

# Under Cover of *CORONA*

by

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RFB - Proverbs 21:31  
September 1, 2020

For there is nothing covered that will not be revealed,  
and hidden that will not be known.  
Matthew 10:26 NKJV

Commentary On Letter To CDCR Secretary Ralph Diaz

1967 Republic of Viet Nam.

"Thunderbird One, Smoky has LZ in sight, ready on your command"  
"One here, Roger that, I have you at my 10 O'clock low, go  
hot" "Roger One, blowin smoke."

I watched as Smoky, a Charlie Model UH-1 gunship equipped to pump oil into the turbine engine and create thick white billows of smoke, reached the tree-line bordering the Landing Zone and skimmed the rice paddy, providing a thick smoke screen between the VC dug into the jungles edge and the central point I'd selected to land 10 slicks (troop carrying UH-1 "Hueys"). I keyed the mike "Thunderbirds, go trail and go hot."

Under cover of the smoke and escorted by 4 gunships, the Thunderbirds, with full suppression (each ships door-gunners' M-60 machine guns firing) dropped into the LZ and delivered 80 soldiers to the battle.

As Flight Leader, "Thunderbird One" for the 118th Assault Helicopter Company, Thunderbirds, I took advantage of Smoky every time he was offered to support our combat assaults. That little bit of extra protection of smoke kept the Viet Cong from accurate target acquisition of our low and slow Hueys. But it didn't stop the bullets in 1967.

2013-2020. Thunderbird One, wings clipped by false allegations of white-collar offenses, illegal prosecutions and unlawful confinement, sits cooped up in CSP Solano, one of California's 35 prisons.

CSP Solano houses 3,500 of the state's 100,000+ "inmates", many with "Life Without Parole" sentences who have been here 20 plus years with little hope of ever going home. All wanting to go home, almost all mentally and emotionally changed (rehabilitated) men; ready to go home.

Faith in God still high, I asked Him to show me what's going on in this obviously corrupt California judicial system. And He did. Jeremiah 33:3 NKJV.

I now share two legal issues of fundamental jurisdictional defect, statewide significance and, Constitutional magnitude.

Both issues are prevalent in the majority, if not all, felony prosecutions in the past 70 years. Each issue independently mandates release of California's prisoners and their due compensation for false imprisonment.

**Issue One - Alpha. In the beginning.**

This topic is related and limited to law enforcement and judicial misconduct: illegal prosecutions; illegal confinement in the state's prisons.

After three years of writing a number of legal research papers, articles and writs revealing the universal illegal felony prosecutions by the District Attorneys, Defense Counsel and Superior Court Judges of every county in the state and, numerous letters to anyone who should be alerted and concerned - and the truth seemingly falling on deaf ears - action!<sup>1</sup>

December 2019 and early January 2020. California's Attorney General and the State's Auditor launch investigations in response to a Whistleblower and multiple Citizen complaints. A ray of hope!

Mid-January 2020. CDCR Secretary Ralph Diaz, supervising all 35 plus prisons, receives my first letter and is made aware of the illegal prosecutions; and visits me<sup>2</sup>. I recap the legal issue and recommend the first step in correcting the problem is to stop receiving "convicts" from the courts. Just say "no".

In early March, ostensibly because of Coronavirus, Governor Newsom issues Executive Order N-36-20 to halt the intake of convicts from the Superior Courts and County Jails.



No movement or transfers between prisons is also ordered by the Governor. Notwithstanding the Governor's orders, 121 inmates infected with Coronavirus are transferred into San Quentin and now over two-thirds of San Quentin's prisoner population is infected and 25 have died.

In April and June, I write the Governor about the issue of illegal prosecutions and make demand for my and all other illegally imprisoned persons' release from confinement.

June 26, 2020. Governor Newsom acknowledges government wrongdoing in criminal prosecutions and imprisonment of the majority of those currently confined and orders the Secretary of CDCR to commence processing for release all "unindicted" persons. See, "Immediate Release!" attached hereto and at [www.withoutoneplea.com](http://www.withoutoneplea.com).

In July, CDCR announces the first cohort of 17,600 inmates are in the process of being released<sup>3</sup>.

These releases - Shhh! Under cover of CORONA (smoke screen) - are a result of the illegal actions by public officers and the state beginning to deal with the problem.

**Issue Two. Omega. The ending act of judicial injustice.**

Also in July, Providence presents another unbelievable eye-opener opportunity to accelerate the release of all those wrongly imprisoned!

