Quillar v. Ramirez

United States Court of Appeals for the Ninth Circuit

October 28, 2026, Filed

No. 26-4787

Reporter
2026 U.S. App. LEXIS 33089 *; 2026 LX 647466

LEE QUILLAR, Applicant, v. MARIO RAMIREZ, Respondent.

Disposition: DENIED AS UNNECESSARY; APPLICATION TRANSFERRED to the district court.

Counsel: **[*1]** LEE QUILLAR, Petitioner, San Diego, CA.

Judges: Before: SILVERMAN, FORREST, and VANDYKE, Circuit Judges.

Opinion

ORDER

The application, as supplemented, for authorization to file a second or successive *28 U.S.C. § 2254* habeas corpus petition in the district court is denied as unnecessary because the applicant has a *§ 2254* petition currently pending in the district court challenging his 2024 amended judgment. *See Goodrum v. Busby, 824 F.3d 1188, 1194-95 (9th Cir. 2016)* (an application for authorization to file a second or successive habeas petition should be construed as a motion to amend a pending first habeas petition).

The clerk will transfer the application at Docket Entry No. 1 and supplement at Docket Entry No. 8 to the United States District Court for the Southern District of California, Case No. 3:25-cv-00253-BTM-LR, to be processed as a motion to amend the currently pending *§ 2254* petition.

The motion is deemed filed in the district court on July 22, 2026, the date the application was delivered to prison authorities for forwarding to this court. *See Fed. R. App. P. 4(c)(1)*; *Houston v. Lack, 487 U.S. 266, 270, 108 S. Ct. 2379, 101 L. Ed. 2d 245 (1988)*; *Orona v. United States, 826 F.3d 1196, 1198-99 (9th Cir. 2016)* (AEDPA's statute of limitations period is tolled during pendency of an application).

We express no opinion as to whether leave to amend should be granted.

The clerk will send a copy of this order, the application, and the supplement **[*2]** to Judge Barry Moskowitz and Judge Lupe Rodriguez, Jr.

Upon transfer of the application, the clerk will close this original action.

Because the application is being transferred to the district court, we take no action on any pending motions.

This court will not entertain further filings in this closed case.

DENIED AS UNNECESSARY; APPLICATION TRANSFERRED to the district court.

Form 12. Application for Leave to File Second or Successive Petition under *28 U.S.C. § 2254* or Motion under *28 U.S.C. § 2255*

Instructions for this form: http://www.ca9.uscourts.gov/forms/form12instructions.pdf

9th Cir. Case Number *(to be provided by court)* _____

Applicant Name Lee Dillar

Prisoner Registration Number D22639

Address 480 Alta Road, D18-212 San Diego, CA 92179

Name of Respondent (Warden) M. Ramirez (A)

You MUST answer the following questions:

(1) What conviction(s) are you challenging?

Current Conviction under Case no. SCE 171374

(2) In what court(s) were you convicted of these crime(s)?

San Diego Superior Court-East County Division

(3) What was the date of each of your conviction(s) and what is the length of each sentence?

Penal Code Sections 88 452, 451(d), 245(a)(1), and 236/237. [36 years to life (667(b)(i)

For questions (4) through (10), provide information separately for each of your previous §§ 2254 or 2255 proceedings. Use additional pages if necessary.

(4) Has the judgment of your conviction or sentence been modified or amended? If yes, when and by what court?

Yes - By San Diego Superior Court - Central Division

(5) With respect to **each** conviction and sentence, have you ever filed a petition or motion for habeas corpus relief in federal court under **28 U.S.C. § 2254** or **§ 2255**?

Yes ☒ No ☐

(a) In which federal district court did you file a petition or motion?

U.S. District Court - Southern District

(b) What was the docket number?

01-CV-0968-BTM (Ben)

(c) On what date did you file the petition/motion?

February 04, 2025

(6) What grounds were raised in your previous habeas proceeding?
(list all grounds and issues previously raised in that petition/ motion)

See Page 10 of 2254 Petition for all Grounds

(7) Did the district court hold an evidentiary hearing? Yes ☐ No ☐ Pending

(8) How did the district court rule on your petition/motion?

☐ District court **dismissed** petition/motion. If yes, on what grounds?

Pending under 9th circuit no. 24-497 decision

☒ District court **denied** petition/motion. Original Petition (01-cv-0968-BTM(Ben))

☐ District court **granted** relief. If yes, on what claims and what was the relief?

(9) On what date did the district court decide your petition/motion?

May 29, 2003

(10) Did you file an appeal from that disposition? Yes ☒ No ☐

(a) What was the docket number of your appeal?

03-56118

(b) How did the court of appeals decide your appeal?

Denied original 2254

(11) State concisely each and every ground or issue you wish to raise in your current petition or motion for habeas relief. Summarize briefly the facts supporting each ground or issue.

Due to numerous grounds, Please go to Page two (2) of Introduction

(12) For each ground raised, was it raised in the state courts? If so, what did the state courts rule and when? *(Attach a copy of all relevant state court decisions, if available)*

Yes. Case is being blocked due to claims. Denied after refusing appellate record that's accurate.

(13) For each ground/issue raised, was this claim raised in any prior federal petition/motion? *(list each ground separately)*

NO.

