General; states in relevant part "In the judgment of conviction, the court must set forth the plea, the jury verdict or the court's findings, the adjudication, and the sentence. ...The judge must sign the judgment and the clerk must enter it."

EPILOG

1967 - Thanksgiving Day, Republic of Vietnam. "Thunderbird One", Flight Leader of the 118th Assault Helicopter Company "Thunderbirds", I was returning our ten birds to the bird-cage after a full day of troop support and insertion into hot LZ's. The emergency radio crackled to life "May day, may day, may day" the pilot calmly giving his call-sign and location, "I've just lost my main rotor system. Goodbye, good luck, God bless you all." Then silence. Freedom is not free.

The rotor system was found intact two miles from the fuselage. Scuttlebutt had it that the mast had been hit by a .50 caliber round and the rotor had twisted itself free.

In my 57 years as a pilot I've never heard of a Jesus nut failure.

Why "Jesus Nut"?

He is before all things, and in Him all things hold together.
Colossians 1:17 NIV

At first blush, "Jesus Nut" portends a theme written by a religious fanatic. Well, that's partially true. I am nuts about Jesus... the Creator who loves us enough to come to earth, live, work miracles, suffer death on a cross, be buried and rise from the dead on the third day; for us ... so we might believe in Him, enjoy abundant life now and live happily forever after! Wow! What's not to be nuts about?

Young when I first believed and now old, I can testify that Jesus has never failed me. Like the Jesus nut, He holds my life together and prevents me from flying apart, crashing and burning.

Life's experience has been likened to a river carrying us along upon whose banks often appear a door leading to Heaven. Above the door is written "Whosoever will may enter". When you do walk through the door, look back and see written above the lintel "Chosen before the foundation of the world". Yes, Jesus loves me. And you too, He always has... the Bible tells us so. Read it. John 3:16, 14:6; Romans 10:9-13.

The first page of this treatise ends with the statement "He who reads has to believe...". To believe is to have faith. A helicopter pilot must have faith in the Jesus nut or he will never strap into the cockpit. No guts, no glory. A prisoner must believe that when there is no judgment of conviction (JOC) holding him he must be released or he will never ask for freedom. No JOC? Then set us free!

Become a man who reads. For those who believe the truth written and evidentiary facts presented herein and take action (permit the analogy) "If you hold to my teaching... Then you shall know the truth, and the truth shall set you free. Therefore, He who the Son sets free is free indeed." John 8:31,32,36.

It's never too late to become the man you might have been... and free.

MEMORANDUM OF POINTS & AUTHORITIES

RELEASE IS PROPER REMEDY FOR VIOLATION OF DUE PROCESS GUARANTEE OF THE CALIFORNIA CONSTITUTION, ART. I, SEC. 7(a), FOR LACK OF JUDGMENT OF CONVICTION ON RECORD: UNLAWFUL IMPRISONMENT.

Release is Just in Absence of Judgment of Conviction.

The Legislature's intent is clearly drafted at Penal Code, Title 8, Chapter 1, mandating that loss of personal liberty is possible ONLY where a superior court criminal trial judge personally signs a "judgment of conviction" for certification and immediate entry on record by the court clerk. (Penal Code §§ 1202(a), 1207; Code of Civil Procedure §§ 635, 664.)

Our Courts agree, there are no legislative or judicial shortcuts, excuses, creations, loop-holes, exceptions, deviations by which to imprison any sane adult citizen in the absence of a "judgment of conviction." (People v. Banks (1959) 53 Cal.2d 370, 383; People v. Crow (1971) 4 Cal.3d 613, 618; People v. John (2019) 36 Cal.App.5th 168, 175.) A "judgment of conviction" must exist.

Collateral Consequence - Appeals To Be Dismissed.

Appeal is available from a judgment or order. (Penal Code § 1237). The "notice of appeal" is invalid or nullity. Cal. Rules of Court 8.100(a)(2), in part provides: "This notice is sufficient if it identifies the particular judgment or order being appealed." Identification is impossible with no judgment.

A purported appeal from a "judgment of conviction" will be dismissed where the record does not show entry of a judgment.

People v. Wilde (1941) 42 Cal.App.2d 482, 485.)

No judgment - no appeal.

Recognized much earlier, yet valid today, on appeal from a "judgment of conviction" where the transcript does not contain the judgment from which the appeal purports to be taken, the appeal cannot be entertained. People v. Sing Lum (1881) 60 Cal. 6.

No Reasonable/Lawful Ground for Denial of Release.

But upon what logic under these facts might a denial be based where the only authority for execution (imprisonment), Penal Code Title 8, Chapter 2, under state law is entry on the court record of a judgment of conviction (Title 8, Chapter 1) which does not exist?

Denial then, would appear to ignore both legislative intent and published opinions (as cited above too) as it's long been settled that there is no commitment authority "in the absence of a judgment entered on record." (In re Rick (1952) 112 Cal.App.2d 410, 413.) Hawaiian courts are in accord following California: State V. Buffalo (1983) 4 Haw.App. 646, 649 [1983 Haw.App. LEXIS 154], citing In re Black (1967) 66 Cal.2d 881, and People v. Prater 71 Cal.App.3d 695, 703 [1977 Cal.App. LEXIS 1640].

Failure to consider here this petitioner's request would no doubt "deny the defendant a substantial right" (People v. Konow (2004) 32 Cal.4th, 995, 1022), as petitioner has met his burden "to provide the facts to the court," pointing to an absence of "judgment of conviction" in the court's own records, such that "the court does have a duty to consider it." (People v. Lee (2008) 161 Cal.App.4th 124, 129.)

WHEREFORE, for lack of any "judgment of conviction" signed by a superior court judge and entered on record, pursuant to state legislative mandate, the Honorable Court considering release must order the petitioner released on the grounds here presented.

The missing time report provides a method for staff to make immediate follow-up of any missing time thereby enabling case records staff to grant accurate worktime credits in a timely manner.

The missing time report shall be routed to facility department heads for further distribution to supervisor(s) for follow-up.

Staff shall review their timekeeping records and prepare a time card or chrono for inmates under their supervision who are listed on the report.

72010.16.3 Missing Time Report Format

The missing time report is printed in CDC numerical order within the following categories:

- Not vested.
- Vested.

Missing time information shall continue to be shown on each monthly listing until a time card or time chrono has been received and entered into the computer by case records staff.

72010.17 Revisions

The Deputy Director, Institutions Division, or designee shall be responsible for ensuring that the contents of this article are kept current and accurate.

72010.18 References

PC § 2081.5.

CCR (15) (3).

DOM §§ 52080 and 73030.

ARTICLE 4 — INITIAL INTAKE PROCEDURE

Revised July 22, 2013

72020.1 Policy

Inmates received by the Department must be accompanied by proper documentation and authorization, and their identity must be verified to prevent inadvertent acceptance of persons not legally committed to CDCR.

If CDCR Intake Control Unit (ICU) has been notified by a county that a new commitment prisoner or a referral pursuant to Penal Code (PC) Section 1203.03 is ready to be transported, the Department is unable to accept delivery by the fifth working day, and the abstract of judgment or minute order has been completed, PC Section 4016.5(d) states that county shall be reimbursed for costs incurred resulting from the prisoner's detention.