This time the focus shifts from illegal government actions of many actors to put individuals in prison, to one natural person (hereinafter "man"), the CDCR Secretary (Director) currently Ralph Diaz, just doing his job, but - due to the malfeasance of the judiciary - without legal authority to receive and imprison any individual.

All "convicted" persons are remanded by the Judges of the Superior Courts to the custody of one man for confinement in the state's prisons: the Director of CDCR<sup>4</sup>, Secretary Ralph Diaz. The Court - without a final written judgment there is no determination of the right and duty of the state to punish and - lacks authority to remand and the Secretary lacks authority to receive and imprison any individual.

The law requires a "Judgment of Conviction" signed by the Superior Court judge to be filed on the Court's record and Clerk's Judgment Docket<sup>5</sup> in order to deliver a prisoner. The law requires that a certified copy of the judgment be delivered with the prisoner to the warden and filed in the prisoner's file (CDCR Central Files). And CDCR has none.

The judges never conclude the action by filing a judgment of conviction! They don't exist! The reason why is pure conjecture, but, the fact is: they are not to be found.

The law requires a final, written determination of the rights and obligations of the parties to the case in order that an appeal may be taken by either party from the decision. And that the judgment and any abstract of the judgment be filed and included in the Clerk's Transcripts of the record (docket) at time of appeal. There is no written judgment (judgment of conviction) in any of the Clerk's Transcripts on appeal in any of my three cases; or any other case I've reviewed.

The jurisdiction of each reviewing court (Appellate, California Supreme, United States District, Circuit and United States Supreme) requires a written judgment in the record for appeal. If none appears in the record...? Ever lose an appeal?

What to do? I put my findings in writing and sent the information by U.S.P.S. Certified Mail August 17, 2020 to my "Christian Brother"<sup>6</sup>, Ralph Diaz! (Received August 21, 2020.)

Let me share the salient portions and legal highlights of my letter to Brother Diaz for your freedom-longing-reading pleasure!

CDCR Secretary Ralph Diaz; 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.

**CAUTION! DANGER AHEAD! DO NOT DELAY RELEASE!**

CBS 13 News, 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 valid legal 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 the illegal confinement of California's prisoners, an issue near and dear to my heart. I believe the author's 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?

Now wait a minute! Here is a Doctor of Law, professor and possessor of jurisdictional and Constitutional knowledge publicly making these statements? Exposing his findings to challenge? How does he support factually such allegations of widespread government fraud? Let's see what he has to say...

"Every single case I have found where the Abstract of Judgment was challenged against a signed judgment, the prisoner has gone free. But the last time someone challenged this until I came along was as far back as 1973. And so far my team has already freed five people from prison serving sentences ranging from months to over 20 years." Dr. Morton, id. TASB.

Aha! Dr. Morton, as a professional in law, is looking into the corrupt judicial system from the OUTSIDE! He can only help those poor souls who read his article, believe it and believe that he can help them get out of prison too! Provided they can pay his fee. Attacking injustice one inmate at a time.

He can't appear on behalf of all the rest of the illegally confined. He lacks standing to challenge the system from the INSIDE as he has not yet been personally threatened with criminal prosecution or illegally confined in the state's prisons. He has not suffered personal injury.

But, I have suffered, am now suffering, and will continue suffering such injury absent remedy and relief. Therefore, I have standing to challenge the system and intercede on behalf of all those who, like myself, do not have a judgment of conviction. "Here I am Lord, send me!" (Ever wish you'd not been so bold in your prayers in the past? Hmmm.) We continue now with our commentary on the letter to Brother Diaz.

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

The newly discovered factual issue I brought to the Secretary's attention directly impacts him, CDCR staff and employees. Proper paperwork is required to legally confine a person: a "Judgment of Conviction". And CDCR has none.



But wait! CDCR does have some paperwork, an "Abstract of Judgment"...isn't that enough?

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. 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.

Delivery by the executing officer of the convict to CDCR or the warden without a certified copy of the Judgment of Conviction; receipt by CDCR or the warden; and confinement in the state's prisons of the convict; pursuant only 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 is bogus - is a crime: False imprisonment.

Involved state officers and employees are guilty of criminal conduct and when indicted, 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.

Does Dr. Morton have any closing thoughts to share on this criminal conduct by state officers and employees? Yes...