(14) For each ground/issue raised, does this claim rely on a new rule of constitutional law? *(list each ground separately and give case name and citation for each new rule of law)*

Yes

(15) For each ground/issue raised, does this claim rely on newly discovered evidence? What is the evidence and when did you discover it? Why has this newly discovered evidence not been previously available to you? *(list each ground separately)*

Yes

(16) For each ground/issue raised, does the newly discovered evidence establish your innocence? How? Yes

(17) For each ground/issue raised, does the newly discovered evidence establish a federal constitutional error? Which provision of the Constitution was violated and how? Yes

(18) Provide any other basis for your application not previously stated.

As explained thoroughly in Case no. 24-497, Petitioner's conviction can now be Proven that it was secured by way of egregious misconduct. He never qualified to be Sentence under three Strikes.

Signature Lee Fuller **Date** 7-22-2026

In capital cases only, proof of service on respondent MUST be attached. A sample proof of service is attached to this form.

Attach proposed section 2254 petition or section 2255 motion to this application.

Mail this form to the court at:
Clerk, U.S. Court of Appeals for the Ninth Circuit, P.O. Box 193939, San Francisco, CA 94119-3939

Feedback or questions about this form? Email us at forms@ca9.uscourts.gov

CERTIFICATE OF SERVICE

Applications for Leave to File Second or Successive 28 U.S.C. §§ 2254/2255 Petitions/Motions

DEATH PENALTY CASES ONLY

Case Name Quillar v. M. Ramirez

I certify that a copy of the application for leave to file a second or successive 28 U.S.C. § 2254 petition or § 2255 motion with any attachments was served, either in person or by mail, on the person listed below.

Signature Lee Quillar
(Notary NOT required)

Date of Service 7-22-2024

Name	Address
U.S. Court of Appeals For the Ninth Circuit	P.O. Box 193939, San Francisco, CA 94119-3939

Lee Quillar
NAME
D22639
PRISON NUMBER
480 Alta Road, D18-202
CURRENT ADDRESS OR PLACE OF CONFINEMENT
San Diego, CA 92179
CITY, STATE, ZIP CODE

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF CALIFORNIA

LEE QUILLAR
(FULL NAME OF PETITIONER)
PETITIONER

v.

M. RAMIREZ, WARDEN
(NAME OF WARDEN, SUPERINTENDENT, JAILOR, OR AUTHORIZED PERSON HAVING CUSTODY OF PETITIONER (E.G., DIRECTOR OF THE CALIFORNIA DEPARTMENT OF CORRECTIONS))
RESPONDENT

and

ROB BONTA
The Attorney General of the State of California, Additional Respondent.

Civil No
(TO BE FILLED IN BY CLERK OF U.S. DISTRICT COURT)

PETITION FOR WRIT OF HABEAS CORPUS

UNDER 28 U.S.C. § 2254
BY A PERSON IN STATE CUSTODY

1. Name and location of the court that entered the judgment of conviction under attack: El Cajon Superior Court, 250 E. Main St., El Cajon, CA 92020
2. Date of judgment of conviction: August 20, 1997
3. Trial court case number of the judgment of conviction being challenged: SCE171374
4. Length of sentence: 36 years - Life

CIV 68 (Rev. Oct. 2015)

-1-

5. Sentence start date and projected release date: 10/21/1997 MEPD: 6/5/2024

6. Offense(s) for which you were convicted or pleaded guilty (all counts): Unlawfully burning of property, AWD-likely GBI, false imprisonment,

7. What was your plea? (CHECK ONE)
   (a) Not guilty ☒
   (b) Guilty ☐
   (c) Nolo contendere ☐

8. If you pleaded not guilty, what kind of trial did you have? (CHECK ONE)
   (a) Jury ☒
   (b) Judge only ☐

9. Did you testify at the trial?
   ☐ Yes ☒ No

DIRECT APPEAL

10. Did you appeal from the judgment of conviction in the **California Court of Appeal**?
    ☒ Yes ☐ No

11. If you appealed in the **California Court of Appeal**, answer the following:
    (a) Result: Affirmed
    (b) Date of result (if known): 2/29/2000
    (c) Case number and citation (if known): D029778
    (d) Grounds raised on direct appeal: 1) erroneously instructing jury on general intent, 2) voluntary intoxication was not a defense, 3) restricting petitioner's expert witness was error, 4) failing to instruct juror on LIO false imprisonment, and 5) ineffective assistance of counsel.

12. If you sought further direct review of the decision on appeal by the **California Supreme Court** (e.g., a Petition for Review), please answer the following:
    (a) Result: Denied review
    (b) Date of result (if known):
    (c) Case number and citation (if known): S084509 (2000 Cal. LEXIS 1497)
    (d) Grounds raised: Same as above

CIV 68 (Rev. Oct. 2015)

-2-

13. If you filed a petition for certiorari in the **United States Supreme Court**, please answer the following with respect to that petition:
    (a) Result: N/A
    (b) Date of result (if known):
    (c) Case number and citation (if known):
    (d) Grounds raised:

COLLATERAL REVIEW IN STATE COURT

14. Other than a direct appeal from the judgment of conviction and sentence, have you previously filed any petitions, applications, or motions (e.g., a Petition for Writ of Habeas Corpus) with respect to this judgment in the **California Superior Court**?
    ☒ Yes ☐ No