California Code of Regulations (CCR), Title 2, Division 2, Financial Operations, Chapter 1, Victim Compensation and Government Claims Board, Section 776, states a county is entitled to reimbursement for allowable expenses incurred in the transportation of a State prisoner to a State institution.

72020.2 Purpose

This Section establishes standard procedures for the orderly acceptance and processing of inmates in a controlled, expedient manner into departmental institutions.

This Section establishes standard procedures for the reimbursement to a county when the county has notified CDCR of the detention of a new commitment State prisoner in a county facility in excess of five working days from the date of county notification to ICU.

This Section also establishes standard procedures for reimbursement of allowable expenses incurred in the transportation of State prisoners.

72020.3 Types of Inmates/Cases Received by the Department

Inmates received by CDCR include:

- New commitments.
- Diagnostic commitments [PC 1203.03].
- Safekeepers (PC 4007).
- Out-to-court returns with new terms or to finish terms.
- Parole Violators With New Terms (PVWNT) or Parole Violators Returned To Custody (PVRTC).
- Outpatient returnees with new commitments or to finish commitments.

72020.3.1 New Commitment County Reimbursement

CDCR shall reimburse a county for each day of a prisoner's detention, starting on the day following the fifth working day (Monday through Friday, excluding holidays as outlined in Government Code Section 19853) after the county notifies CDCR it has a prisoner ready for transfer to CDCR and delivery is denied.

Reimbursement begins for each day in excess of five working days from the date the county notified CDCR ICU that delivery of the prisoner was denied.

The county will not be reimbursed for the detention of a prisoner for any period of time prior to notification and within the five working days after notification.

Notification Processes:

Notification to CDCR ICU shall be on or before the Friday prior to the week of transport. If a county's designated Receiving Center (RC) is unable to accept delivery of the prisoner, the county shall contact ICU. ICU will either:

- Direct the county to deliver the prisoner to an alternate RC with available beds; or
- Verify that CDCR is currently unable to accept delivery of the prisoner at any RC.

If a county refuses or is unable to deliver the prisoner to the designated or alternate RC, the county will no longer be eligible for reimbursement. Upon notification from CDCR ICU of the inability to accept delivery of the prisoner at any RC, the county shall e-mail, in CDCR's approved format, the following information to CDCR ICU:

- The name of each detained prisoner denied delivery to CDCR, along with his or her criminal investigation and identification number, and date of birth;
- The certified abstract of judgment date or minute order date for each prisoner denied transfer;
- Verification the prisoner denied delivery by CDCR is medically fit for transport.

Priority shall be given to inmates incurring non-routine medical expenses who are otherwise medically capable of transporting to CDCR. If a county attempts to deliver a prisoner to CDCR without notifying ICU and the RC is unable to accept delivery of the prisoner, the date of notification will be the date the county attempts to deliver the prisoner to CDCR. In the event beds become available at an RC for the prisoner whose delivery was initially denied, CDCR will notify the county of the bed availability and the county shall arrange for delivery of the prisoner to the identified RC. The county shall deliver the prisoner within two working days of CDCR's notification of bed availability. If the county is unable to deliver the prisoner within two working days, reimbursement will not be authorized for any additional days.

72020.3.2 Allowable Expenses

CDCR is responsible for reimbursement to counties for expenses incurred for the transportation of the State prisoner from a county facility to CDCR as outlined in CCR, Title 2, Section 776. Reimbursement claims must be submitted to CDCR within six months of the end of the month in which the costs were incurred.

72020.4 Intake Procedures

Reception centers or receiving institutions shall prepare required departmental forms on inmates received with new commitments.

In processing arrivals at institutions, standard procedures shall be followed.

72020.4.1 Receiving Responsibility: Receiving and Release (R&R)

In processing arrivals the R&R sergeant shall:

Verify that new/additional commitments are valid and certified. The court order is deemed certified if it has any two of the following:

- Original judge's signature.
- Original county/court clerk's signature.
- Original county seal.

Refer to Correctional Case Record Manager (CCRM) any questionable documents for verification.

Make a print of arrival's right index finger on the commitment document.

Assign a CDC identification number (CDC number) for new commitments.

Record each newly admitted inmate's number and name in the reception center roster.

Prepare Forms

Prepare a Body Receipt in duplicate and distribute:

- Original to person delivering inmate.
- Copy to C-File.

Receive new arrival's cash, securities, and other personal property and complete a CDCR Form 104, Property and Cash Receipt Arrival, in quadruplicate and distribute:

- White, retained in R&R.
- Yellow, to inmate.
- Green, to trust office with case/securities.
- Pink, to remain with valuable property envelope.

Have inmate complete a CDCR Form 345, Authorization for the Secretary to Maintain Trust Account, and forward to C-file.

Prepare the Strategic Offender Management System (SOMS) - Notification in Case of Inmate Death, Serious Injury, or Serious Illness, on all new commitments

- The CCRM shall prepare the SOMS-Notification in Case of Inmate Death, Serious Injury or Serious Illness for commitments received by mail.
- This information is used to prepare the FBI Form FD-249; Fingerprint Cards, and then the form is destroyed.
- The chrono section of the "Notification in Case of Inmate Death, Serious Injury, or Serious Illness" shall be removed and forwarded to Case Records for the C-File.

CDC Form 103-B

The CDC Form 103-B, Associate Warden--Custody Inmate Record Card, may be used in a facility at the discretion of the Warden. This form is not a part of the inmate C-file and shall not be retained therein.

72020.4.2 Disposition of Personal Clothing

New arrivals may send civilian clothing out of the facility at their own expense or designate that the facility dispose of it.

72020.4.3 Fingerprints

Four sets of fingerprints and complete information shall be provided on four FBI Form FD-249, except for 90-day placements (PC 1203.03).

R&R Responsibility

On 90-day placements, only one FBI Form FD-249 shall be sent to California Department of Justice (DOJ) on an FBI card.

Required Information

The following information is required on all FBI Form FD-249s:

- Date subject was received by the facility.
- County of commitment.
- Commitment offense(s).
- Court case number(s), crime(s) including probation revocation when applicable, proper code section(s), and sentence(s) shall be specified.
- For diagnostic cases, the charge shall be "PC 1203.03." The charge resulting in PC 1203.03 commitment shall not be reflected.
- Inmate's full commitment name [see DOM 73010.6.1], CDC number, contributing facility's identification number, and the name of the facility submitting the card.

Additional Commitments

If an additional commitment is involved, indicate the type.

- Court return with new term.
- Additional commitment received by mail.
- Escape return with new term.
- PVWNT.
- Civil Addict cases shall specify outpatient return with a new commitment.

Parole Violators

PVRTC:

- In the charge box, note "Parole Violator" or "Outpatient Returnee."
- In the final disposition box, note "P.R.T.C."

PVWNT:

- In the charge box, note "Parole Violator with New Term" and include county, case number, code and section number, and offense in narrative form.
- In the final disposition box, place the new term(s) (i.e., Parole Violator with New Term and years of term. Do not include code number).

Audit of Information

All FBI Form FD-249s shall be audited to ensure that they are proper, accurate, and complete in form.

FBI Form FD-249s that do not contain all the required information shall be returned to the processing facility by DOJ.