"The State of California has stooped to an all-new, all-time low, and every man and woman involved in this great fraud should be prosecuted to the full extent of the law and that includes attorneys, judges, police, court personnel, prison guards and the whole corrupt corporate skullduggerous LOT! If we don't expose this system soon, NO ONE IS SAFE! PEOPLE OF CALIFORNIA AND AMERICA WAKE UP! BECAUSE YOU MAY BE NEXT!!" id. (TASB). Dr. Morton's article was published in early 2012. Has the system gotten the message? I don't think so. Let's review together Dr. Morton's legal position (with my input) as relayed to Secretary Diaz. He is in the position and has the duty to "Just say No" to receiving and "Yes!" to releasing!

### Discussion

All right, in laymans language, what's the difference between a "judgment" and an "abstract of judgment"? Why is the abstract NOT sufficient to legally confine a person?

There's a story about a farmer who wanted to buy his neighbor's Pine tree for lumber to build a pen for his sheep. The two friends stood and admired the Pine tree, casting a long shadow in the sunlight, and negotiated. "I'll sell the Pine for \$200." "Whoa! I didn't want to pay that much!" "OK", said the neighbor, "I'll sell you the Shadow for \$50." They both chuckled. "I'll deliver for free" said the neighbor. "Deal!" replied the farmer. The neighbor delivered the Shadow.

In the discussion which follows, the Pine tree is the "Judgment", Shadow the "Abstract of Judgment", CDCR Secretary Ralph Diaz, the farmer and Superior Court judges, the neighbor.  
**Judgment.**

"A court's final determination of the rights and obligations of the parties in a case. The term "judgment" includes a decree and any order from which an appeal lies." Black's Law Dictionary Abridged 7th Edition, p. 67. (Pine tree.)

#### **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 (judgment of conviction) signed by a judge exists on the Superior Court Clerk's Record, Judgment Docket, nor in CDCR's Central Files for any of my three cases.

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



Failure of a written final judgment (judgment of conviction) to be entered on the Court's record as required by law (§ 1207<sup>\*</sup>; CA Rules of Court Rule 8.320(b)(8); F.R.Cr.P. Rule 32(k)) constitutes a statutory and Constitutional 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, i.e., 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.) 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.)

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\* Undesignated statutory references are to the California Penal Code.

"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 civil 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.

California and Federal legal practice recognize that there is one form of action, civil for all procedure. Federal Rules of Civil Procedure Rule 2.

The California Civil Code of Procedures (CCP), § 635 titled "Signing of Judgment or Orders by Presiding Judge or by Judge Designated by Presiding Judge when Trial Judge is Unavailable" clearly states:

"In all cases where the decision of the court has been entered in its minutes and when the judge who heard or tried the case is unavailable the formal judgment or order conforming to the minutes may be signed by the presiding judge." (Emphasis added.) 11 (See MB Practice Guide, Ch. 119, Judgments, Ch. 326A). CCP §§ 1908, 1908.5 provide for "Proof of Judgment", and CCP §§ 668, 670, 673, 674 provides for procedures on how judgments are to be entered and the time constraints of the sentence involved.

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



The Cross References of § 1207 require that a copy (certified) of the judgment of conviction be furnished to the executing officer and made part of the court's record for, inter alia, appeal purposes: "Certified copy of judgment of conviction delivered with the defendant to CDCR Director or warden. Copy to be furnished officer, see Penal Code § 1213; Record on appeal, see Penal Code § 1246." (Emphasis added.)

Penal Code § 1213 in relevant part mandates: "When...a judgment...has been pronounced...a copy of the entry of the judgment, or, if the judgment is for imprisonment in the state prison...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." Section 1213; Cross References: "Entry of judgment, see Penal Code 1207."

The executing officer now has a certified copy of the judgment of conviction in his possession and is awaiting receipt of a "certified abstract or minute order" of the judgment.

At this time, he may "take and deliver the defendant to the warden of the state prison. The sheriff also shall deliver to the warden the certified abstract of the judgment or minute order,...and take from the warden a receipt for the defendant." (§ 1216.) Penal Code § 1216; Cross References: "Certified copy of judgment to be furnished to executing officer, see Penal Code § 1213."

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 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 (Director). This is not looking good for CDCR!

**Judgment must be filed for purpose of appeal.**

Appeal may be taken from a final judgment of conviction and the judgment must be included in the Clerk's transcript as required by law: Penal Code § 1237; California Rules of Court Rule 8.320(b)(8).

