

**NO JUDGMENT? NO PRISON! HOME?? NO QUESTION!!**

The Memorandum (reverse), is California Department of Corrections and Rehabilitation's (CDCR) response to over 100 letters from CSP Solano Inmates in the Fall of 2020 demanding production of a Judgment of Conviction (JOC) or, release from prison: as promised by the Governor and CDCR. <sup>1</sup> None have been produced; no, not one!

The Memorandum is proof positive that CDCR does NOT have a JOC in any Inmate's files.

Why is the JOC so important? A JOC is the ONLY document authorizing CDCR to take custody, fix the term of imprisonment and imprison any person.

Penal Code (PC) § 1207 requires the JOC to be filed in the Court's records. JOC directs that the defendant be placed in the custody of the CDCR Director for imprisonment (PC § 1202a) and fixes the term of imprisonment (PC § 2900).

Without a JOC in its files, CDCR has no authority to imprison anyone... **period.**

JOC authorizes Director of CDCR to take custody of defendant.

PC § 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 as the place for the reception of persons convicted of felonies."

The JOC must be filed in Court records, furnished to the Officer executing the judgment and delivered with the defendant to the Director of CDCR.

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

The Memorandum evidences the State has no JOC, but only a history of the proceedings ("Abstract of Judgment", etc.). The California Supreme Court in 1867 held dispositively: A commitment to the State Prison 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 laws of this State. "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** in the minutes shall be forthwith furnished to the officer whose duty it is to execute the judgment," Ex parte Gibson (Cal. 1867), 31 Cal. 619, 622. (Emphasis added.) No person confined without a JOC in CDCR's files is lawfully imprisoned under the laws of California or the United States... and CDCR admits to having none!

JOC determines term of imprisonment.

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..." (Emphasis added.)

CDCR has authority and duty to immediately release Inmates.

Absent a JOC, which fixes the term of imprisonment, all Inmates are illegally retained beyond their discharge date (there is none), a violation of Title 15, § 3075.2(a)(1) "Inmates shall not be retained beyond their discharge date."

Government Code § 8658: "Inmates of Penal or Correctional Institution... Release."

In any case in which an emergency endangering the lives of inmates of a state... penal or correctional institution has occurred or is imminent, the person in charge of the institution may [shall]... release them." A reasonable person would conclude that prisons are violent and Covid-19 rich environments endangering the lives of Inmates: which have occurred and daily imminent. And, can there be greater emergency than illegal deprivation of liberty?

JOC must exist and be entered in Court records.

California Code of Civil Procedure (CCP) §§ 664, 668, 670(b): "In no case is a judgment effectual for any purpose until entered"; "Clerk must keep 'judgment book'... judgments must be entered"; "judgment roll... (b) copy of the judgment". **And none are... they don't exist!**

CCP § 681: "No person can be punished for a public offense, except upon a legal conviction in a Court having jurisdiction thereof." No JOC? No CDCR. No prison. No parole. Enjoy!

**FREE** those who are wrongly imprisoned! Isaiah 58:6 NLT

<sup>1</sup> See "CDCR Secretary Ralph Diaz Admits No Authority To Confine Prisoners", "Under Cover of Corona", "No JOC? Then Set Us Free!" and action ideas at [withoutoneplea.com](http://withoutoneplea.com).

# 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