15. If your answer to #14 was "Yes," give the following information:
    (a) **California Superior Court** Case Number (if known): SCE171374
    (b) Nature of proceeding: Assembly Bill 483 Strike Prior Resentencing Hearing
    (c) Grounds raised: Since 1997, Petitioner has been serving a Completely Unauthorized Sentence for "Battery on a Peace Officer," pursuant to: PC § 1192.7(c)(11)
    (d) Did you receive an evidentiary hearing on your petition, application or motion?
    ☐ Yes ☒ No
    (e) Result: Court refused to address the violation.
    (f) Date of result (if known): August 22, 2024

16. Other than a direct appeal from the judgment of conviction and sentence, have you previously filed any petitions, applications, or motions (e.g., a Petition for Writ of Habeas Corpus) with respect to this judgment in the **California Court of Appeal**?
    ☒ Yes ☐ No

CIV 68 (Rev. Oct. 2015)

-3-

17. If your answer to #16 was "Yes," give the following information:

(a) **California Court of Appeal** Case Number (if known): D085131

(b) Nature of proceeding: Direct Appeal

(c) Grounds raised: See Introduction, page 2 of petition

(d) Did you receive an evidentiary hearing on your petition, application or motion?
☐ Yes ☒ No

(e) Result:

(f) Date of result (if known):

18. Other than a direct appeal from the judgment of conviction and sentence, have you previously filed any petitions, applications, or motions (e.g., a Petition for Writ of Habeas Corpus) with respect to this judgment in the **California Supreme Court**?
☒ Yes ☐ No

19. If your answer to #18 was "Yes," give the following information:

(a) **California Supreme Court** Case Number (if known): S293988

(b) Nature of proceeding: Writ of Mandate directed to California Court of Appeal-Fourth Appellate District; Division One

(c) Grounds raised: Obstruction to Appeal resentencing/Denial of Accurate Transcripts on Appeal/Concealment/Ineffective Assistance of Counsel on Appeal. See Statement of Facts, Page 4.

(d) Did you receive an evidentiary hearing on your petition, application or motion?
☐ Yes ☒ No

(e) Result: Denied

(f) Date of result (if known): December 30, 2025

CIV 68 (Rev. Oct. 2015)

-4-

20. If you did *not* file a petition, application or motion (e.g., a Petition for Review or a Petition for Writ of Habeas Corpus) with the **California Supreme Court** containing the grounds raised in this federal Petition, explain briefly why you did not:

Petitioner was confined to a writ of mandate due to having the trial court create a false resentencing record alleging occurances that did not happen. In attempting to augment the record, the Appellate Court denied Petitioner. Motions relevant to resentencing were addressed by four different judges. Then, records were denied for purpose of appeal.

COLLATERAL REVIEW IN FEDERAL COURT

21. Is this your **first** federal petition for writ of habeas corpus challenging this conviction?
☐ Yes ☒ No (IF "YES" SKIP TO #22)
(a) If no, in what federal court was the prior action filed? Southern District/CA
(i) What was the prior case number? 01cv968-BTM(BEN)
(ii) Was the prior action (CHECK ONE): Denied due to false record/under-developed facts
☐ Denied on the merits?
☐ Dismissed for procedural reasons?
(iii) Date of decision: May 29, 2003
(b) Were any of the issues in this current petition also raised in the prior federal petition?
☐ Yes ☒ No
(c) If the prior case was denied on the merits, has the Ninth Circuit Court of Appeals given you permission to file this second or successive petition?
☒ Yes ☐ No Case no. 25cv00253-BTM/LR

CAUTION:

- **Exhaustion of State Court Remedies:** In order to proceed in federal court you must ordinarily first exhaust your state court remedies by presenting your claims to the California Supreme Court. Even if you have exhausted some grounds by raising them before the California Supreme Court, you must first present *all* grounds to the California Supreme Court before raising them in your federal Petition.
- **Single Petition:** If you do not present all your grounds for challenging a specific judgment in this Petition, you may not be able to present additional grounds challenging the same judgment at a later date.
- **Factual Specificity:** You must state facts, not conclusions, in support of your grounds. For example, if you are claiming incompetence of counsel you must say what your attorney did wrong or failed to do. A rule of thumb to follow is — state who did exactly what to violate your federal constitutional rights at what time or place.

CIV 68 (Rev. Oct. 2015)

-5-

GROUNDS FOR RELIEF

22. **State *concisely* every ground on which you claim that you are being held in violation of the constitution, law or treaties of the United States. Summarize *briefly* the facts supporting each ground.** (e.g. what happened during the state proceedings that you contend resulted in a violation of the constitution, law or treaties of the United States.) If necessary, you may attach pages stating additional grounds and/or facts supporting each ground.

(a) GROUND ONE: Complete denial of due process to be heard after having been granted Sixth Amendment right to Self-Representation during resentencing.

Supporting FACTS: See Attached petition.

Did you raise GROUND ONE in the California Supreme Court?

☒ Yes ☐ No.