"An appeal may be taken by the defendant...(a)...from a final judgment of conviction." (§ 1237.)

"The clerk's transcript must contain: The judgment or order appealed from and any abstract of judgment or commitment." (CA Ct. Rule 8.320(b)(8).) (Emphasis added.)

If no judgment of conviction is included in the clerk's transcript, the appellate decision is void for lack of due process and subject matter jurisdiction.

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 the delivery documents: a minute order and/or an "abstract of judgment" (§§ 1213, 1216; Department Operation Manual (DOM) § 72030.4.2).

The "abstract of 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 and Judgment Docket and filed in a confined individual's Central file will suffice.

#### **Abstract.**

"n. A concise statement of a text, esp. a legal document: a summary. See Abstract of Judgment; Abstract of Title." Black's Law Dictionary Abridged 7th Edition, p. 7. (Emphasis added.) **Document.**

Something tangible on which words, symbols, or marks are recorded." Black's Law Dictionary Abridged 7th Edition, p. 394. (Emphasis added.)

#### **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." (Shadow.) Natural persons 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." CDCR Central Files: § 1213; DOM § 72030.4.2.

**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."

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." (Emphasis added.)

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?

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. By filing the abstract, the Clerk becomes the fall-guy and takes the heat, if and when it comes, to protect the judge and status quo of the nefarious 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" - is 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]).

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.

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.

Perhaps the named institution in § 6081 is not under the jurisdiction of CDCR? It would have been included in those prisons which are, per § 6082 if so, right?

Sentencing 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 a judgment of conviction 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, 291, 292; Shadow) 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 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 final judgment (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).

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 prison (§ 6081) 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 (§ 6082).

Now, it appears to me, 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 a lien only on real and personal property...and natural persons 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 authority<sup>7</sup> 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 state and federal Constitutions. And, 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).

You may have heard it said that "Its not how you start but how you finish that is most important." True in life, but not in law.

The state doesn't start right. 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. Now they are finished.

This is the primary reason CDCR is without authority and the Abstract, Minute order (DOM § 72030.4.2) are void and may not be touted as sufficient for continued confinement.

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 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 Fn7), 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 judgment - in CDCR's Central files do you?

Brother Diaz, you must demand delivery of the Pine tree!

**You can't build a pen (penitentiary?) with materials from a Shadow!** Sheep may be dumb, but they're not blind.

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.

You may want to suggest that they look in the Superior Court's case docket for an entry just prior to the Abstract of Judgment, or, in the Clerk's Judgment Docket.

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 made a formal demand for my release as one confined in the state's prisons without indictment and without a written judgment of conviction on record.

"I 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.

"Failure to produce a valid, authenticated Judgment of Conviction...is an admission that G. Matteson, Warden, and Ralph Diaz, Secretary of CDCR, do not possess a Judgment of Conviction...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."

I then made demand for the release of all prisoners for "whom a Judgment of Conviction could not be found".

#### 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

I gave notice, that in the event California Department of Corrections and Rehabilitation, led by Ralph Diaz, Secretary, failed to effect the unconditional release of my person and, publicly announce the eminent release of other wrongly imprisoned persons from the state's prisons within Ten (10) days of his receipt of my letter, he, as Secretary of CDCR, would agree to the publication of -- as his personal statement and intentions regarding this matter and to its release to the public and to make no objection thereto - the statement contained in a press release titled "CDCR SECRETARY RALPH DIAZ ADMITS NO AUTHORITY TO CONFINE PRISONERS!" see at [www.withoutoneplea.com](http://www.withoutoneplea.com).

#### SUMMARY

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.

CDCR, as not knowingly part of the scheme and corruption, now has opportunity to separate itself as a branch of government with integrity. I voiced my opinion that from my perspective, CDCR can, at best, be accused of negligence. And that he, Ralph Diaz, as CDCR Secretary, has moved quickly in mitigation to remedy the problem.



I also advised he confirm the information provided, bring it to the attention of his superiors and refuse to accept any additional "convicts" from the Superior Courts sans a Judgment of Conviction. And, that he immediately notify all inmates for which he does 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.