Returned FBI Form FD-249s shall be forwarded to the facility of confinement for correction and resubmission to DOJ.

On a daily basis, and no later than four working days after receipt of the inmate, two of the FBI Form FD-249s shall be mailed to:

California Department of Justice
Bureau of Criminal Information and Analysis
4949 Broadway
Room F-109
Sacramento, CA 95820-1528

Records Office

The remaining two FBI Form FD-249s will be filed in the C-file. One shall be permanently retained there, and the other one shall be sent out to the Division of Adult Parole Operations (DAPO) when the inmate is released on parole.

72020.4.4 Inmate Photograph Specifications

Inmate photographs must meet the following specifications:

Photographs and negatives produced for other than institutional use shall have both the front and side views of the inmate. The size of the picture and negative shall be three inches (height) by four inches (width) with no border. The side view shall be on the left side of the photograph facing the front view.

All photographs shall be taken in a reduction scale of 7:1. The ground glass on the camera will be marked to provide 2 3/8 inches from the top of the head to the bottom of the number board.

- Number boards shall be used on all front view photographs and be approximately eight inches (width) by four inches (height). They shall contain only the following information:
- "CALIFORNIA PRISON" in 1/2 inch letters. Civil addict commitments will show as "CALIFORNIA REHABILITATION CENTER."
 - Inmate's CDC number in one inch numbers.
 - Inmate's name in 1/2 inch letters (initials and last name).
 - Date photograph taken in 1/2 inch numbers.

Photographs shall reflect as nearly as possible the normal appearance of the inmate. Excessive smiles or squints that distort the shape of the eyes and mouth shall be avoided.

- Inmates shall be photographed every five years or when there is a distinct change in physical appearance.

Staff Responsibility

Staff shall refer inmates to the institutional photo lab for a new photograph when their appearance differs markedly from the photograph on their privilege or identification card or in the C-file.

Referrals shall be in writing with a copy to CCRM.

72020.4.5 Confidential Folders

Upon receiving information that an inmate has a prior CDC number and was discharged on or after 1-1-80, the following shall be done.

Reception Center Case Records Staff

Query Offender Based Information System (OBIS) for confidential file flag.

- If there is a confidential flag, immediately contact ID/Warrants Unit Confidential Folder clerk.
- Request the Confidential Folder and have pertinent information relayed immediately for use by custody and counseling staff prior to receipt of the folder.

ID/Warrants Unit

Mail Confidential Folders by First Class Mail the same day request is received.

- If the material in the Confidential Folder is deemed nonconfidential (see DOM 61020) the ID/Warrants Unit, Confidential Folder clerk, shall be notified to remove the confidential flag from OBIS.
- The Confidential Folder, with the notation "Deemed Nonconfidential," shall be returned to the Archives Unit with the discharged file.

72020.4.6 Case Files for Parole Violators/CCRM Responsibility

The CCRM shall communicate with the appropriate regional CCRM, using the telephone, FAX, or OBIS, advising them of the receipt of the parole violator(s) and shall request that the case files be forwarded immediately.

- Case files on parole violators (PVRTC or PVWNT) shall be requested daily.
- Parole regions shall forward requested files to the institution immediately.

72020.4.7 Parolees With New Commitments

Non-life commitment parolees who have been revoked and returned to prison with a new commitment shall not be automatically discharged.

Case Records Staff

Case Records staff shall determine whether or not to discharge a prior commitment for a parolee returned to prison with a new commitment in accordance with BPH Rule 2649.

A parolee who has been returned with a new commitment but whose parole has not been revoked shall be presented to the BPH on the Miscellaneous Proceedings Calendar at the reception center or receiving facility.

72020.4.8 Safekeepers

The PC 4007 provides for housing of county prisoners in State prisons for safekeeping, hospitalization, or because the county jail is unsafe or unfit. The Warden shall immediately, upon receiving such prisoner, advise The Director in writing.

Records Office Responsibility

The ID/Warrants Unit will issue all "S" numbers and the headquarters OBIS staff will enter all "Admission" movements.

The following information shall be telephoned to the ID/Warrants Unit prior to receiving an "S" number:

- Reviewing facility's name.
- Name, title, and telephone number of person requesting the "S" number.
- Safekeeper's date of birth.
- Safekeeper's ethnicity.
- Safekeeper's CI&I number (or state that the CI&I number is unavailable).
- Admitting agency.

The C-file shall be processed in accordance with DOM 71020.5.7.

72020.5 Case Summary

Information from the following documents may be used in the preparation of the case summary. Upon receipt they shall be placed in the C-file.

- Abstracts of Judgment or Minute Orders.
- Statements of judge and DA.
- POR.
- Transcript of proceedings at the time of sentence.
- Copy of the indictment or information.
- CI&I SSCH.
- All correspondence pertaining to the inmate's case.

Responsibility of Case Records Staff

The CCRMs are responsible for incorporation into the case summary all legal information pertaining to the inmate's case, e.g., statement of the judge and DA.

72020.5.1 Legal Status

Instructions for completion of the legal status section of the case summary are in DOM 73010.

72020.5.2 Commitments Not Processed Through a Reception Center

Newly received commitments not processed by the reception center or for whom a recent case summary is not available shall have a case summary prepared by the C&PR or designee of the facility to which the inmate is assigned.

72020.5.3 Former "Z" Cases (PC 1203.03) Case Records Staff

When an inmate is received on a felony sentence and was previously a "Z" case, the following shall occur:

Request the "Z" file from the Archives Unit if it has been shipped to that unit. When it is received:

- Destroy the following material from the "Z" file:
 - All worksheets used by staff during processing.
 - CDC Form 112, Chronological History.
 - SOMS-Notification in Case of Inmate Death, Serious Injury or Serious Illness.
- FBI Form FD-249, Fingerprint Card.
- CDCR Form 345, Authorization for the Secretary to Maintain Trust Account.
- Draw a line through the "Z" number on the medical file; place the new CDC number on the file and forward it to the medical department.
- If part of the case summary is used, the new CDC number shall be typed above the "Z" number and the "Z" number lined out.
- Draw a line through the "Z" number on all remaining material and incorporate it into the new C-file. Materials not used shall be destroyed.

72020.5.4 PC 1170 (A)(2) Commitments

The Legal Processing Unit (LPU) records commitments for persons sentenced pursuant to PC 1170(a) (2) and not delivered to prison.

The PC 1170(a) (2) provides for disposition of cases in which the amount of pre-prison credit exceeds the sentence under the Determinate Sentence Law (DSL). The BPH rules provide the same provisions for cases sentenced under the Indeterminate Sentence Law (ISL).

72020.5.4.1 Procedures for Processing Commitments

DSL

Upon receiving a judgment under the provision of PC 1170(a)(2), LPU shall process the case as follows:

To conform with DSL commitments:

- Term(s) shall be calculated and a CDC Form 188 prepared.
- If the preprison credit exceeds the DSL term including period of parole, the CCRM shall notify the sentencing court that the person has completed the prison term and period of parole and should be released from custody.
- If the preprison credit exceeds the DSL term, but not the period of parole, the case shall be presented to the BPTH for consideration of waiver of parole. The court shall be advised of the BPTH decision. If parole is not waived, the court shall be advised to order the individual to the appropriate parole office for parole supervision.
- If the preprison credit does not exceed the DSL term, the CCRM shall notify the court. The notification shall include information reflecting the computation and the amount of time remaining to be served.