If yes, answer the following:

(1) Nature of proceeding (i.e., petition for review, habeas petition): Writ of Mandate

(2) Case number or citation: S293988

(3) Result (attach a copy of the court's opinion or order if available): denied

CIV 68 (Rev. Oct. 2015)

-6-

(b) GROUND TWO: Petitioner was denied his fundamental rights to be present in court during resentencing without waiver, as a self-represented defendant; in having filed to attend.

Supporting FACTS: See Attached petition

Did you raise GROUND TWO in the California Supreme Court?

☒ Yes ☐ No.

If yes, answer the following:

(1) Nature of proceeding (i.e., petition for review, habeas petition): Writ of Mandate

(2) Case number or citation: S293988

(3) Result (attach a copy of the court's opinion or order if available): Denied

CIV 68 (Rev. Oct. 2015)

-7-

(c) GROUND THREE: Petitioner was denied an accurate record for purposes of appeal, regarding actual events that occured; effectively obstructing appellate Review.

Supporting FACTS: See Attached petition

Did you raise GROUND THREE in the California Supreme Court?

☒ Yes ☐ No.

If yes, answer the following:

(1) Nature of proceeding (i.e., petition for review, habeas petition): Writ of Mandate

(2) Case number or citation: S293988

(3) Result (attach a copy of the court's opinion or order if available): Denied

CIV 68 (Rev. Oct. 2015)

-8-

(d) GROUND FOUR: Petitioner is serving an unauthorized sentence- leading to ongoing concealment and denial of review.

Supporting FACTS: See Attached petition

Did you raise GROUND FOUR in the California Supreme Court?

☒ Yes ☐ No.

If yes, answer the following:

(1) Nature of proceeding (i.e., petition for review, habeas petition): Writ of Mandate

(2) Case number or citation: S293988

(3) Result (attach a copy of the court's opinion or order if available): Denied

CIV 68 (Rev. Oct. 2015)

-9-

23. Do you have any petition or appeal **now pending** in any court, either state or federal, pertaining to the judgment under attack?
☒ Yes ☐ No

24. If your answer to #23 is "Yes," give the following information:

(a) Name of Court: U.S. District Court-Southern District of Calif.

(b) Case Number: 25-cv-00253-RTM/LR

(c) Date action filed: February 04, 2025

(d) Nature of proceeding: 28 U.S.C. §2254

(e) Grounds raised: A. Petitioner suffered from fraud upon the court in Counsel Barranco using case to embezzle funds; B. Illegally sentenced to an indeterminate term:for GBI on peace officer; C. Trial court without jurisdiction to convict in stripping him of counsel; D. New claims under AB 256 & 2542 erroneously denied.

(f) Did you receive an evidentiary hearing on your petition, application or motion?
☐ Yes ☐ No Pending

25. Give the name and address, if known, of each attorney who represented you in the following stages of the judgment attacked herein:

(a) At preliminary hearing:
N/A

(b) At arraignment and plea: N/A/

(c) At trial: N/A

(d) At sentencing: Self-Representation GRANTED, but was not allowed to be present after "Three Marsden Hearings"

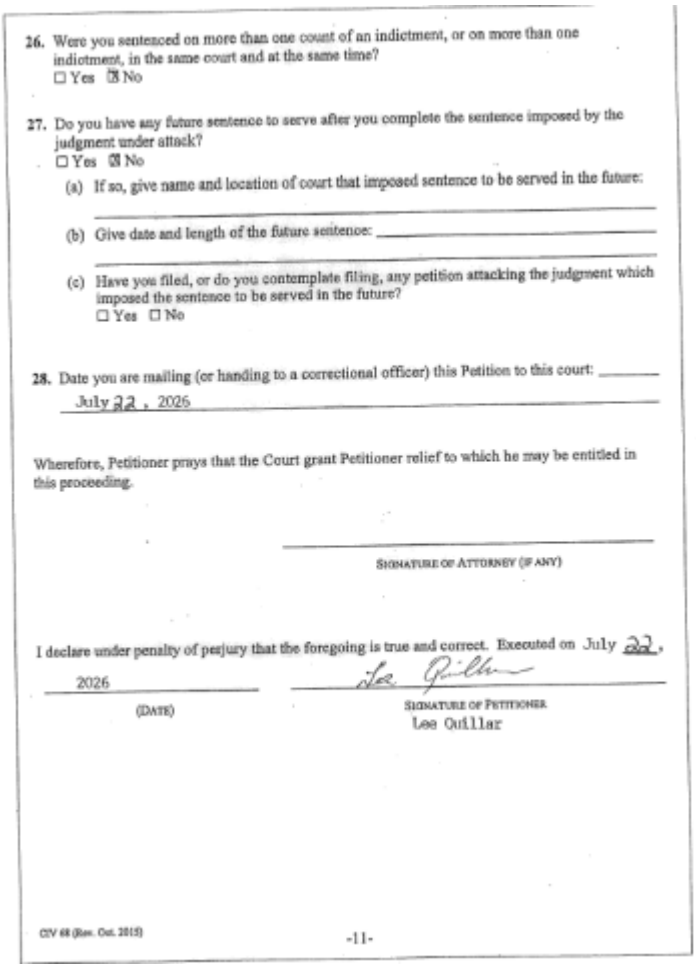
(e) On appeal: Jennifer Gambale (filed Delgadillo brief)