#### CONCLUSION

The two issues of government fraud (felony complaint and no judgment of conviction) God has chosen to use to expose the injustice - in order to orchestrate the release of California's prisoners from a life of slavery - form a type of "bookends" of injustice. Let me illustrate:

**Alpha.** In the beginning of a felony case is the state's use of an illegal "felony complaint" to initiate the prosecution. This process involves public officers violating the law by filing false accusatory instruments and detaining individuals. All subsequent court proceedings are void for lack of subject-matter jurisdiction in the court.

The middle-man is our neighbor the judge, who holds "court" and allows the filing of an unauthorized pleading (felony complaint) which confers no jurisdiction upon the court. The judge asks for a plea to the bogus felony complaint, either guilty or not guilty. There is no plea available in the Penal Code for a defendant charged by a felony complaint<sup>8</sup>. However, a plea of guilty is accepted and sentence is given.

Upon a not guilty plea, the judge conducts an "examination" and holds an individual to answer the bogus complaint. By endorsing the bogus complaint with his signature<sup>9</sup>, he permits the District Attorney to file an "information"<sup>10</sup>. Under proper circumstances an information gives jurisdiction to the court for the first time. Another judge conducts a trial.

After conviction and sentencing, the trial judge fails to prepare, sign and ensure that a written Judgment of Conviction is entered on the record by the Clerk as required by law (§ 1207; F.R.Cr.P. 32(k)).

Absent a filed final written judgment of conviction, there is no jurisdictional basis for appeal. (§ 1246; CA. Court Rule 8.320(b)(8)).

Omega. On the back side, the ending of the faulty judicial process results in the judge unlawfully remanding an individual to the executing officer for delivery to the custody of the Director (Secretary) of CDCR for confinement in one of the state's prisons: by use of an "abstract of judgment" (Shadow) for which no written judgment (Pine tree) exists. Leaving CDCR Secretary, Ralph Diaz holding the bag (Shadow)...and CDCR unlawfully confining hundreds of thousands of individuals.

Brother Diaz, **you have no right to remain silent.**

Free those who are wrongly imprisoned. Isaiah 58:6 NLT.

#### EPILOG

We've waited patiently for a public announcement from the Governor and CDCR Secretary of an actual release plan specific to these issues. None has been forthcoming.

It appears the government prefers to hide this issue from the public's eye and parcel out minimal releases under cover of CORONA...in hopes that the public won't immediately demand accountability for the Constitutional violations by the state.

However, the politicians' dilatory attitude won't prevail!

As word of this egregious injustice surfaces in the prisons and hearts of families and friends...citizens who care will demand prisoners be released<sup>11</sup>, prosecution of wayward officials and lawful prosecutions from their highly paid public servants.

It would be easier to hide an elephant under a rug than to hide the illegal imprisonment of hundreds of thousands of individuals any longer!

The government's delayed response is reminiscent of the Macedonian magistrates in the city of Philippi, Circa A.D. 49-52 when the Apostle Paul and Silas were dragged before the magistrates and accused of stirring up trouble and teaching strange customs. The real reason? Paul had cast an evil spirit out of a young girl whose divination powers brought profit to her masters.



Paul and Silas were publicly beaten with rods and thrown into prison. The next day, the magistrates sent word to the jailer to let them go. But Paul said "They have beaten us openly, uncondemned Romans, and have thrown us into prison. And now they put us out secretly? No indeed! Let them come themselves and get us out." When the magistrates heard that these men were Romans and had been denied due process...they were afraid...and did come and escort them out. Acts 16:16-40 NKJV.

We are Americans, Citizens and part of the People. We've been publicly accused of crime by the state, arrested and thrown into prison...without due process of law. And now, when caught in their wrongdoing, they want to secretly release us under the smoke screen of Coronavirus?<sup>12</sup> **No indeed! Let them come and get us out: publicly!**

Only by public exposure and lancing the cancerous boil of slavery under color of law committed by so many government agents for so long, will the judicial process and California begin to heal. The Constitution's salve of indictment by grand jury remains available to control crime and, being liberally applied, a healthy judicial and criminal justice system is still possible for our great state.<sup>13</sup>

The Spiritual cure - being of foremost importance for restoration of justice - is prayer...it works!

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. (Emphasis added.)