ISL

To conform with ISL commitments:

- Term(s) shall be recalculated pursuant to PC 1170.2(a) using a CDC Form 678, Cumulative Case Summary Confinement Computation, and the case screened for possible extended term hearing.
- The CDC Form 678, Probation Officer Report (PRO), Information, and related documents shall be presented to the BPH for review and disposition.
- If the person is not scheduled for an extended term hearing and is overdue for release on the date calculated under PC 1170.2(a), the CCRM shall notify the sentencing court that the prison term is completed and the person should be released from custody. If the preprison credit does not satisfy the period of parole, the court shall be advised to order the person to report to the appropriate parole office for parole supervision.
- If the person is not overdue for release or if the person is scheduled for an extended term hearing, the CCRM shall notify the court that the person must be delivered to the Department. The notification to the court shall include a copy of the CDC Form 678 or BPH Form 1091, Screening Form, and include the amount of time remaining to be served unless the person is scheduled for an extended term hearing.

Person Not Delivered

Those cases that require a person not be delivered shall be processed as follows:

- Assign CDC number.
- Route to OBIS for input of commitment information.
- Prepare departmental records.
- If discharged, microfiche and forward all documents to the Archives Unit.
- If paroled, forward all documents to the appropriate parole region CCRM.

Note: CDC numbers and departmental records shall not be issued and/or prepared until it has been determined that the pre-prison credit exceeds the term and the person will be discharged or placed under parole supervision.

72020.5.5 Direct Release to Parole From Court

In certain situations courts will sentence a person directly to the Department for parole supervision. The appropriate parole authority will make the final decision to retain or waive parole supervision.

72020.5.6 Former Division of Juvenile Justice Files

If a new arrival is identified as a former Division of Juvenile Justice (DJJ) ward or is being discharged to the Department's jurisdiction, the CCRM shall contact DJJ ward master files.

The DJJ will provide a copy of the clinical summary for use by the counselor. If a complete file is needed, it will have to be specifically requested.

72020.6 Processing Inmates Tried Under Interstate Agreement on Detainers

Individuals confined in facilities outside California's jurisdiction may request disposition of charges pending in California pursuant to PC1389, Interstate Agreement on Detainers. Upon completion of court proceedings, these individuals must be returned to the sending jurisdiction.

If a California commitment is received to run concurrent with previously imposed terms, the Director is authorized to designate a facility of another jurisdiction as the place of reception on the California term (PC 2900).

72020.6.1 Processing Procedures - Concurrent Commitments

Region I, Case Records Office is responsible for processing these cases.

The received date on the CDC Form 188, Legal Status, shall be either:

- The date of receipt by the other jurisdiction after sentencing by California.
- The date of sentencing in California if the subject was not present.

The term's start date shall be the same as the received date except for probation revocation cases.

The term's start date on probation revocation cases shall be the date the inmate was originally received by the other jurisdiction.

The CDC Form 112 shall be posted as follows.

Example:

- 01/01/73-Received at Colorado State Prison.
- (Date of Detainer)-Colorado State Prison designated as place of reception on this term pursuant to PC2900.
- 01/01/74-Received at NRC-CMF (transfer from Colorado State Prison).

72020.7 Revisions

The Director, Division of Adult Institutions, or designee shall be responsible for ensuring that the contents of this article are kept current and accurate.

72020.8 References

PC §§ 1170(a)(2), 1170.2(a), 1203.03, 1389, 2081.5, 2082, 2900, 2901, 3058.5, 4007, and 4016.5(d).

GC §§ 19853.

Government Claims Board Section 776.

ARTICLE 5 — CENTRAL FILE AND TRANSFER OF RECORDS

Revised April 1, 1992

72030.1 Policy

Uniform records shall be maintained on persons under the jurisdiction of the Department.

72030.2 Purpose

This section sets forth the procedures for the uniform preparation of an inmate's C-File and other departmental records pertaining to an inmate.

72030.3 C-File

The C-File is the central depository for copies of all documents, correspondence, and reports pertaining to each inmate.

A C-File is inaugurated for each new inmate upon admission in the Department.

72030.4 Filing Order

The C-File is divided into 11 sections. Specific items are designated to be filed in respective sections.

Like documents shall be grouped together in chronological order, most recent information on top.

72030.4.1 Case Summary Section

- CDC Form 261, Order of Filing.
- CDC Form 112, Chronological Inmate History.
- Legal status sheet.
- Case summary/POR or police report if POR is not available.
- Latest report to paroling board.
- CI&I/FBI SSCHs.
- Other related forms and documents.
- PC 1203.03 reports.
- PC 1170(d) reports.
- CDC Form 916, Time Credit Waiver.

72030.4.2 Legal Documents Section

- CDC Form 1151, Legal Status Audit Sheets.
- CDC Form 1130, LPU Document Transmittal.
- CDC Form 819, Personal/Confidential Information Disclosure/Access Log.
- Minute Order.
- Abstract of Judgment.
- Court remittitur(s).
- Court decisions.
- Sentencing transcript.
- PC 1203.01 statements.
- Information.

- Legal correspondence.
- CDC Form 123, Body Receipt.
- Other related forms and documents.
- CDC Form 138, Fingerprint Card(s).

72030.4.3 Classification Section

- CDC Form 262, Custody Classification - Assignment.
- CDC Form 840, Reclassification Score Sheet.
- CDC Form 812, Notice of Critical Case Information – Safety of Persons.
- CDC Form 812-A, Notice of Critical Information – Prison Gang Identification.
- CDC Form 812-B, Notice of Critical Information – Disruptive Group Identification.
- CDC Form 128-B-1, Notice of Classification Hearing. (Filed on a CDC Form 108-A, Chrono Sheet - Classification.)
- CDC Form 114-D, Order and Hearing for Placement in Segregated Housing.
- CDC Form 839, Classification Score Sheet.
- CDC Form 108-A, Chrono Sheet - Classification (all CDC Form 128-G Chronos).
- Other related forms and documents.

72030.4.4 Disciplinary Section

- CDC Form 804, Notice of Pending CDC 115.
- CDC Form 115s, Rules' Violation Reports and attached Incident Reports.
- CDC Forms 629-A, Segregation Housing Unit (SHU) Term of Initial Confinement, and 629-B, Redetermination of SHU Confinement Term.
- DA response.
- Other incident reports.

72030.4.5 General Chronos Section

- CDC Form 108, Chrono Sheet - General (CDC Form 128-A).
- CDC Form 958, Application for Restoration of Credit.
- CDC Form 108, Chrono Sheet – General (SOMS - Notification in Case of Inmate Death, Serious Injury, or Serious Illness and all CDC Form 128s except for A, B-1, E and G).
- CDC Form 109, Chrono Sheet - Work Reports (all CDC Forms 101 and 128-E Chronos).
- Other related forms and documents.