(f) In any post-conviction proceeding: Self-representation

(g) On appeal from any adverse ruling in a post-conviction proceeding: Jennifer Gambale (filed Delgadillo brief)

CIV 68 (Rev. Oct. 2013)

-10-



26. Were you sentenced on more than one count of an indictment, or on more than one indictment, in the same court and at the same time?
☐ Yes ☒ No

27. Do you have any future sentence to serve after you complete the sentence imposed by the judgment under attack?
☐ Yes ☒ No

(a) If so, give name and location of court that imposed sentence to be served in the future:

(b) Give date and length of the future sentence:

(c) Have you filed, or do you contemplate filing, any petition attacking the judgment which imposed the sentence to be served in the future?
☐ Yes ☐ No

28. Date you are mailing (or handing to a correctional officer) this Petition to this court:
July 22, 2026

Wherefore, Petitioner prays that the Court grant Petitioner relief to which he may be entitled in this proceeding.

SIGNATURE OF ATTORNEY (IF ANY)

I declare under penalty of perjury that the foregoing is true and correct. Executed on July 22, 2026.

(DATE)

SIGNATURE OF PETITIONER
Lee Quillar

CIV 68 (Rev. Oct. 2015)

-11-

Lee Quillar

480 Alta Road

San Diego, CA

92179

UNITED STATES DISTRICT COURT

SOUTHERN DISTRICT OF CALIFORNIA

LEE QUILLAR,

Petitioner,

Vs.

M. RAMIREZ, Warden, (A)

Respondent.

Case No.: __

PETITION FOR WRIT OF HABEAS CORPUS UNDER *28 U.S.C. §2254*

BEFORE THE HONORABLE DISTRICT COURT JUDGE

FOR THE SOUTHERN DISTRICT OF CALIFORNIA:

I. INTRODUCTION

This petition alleges a complete deprivation of due process arising from the ongoing concealment of material facts by the San Diego Superior Court and the California Court of Appeal. Petitioner has sought correction of an unauthorized sentence for more than twenty years. Although resentencing was required under

Assembly Bill 483, Petitioner was resentenced on August 22, 2024, to a life term based on an enhancement that does not exist and has never existed. Despite **[*3]** repeated efforts, no state court has addressed these violations over the past two decades.

Between July 2022 and October 2024, Petitioner experienced the following issues:

(A) Resentencing proceedings were conducted before four different judges in two separate courts. (Excerpts of Records, pp. 26-31, 73, 83, 87-88)

(B) None of Petitioner's pending matters were addressed after he was granted self-representation. (104, pp. 11-24; 105, pp. 51-74; 114-115)

(C) Multiple filings submitted by Petitioner, including three Marsden motions, were not properly recorded. (18, 34-35, 38)

(D) Petitioner was compelled to file a State Bar complaint to obtain removal of Public Defender Jose Guerrero, who failed to assist with meritorious claims. (39-44)

(E) Petitioner was denied the right to appear in person at the resentencing hearing despite filing a request to be present. (72)

(F) On direct appeal, Petitioner was provided an inaccurate appellate record that failed to reflect the actual proceedings, impairing his ability to appeal based on a complete and correct record. (78-79, 91-94)

(G) Petitioner was appointed appellate counsel who declined to provide assistance and subsequently filed a Delgadillo brief **[*4]** after acknowledging the violations. (116-117)

(H) After being required to proceed in propria persona on appeal, Petitioner was denied the ability to augment the appellate record to support his substantive claims. (119-127)

Long before resentencing, and while this matter was pending before the Ninth Circuit under case number 24-497, Petitioner repeatedly informed the Court that—due to multiple layers of fraud affecting his conviction and sentence—no court within San Diego County was willing to address his claims in a meaningful way. (110-112)

Petitioner further advised the Ninth Circuit that records continued to be fabricated or altered, that certain forms of relief were handled without transparency, and that court orders were issued without service. Petitioner also asserted that attorneys were routinely appointed who unilaterally dismissed meritorious appeals without consultation with Petitioner and filed Wende/Delgadillo briefs that were wholly inappropriate.

Current Fundamental Violations:

On January 1, 2022, Senate Bill 483 became effective and required Petitioner to be resentenced. Petitioner contends that the record demonstrates he was never lawfully eligible for sentencing under California's **[*5]** Three Strikes law, as his sentence is based on an offense involving great bodily injury on a peace officer under *Penal*

Code §1192.7(c)(11), which he has no history of committing such offense. Petitioner can show that his post-conviction proceedings have been improperly obstructed by state court processes.

On September 19, 2024, the Ninth Circuit issued an order in case number 24-497, directing a response regarding the status of SB 483 proceedings, in light of

Petitioner's extensive filings showing ongoing interference with due process.

On December 2, 2024, Respondent filed a reply confirming that San Diego Superior Court staff informed counsel that records are not available electronically and require inspection of the physical court file. Petitioner asserts that this corroborates his longstanding claim that records are incomplete or inaccessible. Petitioner further contends that SB 483 proceedings were improperly dispersed among four judges in two courts, resulting in fragmented and inconsistent rulings.

After Petitioner was granted self-representation following three Marsden hearings (which were not recorded), his pending matters were reassigned to additional judges and later recharacterized as habeas corpus **[*6]** petitions, with findings incorrectly stating that Petitioner had not previously raised these issues. Petitioner characterizes these developments as part of a longstanding pattern in the San Diego courts used to obscure and prevent full adjudication of issues arising before, during, and after conviction and direct appeal.