By one man, Ralph Diaz, CDCR Secretary, must all men and women enter the state's prisons. He doesn't hold legal title to us for lack of necessary papers. We're here, but he can't keep us! This is an emergency! (Government Code § 8658.) He must release us. **Papers, please!**

Now that you are out of prison: where will you spend eternity?<sup>14</sup>

By one man, Jesus Christ, must all men and women enter heaven. John 14:6. Jesus holds Title to us, John 3:16; Romans 10:9-13, and He will never let us go. **Thank You Jesus!**

## NOTES

1 Those who sow in tears shall reap in joy. He who continually goes forth weeping, bearing seed for sowing, shall doubtless come again with rejoicing, bringing his sheaves with him. Psalm 126:5,6 NKJV

2 I was in prison and you came to me. Matthew 25:36 NKJV

3 And let us not grow weary while doing good, for in due season we shall reap if we do not lose heart. Therefore, as we have opportunity, let us do good to all, especially to those who are of the household of faith. Galatians 6:9,10 NKJV

4 Penal Code § 6080 "Director" abolished in 2005 and all references to "Director" in the Code mean "Secretary" (§ 5050).

5 Judgment Docket - A book that a court clerk keeps for the entry or recordation of judgments, giving official notice of existing judgment liens to interested parties. Also termed judgment book; judgment file; judgment record; judgment roll. Black's Law Dictionary Abridged 7th Edition, p. 392.

Record - The official report of the proceedings in a case, including the filed papers, a verbatim transcript of the trial or hearing (if any) and tangible exhibits. See Docket (1). (Emphasis added.) Black's Law Dictionary Abridged 7th Edition, p. 1023.

6 Ralph Diaz, by his own testimony a Christian; and, because every public thing in his life is marked with the lasting imprint of the presence of God, a Brother in Christ to me.

7 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.)

§ 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."

8 Six kinds of pleas available for an indictment, information, or complaint charging a misdemeanor or infraction. None available for a felony complaint. § 1016

9 § 872

10 § 739

11 Justification.

Layman's language: just as if I'd never sinned; in God's eyes when we accept Jesus' sacrifice as atonement for our sin. Innocent; no judgment; fresh start.

What we've learned about the requirement for a final judgment in law, is, that without a judgment of conviction, it's just as if we'd never been to court. Innocent; no judgment; fresh start.

Yes, I know...but a "crime" was committed! This is the rallying cry of the accusers (DA, DDA, Judge, etc.). Maybe yes...maybe no.

Someone once said "Let he who is without sin cast the first stone." The rocks in the hands of the attorneys must (should, might, oh well...this is a moral premise...so perhaps not) fall to the ground...as they know they sinned first...illegal prosecution and no written judgment.

Are not then all prisoners without indictment and no written judgment of conviction "innocent" (in the eyes of the law)?

What do esteemed lawmakers from history think about imprisoning the innocent? Let's take a quick peek:

King Alfred: "It is better that 4 guilty go free than 1 innocent be hanged."

William Blackstone (1760): "It is better that 10 guilty escape than 1 innocent suffer."

Benjamin Franklin (1776): "It is better that 100 guilty go free than 1 innocent be imprisoned."

U.S. Supreme Court (1895) "back to Roman law: It is better 10 guilty go free than 1 innocent be convicted."

Jesus (Circa A.D. 30-33): "Woman where are those accusers of yours? Has no one condemned you? She said, "No one Lord." And Jesus said to her, "Neither do I condemn you; go and sin no more." John 8:10,11 NKJV.

12 "California has launched a \$30 Million program to give thousands of parolee's community services after they complete their sentences, or they are released early due to the pandemic." KCRA 3 TV News, August 29, 2020.

### 13 First Things First

The problems created by the corrupt government officials, although colossal, can be solved. The first thing we must do is to put first things first: "I exhort therefore, that, first of all, supplications, prayers, intercessions, and giving of thanks, be made for all men; for [leaders], and for all that are in authority" 1 Timothy 2:1,2 NKJV.

We? Yes, we. This is our country and state. By our political inactivity and apathy, we have handed over the reins of the nation to leaders who awarded lifelong appointments to justices (federal judicial system) eager to uproot Christian values that had been the heart of this nation for centuries. Their far-left Marxist Socialistic philosophies run downhill to the "lower courts": California's judges; who, fortunately, are elected by the People...every 4 years. It's not too late!

14 And as it is appointed for men to die once, but after this the judgment, so Christ was offered once to bear the sins of many... Nor is there salvation in any other, for there is no other name under heaven given among men by which we must be saved. Hebrews 9:27,28; Acts 4:12 NKJV.



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](http://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.com](http://www.withoutoneplea.com). (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 (pages 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.