72030.4.6 Miscellaneous Section

- CDC Form 191, Inmate Time Cards and Time Chronos (taped on an 8" x 11" sheet of paper).
- CDC Form 602, Inmate/Parolee Appeal Form.
- Miscellaneous correspondence.
- CDC Form 345, Power of Attorney and Authorization for Deposit.
- CDC Form 601, Temporary Community Leave Request.
- CDC Form 1604, Agreement to Participate in Community Work Furlough Program.
- Other related forms and documents.

72030.4.7 Detainers Section

- CDC Form 850, Detainer Summary.
- Detainers (all documents related to specific detainers together).
- All nonconfidential notices.
- Advance release notices.
- Other related forms and documents.

72030.4.8 Parole Section

- Parole violation/activity reports.
- CDC Form 102, Statement Release.
- CDC Form 1515, Notice and Condition of Parole.
- DOJ Form SS 8047, Notice of Registration Requirement.
- CDC Form 611, Release Program Study.
- Other related forms and documents.

managed in the FFP facility. Behavioral credit loss shall not be applied in such cases.

(g) Individualized treatment plans shall be developed for each participant and her child. The treatment plan shall be formulated as a result of an individual assessment performed by a program counselor. Each plan shall address the specific treatment needs of the participant and child including the treatment needs necessary for transitioning the participant to parole and/or another treatment program, and shall describe treatment goals for both mother and child and specific activities and services to achieve these goals. Changes to this plan may occur throughout the course of treatment and must be relevant to the participant's progress toward treatment goals. Individualized treatment plans shall address a full range of problems including those directly and indirectly related to:

- (1) Substance abuse.
- (2) Physical and mental health.
- (3) Social services.
- (4) Parenting skills.
- (5) Career Technical Education and educational skills.
- (6) Long-term treatment goals.
- (7) Treatment methods and resources.

(h) Early childhood care and development plans shall be developed for each child and shall address issues including, but not limited to:

- (1) Immunizations and communicable diseases.
- (2) Pediatric medical care.
- (3) Nutrition.
- (4) Psychological interventions.
- (5) Communication skills.
- (6) Motor skill development.
- (7) Play therapies.

(i) Each participant shall be provided all of the following:

- (1) Intensive substance abuse treatment education classes and relapse prevention counseling.
- (2) Classes, as appropriate, on topics such as domestic violence, incest survivors, family relationships, co-dependency, living with AIDS, child custody issues, and legal issues.
- (3) Individual counseling sessions.
- (4) Group counseling.
- (5) HIV-AIDS counseling for pre- and post-HIV testing.
- (6) Classes on parenting skills.
- (7) Early childhood care and development services.
- (8) Educational, Career Technical Education programs, and life skills training.
- (9) Medically necessary health services pursuant to section 3350 et seq.

(j) Each participant shall be assigned a case manager and casework team, comprised of a social worker, facility manager, counselor, child development specialist, child care worker, nurse, and departmental custody staff person. The casework team will manage the participant's intake, orientation and treatment program for the duration of the 12 months.

(k) Transition planning for the participant's release from the facility to parole, shall begin in the first six months of the program with a written Transition Services Plan for each participant to be developed no later than the seventh month. Each participant's Transition Services Plan shall be initiated after nine months of participation in the program. Transition Services Plans shall consist of, but are not limited to, transitional housing, job placement or assistance, identification of available social services, etc.

(l) An outpatient transitional services program shall be developed for each participant and shall include a twelve month period of intensive parole supervision pursuant to Penal Code Section 1174.2.

(m) The FFP shall maintain a zero tolerance for drugs and/or alcohol use. Frequent and random urine testing shall be conducted to detect any illegal drug use.

(n) Each facility shall maintain a library containing a variety of reference, fiction, self-help and children's books for use by participants and their children.

(o) Facilities shall accommodate requests for voluntary participation in religious programs.

(p) Facilities shall post visiting hours and conditions in English and Spanish and maintain a weekly visiting schedule for six hours on Saturday and six hours on Sunday of each week.

NOTE: Authority cited: Sections 1174.8(a) and 5058, Penal Code. Reference: Sections 1174-1174.9 and 5054, Penal Code.

HISTORY:

1. New article 6.3 (section 3074.3) and section filed 8-18-99 as an emergency; operative 8-18-99 (Register 99, No. 34). A Certificate of Compliance must be transmitted to OAL by 1-25-2000 pursuant to Penal Code section 5058(e) or emergency language will be repealed by operation of law on the following day.
2. Certificate of Compliance as to 8-18-99 order, including further amendment of subsection (l) and Note, transmitted to OAL 12-2-99 and filed 1-13-2000 (Register 2000, No. 2).
3. Amendment of subsections (e)(3), (g)(5), (i)(1) and (i)(8) filed 10-29-2013 as an emergency; operative 10-29-2013 (Register 2013, No. 44). A Certificate of Compliance must be transmitted to OAL by 4-7-2014 or emergency language will be repealed by operation of law on the following day.
4. Certificate of Compliance as to 10-29-2013 order transmitted to OAL 4-4-2014 and filed 5-14-2014 (Register 2014, No. 20).

Article 6.5. Intake, Release and Discharge of Inmates

3075. Initial Intake and County Reimbursements.

(a) CDCR shall assign each county to a reception center (RC) institution for the delivery of new commitment State inmates.

(b) The county shall first contact the designated RC institution, on or before the Friday prior to the week of transfer, to notify and coordinate the upcoming delivery of the inmates(s).

(1) In the event the RC is unable to accept delivery of the inmate(s), the county shall contact the CDCR Intake Control Unit (ICU). The ICU will make every effort to direct the county to an alternate RC.

(A) If ICU is unable to provide an alternate RC for delivery, the county shall follow CDCR's notification process, pursuant to subsection (c), to be eligible for reimbursement.

(B) If ICU notifies a county that space is available at a RC after previously being denied, the county shall deliver the inmate(s) within two working days (Monday through Friday, excluding holidays), from CDCR's notification of bed availability.

(C) If the county is unable to deliver the inmate(s) within two working days, reimbursement will not be authorized for any additional days.

(D) Inmates shall be delivered in the order they were notified to the ICU.

(c) If the ICU has been notified by the county that a new commitment inmate is ready to be transported, and the department is unable to accept delivery by the fifth working day (Monday through Friday, excluding holidays), pursuant to Penal Code (PC) Section 4016.5(a), a county shall be reimbursed for costs incurred resulting from the detention of a new commitment State inmate, or a county referral of an inmate pursuant to PC Section 1203.03.

(1) CDCR shall reimburse a county for each day of an inmate's detention, starting on the day following the fifth working day after ICU is notified of the inmate's denied delivery.

(2) The county shall not be reimbursed if, upon notification of the pending transport, ICU directs the county to deliver the State

inmate to an alternate RC and the county refuses or is unable to transport inmates to the alternate RC.

(3) The county shall not be reimbursed for the detention of an inmate(s) for any period of time prior to notification and within the five-day time period after notification.

(4) CDCR shall not reimburse a claim that is in excess of six months from the close of the month in which the costs were incurred.

(d) A county is also entitled to reimbursement for mileage expenses incurred when transporting State inmates to a State institution. A mileage expense will be paid for a total round trip distance.