II. STATEMENT OF FACTS

Petitioner respectfully submits this second or successive petition under 28 U.S.C. §2254, raising constitutional, statutory, and jurisdictional violations that could not have been raised previously because the State of California:

1) withheld mandatory records, 2) refused to adjudicate Petitioner's claims, 3) denied meaningful access to courts, 4) denied Marsden transcripts, 5) denied Racial Justice Act rulings, 6) denied §1172.75 resentencing records based on the factual events that occurred, 7) denied transfer orders, 8) denied rulings from four judges across two divisions, and 8) caused the Court of Appeal to dismiss the appeal solely because Petitioner lacked the record; in having the appellate court refuse to augment the record.

Under Ninth Circuit precedent, this constitutes structural prejudice, state-created obstruction, and a breakdown of the state corrective **[*7]** process, excusing exhaustion under §2254(b)(1)(B)(ii).

III. JURISDICTION

This Court has jurisdiction under: 28 U.S.C. §2254(a), 28 U.S.C. §2241(d), 28 U.S.C. §1331, and 28 U.S.C. §1343(a)(3). Venue is proper because Petitioner is confined within this District and the conviction occurred in San Diego County.

IV. PRIOR FEDERAL HABEAS HISTORY

Petitioner previously filed a §2254 petition in the U.S. District Court for the Southern District of California, Case No. 03-56118, which was denied in not having a complete record, and not able to get assistance from appointed counsel. Petitioner filed an additional habeas corpus after exhausting his Proposition 47 resentencing, which was granted on January 02, 2018. The Ninth Circuit reopened the case which is now pending in the United States District Court-Southern District of California, under case no. 25cv00253-BTM-LR. Petitioner now files this petition subject to Ninth Circuit authorization under 28 U.S.C. §2244(b)(3), only due to the State courts interference as consistently shown by the Petitioner. To include, within the pending habeas corpus within the district court (case no. 25-cv00253-BTM-LR).

V. EXHAUSTION AND EXCUSE UNDER §2254(b)(1)(B)(ii)

Petitioner's ability to exhaust state remedies was obstructed by the State, making exhaustion unavailable and ineffective under: *Coe v. Thurman, 922 F.2d 528 (9th Cir. 1990)*; **[*8]** Phillips v. Vasquez, 56 F.3d 1030 (9th Cir.

1995); LaGrand v. Stewart, 133 F.3d 1253 (9th Cir. 1998); United States v. Wilson, 16 F.3d 1027 (1994); United States v. Antoine, 906 F.2d 1379 (9th Cir. 1990).

The State refused to provide mandatory transcripts, transfer orders, RJA rulings, the complete §1172.75 records, Marsden transcripts, rulings from four judges, and which directly caused dismissal of the appeal. This constitutes state-created futility.

VI. CLAIM ONE — STRUCTURAL DUE PROCESS VIOLATIONS

Petitioner was denied:

- meaningful access to courts (Bounds v. Smith, 430 U.S. 817, 97 S. Ct. 1491, 52 L. Ed. 2d 72),

- meaningful appellate review (Evitts v. Lucey, 469 U.S. 387, 105 S. Ct. 830, 83 L. Ed. 2d 821),

- a neutral tribunal (In re Murchison, 349 U.S. 133, 75 S. Ct. 623, 99 L. Ed. 942), and

- adjudication of constitutional, statutory, and jurisdictional claims.

The State's refusal to provide mandatory records constitutes structural error.

VII. CLAIM TWO — SIXTH AMENDMENT VIOLATIONS (MARSDEN)

Petitioner was denied effective assistance, conflict-free counsel, substitute counsel, and meaningful review of Marsden denials. Missing transcripts violate the Sixth and Fourteenth Amendments under Antoine, LaGrand Wilson, Phillips, and *Coe*.

VIII. CLAIM THREE — UNAUTHORIZED SENTENCE (§1172.75)

Petitioner qualified for resentencing in January 2022. Four judges handled resentencing. Only Judge Danielsen's rulings appear in the record, in which he:

a. Denied Petitioner's right to be present without waiver;

b. Denied due process to have pending actions heard;

c. Denied recording reasons necessitating self-representation, making it appear as if Petitioner simply requested self-representation;

d. denied adjudication of claims showing Petitioner did not qualify for a life sentence under **[*9]** any legal theory; and

e. Denied Petitioner the ability to oppose proceedings by presenting in-court-evidence, even after being granted self-representation.

This violates Penal Code §1172.75(d)(2), People v. King, 77 Cal.App.5th 629, 292 Cal. Rptr. 3d 731, and the Due Process and Equal Protection Clauses.

IX. CLAIM FOUR — RACIAL JUSTICE ACT VIOLATIONS

The petitioner's California Racial Justice Act (CRJA) filings were repeatedly mishandled across four different judges, resulting in improper transfers, unauthorized conversions into habeas petitions, and the complete absence of rulings in the appellate record. This pattern aligns with what recent California and federal authority recognize as structural record-based prejudice—particularly where a court's actions prevent meaningful review of statutory or constitutional claims.

