

June 27, 2022

Lonnie G. Schmidt AZ3544
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P.O. Box 4000
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Board of Parole Hearings
Attn: Nonviolent Parole Review
P.O. Box 4036
Sacramento, CA 95812-4036

Re: Parole Referral Decision; Reasons for release.

Dear Commissioners:

This letter is timely, as Counselor Ms. Black delivered your 5/31/2022 referral notice to me on 6/7/2022 and so signed on the letter.

For the Fifth year of eligibility under Prop 57, you have invited me to provide written reasoning why I "would not pose an unreasonable risk of violence or an unreasonable risk of significant criminal activity if you were released", and I have, yet each year I have been denied.

Your reasoning for the past 4 years has been the same: needs classes to address Victim Awareness and Criminal Thinking. For the past 3 years, I have been either enrolled or on waiting list, but classes canceled.

Since last review, June 2021, I have completed Facility ETO Activities: Victim Awareness, and although already completed (OBI, below), I am currently enrolled in Criminal Thinking (a friend is the Mentor and Facilitator (Instructor) who appreciates and encourages my input to, and participation in, his classes) most recent Ducat enclosed.

Since October 12, 2021, I have been attending Objective Behavioral Intervent (OBI), a CDCR sponsored program by Center Point, ISUDT: Criminal and Addictive Thinking, Victims Impact, Understanding and Reducing angry feelings, etc., even though I've never used/abused any substance... only curriculum offered whereby I could comply with BPH recommendations.

I'm still attending OBI three times a week, currently a Parenting course of study..me, a Great grandfather! My Counselor, Ms. Black has assured me that these, plus a few other class and Christian Chapel involvement chronos are scanned into my Central File for your access.

Another, more important reason for release. I request your careful review, for your own sake as well mine, is one I've advised BPH of in the past: CDCR and BPH illegal custody of my person for lack of jurisdiction, i.e., for want of a judgment of conviction in my Central File.

I will attempt, once more, in as simple English as possible, to reveal the truth-- and the liability CDCR, BPH and yourself face, if the truth is ignored and I continue to be imprisoned absent all authority.

California Code of Regulations (CCR) Title 15 § 3075(e) is the sole regulation CDCR relies upon for initial intake of persons. "Inmates received by the department...". (CCR 15 § 3075(e)).

An "inmate" "prisoner" or "parolee" is a particular class of person and pursuant to CCR 15 § 2000(a)(3) applies to "any person who is or has been committed to the custody of the Director of Corrections..." (15 § 2000(a)(3).)

Board of Parole Hearings (BPH) 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 Penal Code (PC) § 1202a as Statutory Authority, § 1202a mandates a "judgment" as the document directing delivery 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..." (PC § 1202a).

Notwithstanding CDCR and BPH long-standing reliance on 15 § 3075(e) "abstract of the judgment or minute order" for authority, without a implementing statute and an underlying judgment for support, said documents can not, and do not exist in law and therefore, are fraudulent documents.

Therefore, absent a judgment in my Central File directing my delivery to the Director of Corrections ("Secretary" PC § 5050), CDCR and BPH lack jurisdiction of my person.

If it be true that I am 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, the liability for which the state, agency and Public Employees do not enjoy immunity?

I believe so... see Government Code (GC) 815.2(a), 815.6, 820.4. "Nothing in this section exonerates a public employee from liability for false arrest or false imprisonment." GC 820.4.

"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.

You may wish to consult a lawyer on the matter, as, not a lawyer myself, nevertheless, I have studied federal and state jurisdiction for more than 30 years and this issue intensely for well over three years.

Litigation over a fundamental matter so repeatedly settled in my favor and, utterly without exception, by every court confronted with this issue from the 1860s until today, would be like dueling with an unarmed man.

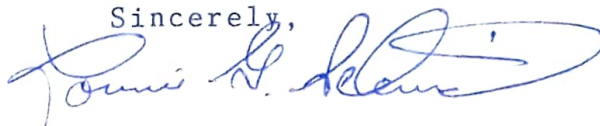
No court in state history has ever held that a warden may imprison or otherwise accept or maintain custody of any human without "entry on record" of a "judgment of conviction", a certified copy of which MUST accompany any person upon delivery of the body "to a [custodian] warden." The law has always demanded release when the unthinkable "no judgment" does occur, as it has in my case. Ref: Ex parte Gibson (Cal 1867), 31 Cal. 619, 622-623; People v. Mendoza (2009) 171 Cal.App.4th 1142, 1150; and federal alignment: United States v. Arpaio (9th Cir. 2020) 951 F.3d 1001, 1004.

I suggest you review my Central File and determine whether a judgment, order or decree (signed by a judge) committing my person to the Director of Corrections resides therein... inasmuch as PC § 2081.5 contemplates the record entries in my case being available for BPH review. "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, I demand you do everything in your power to effect my immediate and unconditional release.

Therefore and otherwise, conduct your review accordingly.

Sincerely,

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

Lonnie G. Schmidt, Captain USAR