(e) Inmates received by the department shall be accompanied by either a copy of the minute order or an abstract of the judgment certified by the clerk of the court or judge. Confidential medical/mental health documents indicating that the inmate is medically capable for transport are required upon delivery. The inmate's identity shall be verified by staff to prevent inadvertent acceptance of a person not legally committed to the department.

(f) Upon staff's receipt of an inmate's cash, personal securities and property, a CDCR Form 104 (Rev. 6/13), Inmate Property and Cash Receipt—Arrival, which is incorporated by reference, shall be completed.

(g) Each inmate shall be photographed and an identification card prepared. The identification photo shall be updated every five years or when there is a distinct change in the inmate's physical appearance. An inmate who noticeably changes his/her appearance will be charged for the cost of the updated identification photo/card, if the distinct change occurs anytime within the five-year period.

(h) Each inmate shall be informed of the departmental grooming standards and shall be afforded an opportunity to comply prior to being photographed. Each inmate will be advised that failure to comply with departmental grooming standards may result in the issuance of an administrative rule violation report and that a repeated pattern of administrative rule violations, may result in the inmate being deemed a program failure pursuant to Section 3000. The processing officer will document on a CDC Form 128-B (Rev. 4/74), General Chrono, the inmate's refusal to comply with the departmental grooming standards. The CDC Form 128-B will be forwarded to records for the inmate's initial classification committee review.

NOTE: Authority cited: Section 5058, Penal Code. Reference: Sections 1202a, 1203.03, 1216, 1217, 2081.5, 2901, 3058.5, 4016.5(a), 4537, 4750, 4751 and 5054, Penal Code; and Section 19853, Government Code.

HISTORY:

- Article 6.5 heading and new section filed 12-20-91 as an emergency; operative 12-20-91 (Register 92, No. 4). A Certificate of Compliance must be transmitted to OAL 4-20-92 or emergency language will be repealed by operation of law on the following day.
- Certificate of Compliance as to 12-20-91 order including amendment of Note transmitted to OAL 4-15-92 and filed 5-28-92 (Register 92, No. 22).
- New subsection (d) filed 10-16-97 as an emergency; operative 10-16-97 (Register 97, No. 42). Pursuant to Penal Code section 5058(e), a Certificate of Compliance must be transmitted to OAL by 3-25-97 or emergency language will be repealed by operation of law on the following day.
- Certificate of Compliance as to 10-16-97 order, including further amendment of subsection (d), transmitted to OAL 3-23-98 and filed 5-4-98 (Register 98, No. 19).
- Amendment of subsection (c) filed 1-17-2006 as an emergency; operative 1-17-2006 (Register 2006, No. 3). Pursuant to Penal Code section 5058.3, a Certificate of Compliance must be transmitted to OAL by 6-26-2006 or emergency language will be repealed by operation of law on the following day.

- Amendment of subsection (d) filed 6-9-2006; operative 7-9-2006 (Register 2006, No. 23).
- Certificate of Compliance as to 1-17-2006 order transmitted to OAL 6-22-2006 and filed 7-27-2006 (Register 2006, No. 30).
- Change without regulatory effect amending subsection (b), repealing CDC Form 104 and incorporating by reference new CDCR Form 104 filed 7-30-2013 pursuant to section 100, title 1, California Code of Regulations (Register 2013, No. 31).
- Amendment of section and Note filed 1-23-2014; operative 1-23-2014 pursuant to Government Code section 11343.4(b)(3) (Register 2014, No. 4).

3075.1. Intake Processing.

(a) A CDC Form 188-L (Rev. 3/89), Cumulative Case Summary, shall be prepared for each inmate committed to the department and shall include:

- CDC Form 188, Legal Status Summary.
- CDC Form 112 (Rev. 9/83), Chronological History.
- Probation Officer's Report (POR).
- Criminal Identification and Investigation (CI&I) Report.
- A psychiatric/psychological evaluation, when completed pursuant to (c) below.
- The Institutional Staff Recommendation Summary (ISRS) described in (h), below.
- CDC Form 816 (Rev. 02/03), Reception Center Readmission Summary.

(8) A summary of the inmate's social factors regarding the inmate's: religion; driver's license number; social security number; and the names, birthdays, addresses and occupations of parents and siblings; dates and status of marriages; names, birthdays and custody of children; and family arrest history.

(b) Information affecting an inmate's conditions of confinement or parole and sentence shall be solicited from sources outside the department, with or without the inmate's consent, and shall include California Youth Authority/Division of Juvenile Justice commitment history within the last five years and history of any federal, state or local commitment.

(c) A psychiatric or psychological evaluation shall be prepared for each inmate whose behavior or background information causes staff to believe a serious mental problem may exist.

(d) Casework information and documents important to the placement and supervision of the inmate shall include:

- Notification in Case of Inmate Death, Serious Injury, or Serious Illness (see section 3357).
- CDC Form 128-O (8/92), Document Receipt.
- CDCR Form 345 (Rev. 2/13), Authorization for the Secretary to Maintain Trust Account, which is incorporated by reference.

(e) All questionable information shall be verified to the extent possible.

(f) Information obtained from other documents shall indicate the source. Unverified information affecting an inmate's conditions of confinement or parole and sentence shall be noted as unverified.

(g) Each inmate shall before initial classification be provided a copy of their CDC Form 188-L from which the CI&I Report and CDC Form 112 have been removed.

(h) An ISRS shall be prepared for each person committed with or returned as a parole violator with a new life term.

(i) The ISRS shall state the sources of information used and summarize the inmate's history of or status concerning: type of confidential information on file; holds or detainers; medical and dental requirements or limitations; results of a psychiatric or psychological referral; work experiences and skills; narcotics, drugs and alcohol use; escapes; arson offenses; sex-related offenses; academic and Career Technical Education program needs or interests; necessary casework follow-up; the counselor's evaluation of the inmate; release plans if the inmate has six months or less to

Jeffrey Macomber

February 22, 2023

Lonnie G. Schmidt AZ3544
CSP Solano D-21-3-4L
P.O. Box 4000
Vacaville, CA 95696

Jeffrey Macomber, Secretary
California Department of Corrections and Rehabilitation
1515 S. Street, Suite 502
Sacramento, CA 95811
(916) 445-7682
Via U.S.P.S. Certified Mail RRR No.: 7002 0510 0003 4495 3078

Re: IMPORTANT NOTICE - DEMAND FOR RELEASE
Unlawful Imprisonment of LONNIE GLENN SCHMIDT.
(People v. Schmidt (2013) Sacramento County Superior Court #13FEO7578;
abandonment of prosecution with no final disposition.)

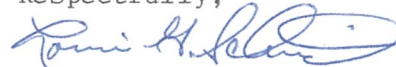
Secretary Macomber:

Notice is hereby given that you and all past California Department of Corrections and Rehabilitation (CDCR) Secretaries, and, as applicable, present and past Wardens, and, as applicable, present and past State Executive Branch officials, are presently and have been in violation of State and Federal law for my past, present and continuing unlawful imprisonment.