Procedural History and Judicial Mismanagement of Petitioner's CRJA Filings:

Petitioner submitted multiple California Racial Justice Act motions between 2022 and 2024.

The motions were never adjudicated on their merits. Instead, they were:

- mishandled by four different judges,

- transferred without statutory authority,

- converted into habeas petitions without notice,

- and ultimately lost—save one—leaving no rulings in the record.

This pattern is inconsistent with the requirements articulated in *Finley v. Superior Court (2023) 95 Cal.App. 5th 12, 312 Cal. Rptr. 3d 907*; and *California Penal Code § 745 (c)* requiring review. ("which reaffirm that CRJA claims must be adjudicated on their merits, supported by adequate records, and cannot be dismissed or sidestepped through procedural irregularities").

Examples of Record-Based Irregularities:

1. Judge Lisa R. Rodriguez (First Judge)

On February 22, 2023, Judge Rodriguez issued an order stating Petitioner "cannot file an RJA motion prior to being resentenced" and must wait until after sentencing (ER 26-31).

This ruling contradicts current authority, including Young v. Superior Court. confirms **[*10]** that CRJA claims may be raised pre-sentencing, post-sentencing, or during resentencing proceedings.

2. Judge David Danielsen (Second Judge)

At the August 22, 2024 resentencing, Judge Danielsen stated:

> ➢ "The defendant's RJA motions shall be copied and provided to the DA's office and referred to the presiding judge." (ER 73)

No referral order appears in the record. No ruling was ever issued. Under Finley, Young, and *745(c)*, failure to adjudicate a pending CRJA motion constitutes reversible error.

3. Judge Roderick W. Shelton (Third Judge)

On October 10, 2024, Judge Shelton issued an ex parte minute order converting Petitioner's CRJA motion—specifically titled Motion to Vacate Judgment Secured in Violations of the *California Racial Justice Act of 2020*—into a petition for writ of habeas corpus.

This conversion violates: a) CRJA statutory procedure (*Penal Code §§ 745-745.5*), b) California due process requirements, c) Federal notice-and-opportunity-to-respond standards, under *Ford v. Wainwright, 477 U.S. 399, 106 S. Ct. 2595, 91 L. Ed. 2d 335 (1986)*; and *Castro v. United States, 540 U.S. 375, 124 S. Ct. 786, 157 L. Ed. 2d 778 (2003)* (requiring notice before recharacterizing filings).

4. Judge Daniel Lamborn (Fourth Judge)

Judge Lamborn stated on October 30, 2024:

> ➢ "Judge Shelton transferred the matter to this court to address the merits of the petition... this court treats the filing as Petitioner's eighth petition for writ of habeas corpus. The Petition is denied." (ER 83)

He then ruled:

> ➢ "Petitioner was resentenced on August 22, 2024. At the resentencing hearing, he did not make any claims associated with the CRJA... He provides no supporting documents... **[*11]** Additionally, Petitioner did not appeal the new sentence." (ER 87) These findings are contradicted by the record as: 1) Petitioner did file multiple CRJA motions; 2) The motions were pending at resentencing; 3) The court failed to adjudicate them; and the record is incomplete due to judicial mishandling not Petitioner's inaction.

In *Young, (2022) 79 Cal.App. 5th 138, 294 Cal. Rptr. 3d 513*; a court cannot deny CRJA relief based on its own failure to maintain or review the record. Structural Prejudice Under Federal Law. The pattern of: a) lost motions, b) missing rulings, c) unauthorized conversions, and d) contradictory judicial statements constitutes structural record-based prejudice under Ninth Circuit precedent, including: *Coe v. Thurman* *Phillips v. Vasquez* *LaGrand v. Stewart* Madera v. Risley *United States v. Antoine*

These cases hold that when a state court's actions prevent a petitioner from raising statutory or constitutional claims—especially through missing records or improper handling—exhaustion is excused under *28 U.S.C. §2254(b)(1)(B)(ii)*.

Mischaracterization of Petitioner's Claims

Judge Lamborn's assertion that Petitioner filed "his eighth habeas corpus petition" ignores the fact that:

- Petitioner's filings were CRJA motions, not habeas petitions.
- The conversions were done without notice, violating federal standards.
- None of the converted filings addressed **[*12]** Petitioner's actual innocence claim, which arises from a racially discriminatory enhancement under *Penal Code §1192.7(c)(11)* ("battery on a peace officer").

The CRJA expressly covers racially discriminatory charging decisions and enhancements. Under PC *§745(c)-(d)*; courts must evaluate whether racial bias influenced charging decisions, enhancements, or sentencing exposure.

Petitioner's filings directly implicate these issues. Petitioner's CRJA motions were never adjudicated. Instead, they were: 1) improperly transferred, 2) converted without notice, 3) denied without review, and 4) omitted from the appellate record.

Under both current California CRJA authority and federal structural-prejudice doctrine, this constitutes a breakdown in the state corrective process.

The record demonstrates a decades-long pattern of dilatory tactics preventing Petitioner from raising CRJA and actual-innocence claims.

X. CLAIM FIVE — JURISDICTIONAL VIOLATIONS

Resentencing was handled by Judges Rodriguez, Danielsen, Shelton, and Lamborn. Transfer orders and required rulings are missing. Jurisdiction is unclear. This violates *Article I, §7 of the California Constitution* and the Due Process Clause.