This executive branch liability for personal injury and damages arises due to your official maintenance of a fraudulent "amended abstract of judgment" as alleged authority for the imprisonment of my person, while knowing (at least since notice in 2020) your document to be fraudulent for lack of any underlying or supporting "judgment" on record in any State or Federal court -- though the matter glaringly apparent since my unlawful reception in 2016. DOM §§ 72020.1 (documentation/authorization), 72020.4.1 (court order), 72020.5.4.1 (judgment); Title 15 C.C.R. § 3075(e) (judgment); Cal. Penal Code §§ 1202a (judgment), 1207 (judgment of conviction); People v. Banks (1959) 53 Cal.2d 370, 383; People v. Crow (1971) 4 Cal.3d 613, 618; People v. John (2019) 36 Cal.App.5th 168, 175; United States v. Arpaio (9th Cir. 2020) 951 F.3d 1001, 1004 -- and authority therein cited.

I hereby demand immediate and unconditional release from imprisonment, and expungement of all State and Federal criminal records naming me, which may in but small measure mitigate ever mounting macro-damages to my family and myself.

Respectfully,



Lonnie G. Schmidt, Captain USAR

cc: Gavin Newsom, Governor (for CDCR Secretary accountability)
State Capitol Building, Capitol Mall, Sacramento, CA 95814

Rob Bonta, California Attorney General (for CI&I referral/expungement)
1300 I Street, Suite 1740, Sacramento, CA 95814

Federal Bureau of Investigation, (for investigation/expungement)
2100 Freedom Way, Roseville, CA 95678

Gigi Matteson, Warden (for immediate release)

Unshackled Penalty Codes

UNSHACKLED

by

Lonnie G. Schmidt
RFB - Proverbs 21:31
July 4, 2022

PROPOSED CHANGE TO REGULATIONS ADMITS CDCR ROLE IN FALSE IMPRISONMENT OF PRISONERS. CDCR TO HONOR RELEASE UPON DEMAND.

California Department of Corrections and Rehabilitation (CDCR) Associate Director, Office of Appeals, Division of Correctional Policy Research and Internal Oversight, Howard Moseley, in a June 19, 2022 notification to Governor Newsom, CDCR Employees and Prisoners-- that the legal conviction and commitment of adult felons to the state prison is not supported by documentary evidence and that the law requires the custodial agent of the prisons to release persons affected --proposed a "Change to Regulations" and a plan for the "Release of Affected Persons", making the following comments, admissions, and statements:

"The Correctional Policy Research and Internal Oversight Management Branch of CDCR has been made aware of the delivery to, and imprisonment of, persons without the document required by law evidencing a legal commitment of the person to the custody of CDCR. This oversight is believed traceable to an ambiguous regulation regarding the intake of inmates which has been misinterpreted. It is for the purpose of clarifying the offending regulation and effecting remedy for those persons adversely affected that the following change to the regulation is proposed.

This Notice announces the proposed amendment of Section 3075(e) of the California Code of Regulations (CCR), Title 15, Crime Prevention and Corrections, Division 3, Chapter 1, Article 6.5, Section 3075 Initial Intake, Subdivision (e).

Heretofore, CDCR has received inmates accompanied "either by a minute order or an abstract of the judgment" per regulation 15 § 3075(e) but without the required documentary evidence of a person's commitment to the Director of Corrections as required by Penal Code § 1202a. Statutory Authority: None.

An "inmate" "prisoner" or "parolee" is a particular class of person and pursuant to CCR 15 § 2000(a)(3) the term applies to "any person who is or has been committed to the custody of the Director of Corrections...".

Board of Parole Hearings (BPH), a division of CDCR, has jurisdiction of this same class of persons (presuming "inmates" to be adult felons). Definitions: Board of Parole Hearings: "Persons under the board's jurisdiction are all adult felons committed by superior courts to the Director of Corrections..." CCR 15 § 2000(b)(10).

The problem is... CCR 15 § 3075(e) is not married to any Legislative law authorizing implementation of the regulation.

Although CCR 15 § 3075 references PC § 1202a as Statutory Authority, § 1202a mandates a "judgment" as the document directing delivery of a person to the Director of Corrections. "If the judgment is for imprisonment in the state prison the judgment shall direct that the defendant be delivered into the custody of the Director of Corrections...".

Notwithstanding CDCR and BPH long-standing reliance on 15 § 3075(e) "abstract of the judgment or minute order" for authority, without an implementing statute and an underlying judgment for support, said documents can not, and do not exist in law and are fraudulent documents.

Therefore, absent a judgment signed by a judge in a person's Central File specifying imprisonment in the state prison and directing delivery to the Director of Corrections, CDCR and BPH lack jurisdiction of that person and continued detention is false imprisonment.

The survival of CDCR hangs by the thread of change to regulation 15 § 3075(e). Inasmuch as it is now recognized as unlawful to accept inmates without a judgment, intake of such persons by CDCR must cease. It appears emergency implementation of the changed regulation is imperative.

If it be true that people are illegally imprisoned, without any authority from the Legislature or the Judiciary (Courts), isn't that commonly called "false imprisonment"? And if so, isn't false imprisonment against the law, liability for which the state, agency and public employees do not enjoy immunity?

I believe so... see Government Code § 820.4 "Nothing in this section exonerates a public employee from liability for false arrest or false imprisonment." "False imprisonment is the unlawful violation of the personal liberty of another, the inference being absolutely unlawful and without authority." Jackson v. City of San Diego (Cal. App. 4th District July 14, 1981) 121 Cal. App 3d 579 1981 Cal.App. LEXIS 1962.

"False arrest and imprisonment causes of action are viable actions against public employees pursuant to Government Code § 820.4, excluding public employees from any immunity for a cause of action for false arrest or false imprisonment."
Allison v. County of Ventura (Cal. App. 2d Dist. Mar. 3, 1977)
68 Cal. App. 3d 689 1977 LEXIS 1356.

Not waiting for a written demand, a review of all "inmates" Central File to determine whether a judgment signed by a judge, committing the person to the Director of Corrections resides therein, is in order. PC § 2081.5 contemplates the court record entries in each case being available for CDCR and BPH review. If the judgment is not entered in the record, it isn't valid. "In no case is a judgment effectual for any purpose until entered." California Code of Civil Procedure § 664; Phillips v. Phillips (Cal. Dec. 24, 1953), 41 Cal. 2d 869, 874.

And if no such document is found, the law demands the public employees of CDCR do everything in their power to effect those persons' immediate and unconditional release from state prison... or be found in violation of their oath of office to support and defend the state and federal Constitutions... and liable for the consequences of false imprisonment.

Remove the shackles!

C O N C L U S I O N

There can be no question but that under California law, its Constitution, its statutes and clear legislative intent, loss of personal freedom by State imprisonment is authorized only upon entry of a signed and certified copy of a "judgment of conviction" provided to a County Sheriff and presented to the state Director of Corrections as authorization to take custody of a prisoner.

Your author, Lonnie G. Schmidt, victim aggrieved, herein alleges that no "judgment of conviction" exists on record as mandated by multiple California statutes, State and Federal law in substantial conformity, for Lonnie G. Schmidt or, for any person who is presently detained in the state prison, or has been, since at least 1951; and neither proof nor evidence to the contrary is revealed or offered by the Secretary of CDCR.

Attorney General Penalty Codes

Juneteenth 2021

Lonnie G. Schmidt AZ3544
CSP Solano D-21-3-4L
P.O. Box 4000
Vacaville, CA 95696

Rob Bonta, Attorney General
State of California
Office of the Attorney General
Attn: Anthony J. Tartaglio, Deputy Attorney General
455 Golden Gate Avenue, Suite 11000
San Francisco, CA 94102-7004
U.S.P.S. Certified Mail 7020 1810 0000 3292 6377

Re: Schmidt v. State of California, Case No. FCS056153,
Superior Court of California, County of Solano; No JOC? Set
Us Free!; Demand for release.

Dear Mr. Tartaglio:

The purpose of this letter is three-fold:
1. Notice of Lonnie G. Schmidt's (Plaintiff) intent to timely
file Opposition to the State's Demurrer in the civil case
Schmidt v. State of California, et al.; to request the State
withdraw its Demurrer and agree to compromise (CCP § 998(b))
and allow judgment or confession of judgment (CCP § 1132(a)),
in favor of Plaintiff for good cause;
2. To give you, as Attorney for Defendants in Schmidt v. State
of California, et al., actual NOTICE of the illegal
confinement of Lonnie G. Schmidt and all persons held as
prisoners in the custody of Kathleen Allison, Secretary,
California Department of Corrections and Rehabilitation (CDCR)
in the absence of all authority: as set forth in the 12 page
Treatise "No JOC? Then Set Us Free!..." and "No Judgment? No
Prison..." attached hereto and incorporated herein; and,
3. To make formal Demand For Release of Lonnie G. Schmidt,
victim aggrieved, and all persons imprisoned by CDCR for whom
CDCR has no Judgment of Conviction (JOC) in it's files.

**NOTICE TO THE AGENT IS NOTICE TO THE PRINCIPAL;
NOTICE TO THE PRINCIPAL IS NOTICE TO THE AGENT.**

Schmidt v. State of California, et al.

Lest Deputy Attorney General Anthony J. Tartaglio (DAG
Tartaglio) find himself defending the indisputable fraudulent
actions of the State and it's Officers, Officials and Employees
in the greatest government Civil Rights fraud ever perpetrated
on the People of California- in an action in which the State
cannot prevail on the merits under any circumstances; and in
violation of his oath of office to support and defend both the
State and Federal Constitutions -notice is given.

Under our system of government, judicial officers are responsible to the people, or the authorities constituted by the people, for the manner in which they discharge the great trust of their office. Judicial officers may be called to account and trial for misdemeanor in office or for willful or corrupt conduct in office, where, in exercise of power, they act with partiality, or maliciously, corruptly, arbitrarily, or oppressively. Frazier v. Moffatt, (108 Cal.App.2d 379, 385). The cases clearly hold that where a judicial officer violates a criminal statute, he is held to the same responsibility of any citizen. Craig v. United States 9th Cir. 81 F2d 816; United States v. Manton, 2d Cir. 107 F2d 834) id 385.

Complainant was imprisoned pursuant to an illegal (false and forged) charging instrument (felony complaint). See, Felony Complaint, Case No. C1348325, attached to Declaration as Exhibit 1 (see Exhibit A, Attachment 1 attached thereto), and incorporated herein.

For legal points and authorities proving that a **felony complaint is an illegal charging instrument incapable of conferring jurisdiction on the court**, and that the judgment obtained pursuant thereto is void, see Exhibit 1, Exhibit A; "Grounds for Relief" for "PETITIONER'S CONFINEMENT VIOLATES THE CONSTITUTION AND LAWS OF THE UNITED STATES." Noting: the term "Petitioner" means Lonnie Glenn Schmidt. Grounds for Relief (pages 3.1-3.19) clarifies §§ 859a and 949 "complaint" as being made by a private person (pages 3.3-3.4) and sets forth the violations of due process and law with supporting facts, cases, rules and other authorities.

Complainant was unlawfully imprisoned in the Santa Clara County Jail and is now unlawfully confined in CSP Solano as a direct result of the willful misconduct of the public officers named herein; i.e., the officers' failure to obtain an indictment in the first instance (§ 949) and, prosecuting Complainant pursuant to a bogus charging instrument. Such criminal conduct is a perversion and obstruction of justice and punishable by imprisonment, removal from office and disqualification from ever holding office. (§§ 98, 115(a), 132, 134, 182(a)(1-5), 236, 661; B&P § 6128(a); 18 U.S.C. §§ 241, 242.)

Complainant is prejudiced by the judicial officers' theft of mail, prevention and attempted dissuasion of Complainant's opportunity to seek remedy through complaint, indictment and prosecution of the public officers by accessing the grand jury. See Declaration and Exhibits, attached hereto and incorporated herein. Such conduct is punishable by fine, imprisonment and removal from office. (§§ 182(a)(1-5), 96.5, 98, 136.1(b),(b)(2),(c)(2), 618; 18 U.S.C. §§ 4, 241, 242, 1382, 1702.)

The Attorney General has taken an oath (see Fn6) to support and defend both the state and federal constitutions and so have each of the public and judicial officers named herein.

It is axiomatic that public and judicial officers are not above the law and may not violate the commands and prohibitions of the law in order to enforce the law. And when warnings, notice and opportunity to correct their aberrant behavior and uphold their oath of office are given to their superiors (see, letter to District Attorney Jeff Rosen, April 28, 2018 E-mail to Attorney General, and letter to Senator Kamala Harris with copies to Governor Newsom, Attorney General Becerra and President Trump (Declaration, Exhibit 1, Exhibits A, B, C, E) and ignored (Notice to the principal is notice to the agent), public officers maliciously, corruptly and willfully violate their oath of office, the Constitution and the laws of the United States. Dare we call such conduct treason (violation of the allegiance owed to one's sovereign or state)?

Summary of violations of state and federal law within Santa Clara county.

Failure of the District Attorney to initiate a felony prosecution via indictment or information as required by law (§§ 682, 737, 949) is a willful omission to perform a duty and a violation inter alia, of GC §§ 1222; B&P §§ 6068, 6128, and oath of office.

The District Attorney's preparation, offering in evidence and filing of false or forged instrument (felony complaint) in a public office is commission of a felony offense (§§ 115(a), 132, 134). And collusion and deceit is willful misconduct in office, a misdemeanor offense (B&P § 6128(a)).

The judicial officers theft of mail and prevention and attempt to dissuade Complainant from the seeking and prosecution by complaint or indictment of the persons who victimized Complainant and usurpation of authority of grand jury are commission of public offenses (§§ 96.5, 98, 182(a)(1),(5), 136.1(b),(b)(2),(c)(2), 236, 618; 18 U.S.C. §§ 4, 241, 242, 1382, 1702.)

When two or more persons conspire to commit any crime, falsely and maliciously to procure another to be charged or arrested for any crime, falsely to move or maintain any action or proceeding, to cheat and defraud any person of any property, by means which are in themselves criminal, or to obtain money or property by false pretenses and commit acts injurious to the public health, to public morals, or to pervert or obstruct justice, or the due administration of the laws, those persons commit an act in violation of a law commanding or forbidding it (§§ 682, 737, 949; 96.5, 98, 115(a), 132, 134, 182(a)(1-5), 236, 618; B&P §§ 6068, 6128(a); 18 U.S.C. §§ 4, 241, 242, 1382, 1702) a public offense is committed.