XI. CLAIM SIX — FARETTA VIOLATIONS

Petitioner was granted self-representation, but the court refused to adjudicate his filings. This violates *Faretta v. California, 422 U.S. 806, 95 S. Ct. 2525, 45 L. Ed. 2d 562*.

XII. CLAIM SEVEN — DENIAL OF APPELLATE RIGHTS

The Court of Appeal dismissed the appeal because Petitioner could not file a supplemental brief. **[*13]** Petitioner could not file the brief because the trial court refused to provide records or adjudicate motions. This violates Evitts v. Lucey and Douglas v. California.

XIII. PRAYER FOR RELIEF

Petitioner respectfully requests:

1. Authorization from the Ninth Circuit to file this successive petition.
2. An order directing Respondent to produce all missing records.
3. An evidentiary hearing.
4. Vacatur of the unconstitutional judgment.
5. Immediate release or resentencing.
6. Any further relief the Court deems just.

XIV. VERIFICATION

I, Lee Oullar, affirm that I am the Petitioner in this action and have read the petition for writ of habeas corpus, confirming that all matters stated herein are true to my knowledge. I declare under penalty of perjury that the preceding statements are accurate and that this declaration was executed on: July 22, 2026, at San Diego, California.

Submitted by,

/s/ Lee Quillar

Lee Quillar

Lee Quillar
480 Alta Road
San Diego, CA
92179
In Pro Se.

UNITED STATES DISTRICT COURT

SOUTHERN DISTRICT OF CALIFORNIA

LEE QUILLAR,

Petitioner,

Vs.

M. RAMIREZ, Warden, (A)

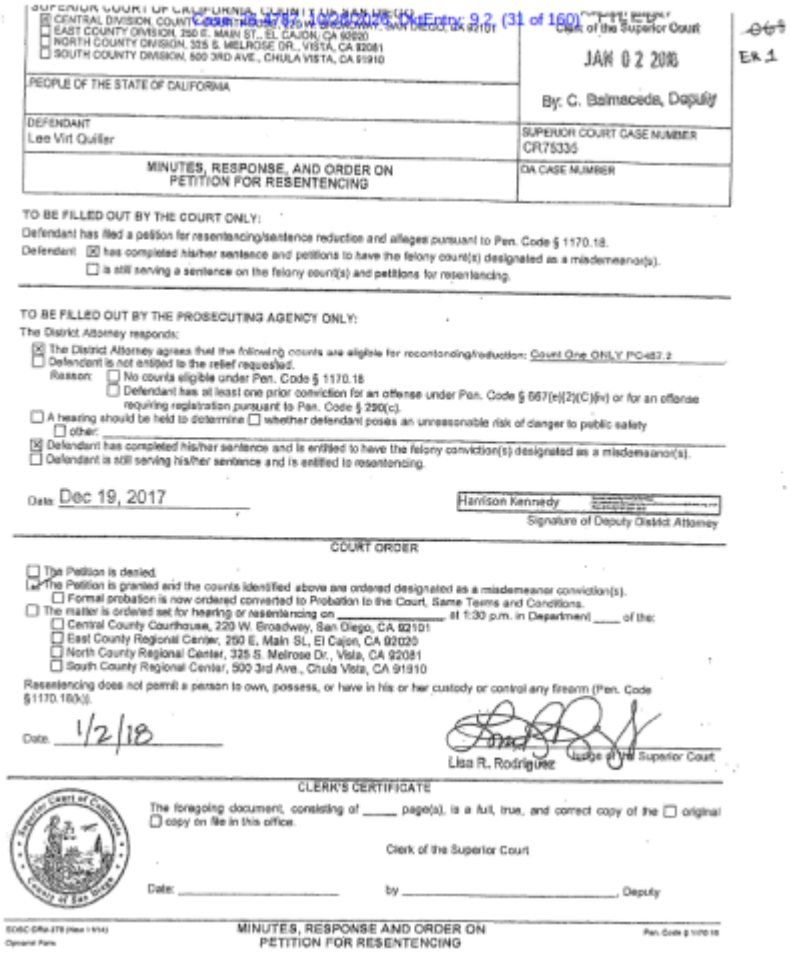
Respondent.

Case No.: _____

EXCERPTS OF RECORDS IN SUPPORT OF PETITION FOR WRIT OF HABEAS CORPUS UNDER 28 U.S.C. §2254

No.:	Document	Date:	Page:
1	Order On Petition For Resentencing	01/02/2018	1
2	Petition For Writ Of Mandate Or Prohibition	03/30/2022	2-9
3	Authorities In Support Of Petition For Writ Of Mandate	03/30/2022	10-15
4	Request For Judicial Notice In Support Of Writ Of Mandate	03/30/2022	16-17
5	Judge Lisa R. Rodriguez Order	08/24/2022	18
6	Declaration Of Lee Quillar In Support Of Request For Monitoring State Court Review	01/09/2023	19-22
7	Request For The Monitoring Of State Court Review For Purpose Of Exhausting Claims Demonstrating Fraud	12/31/2022	23-25
8	Order Denying Motion To Vacate Conviction Under Penal Code Section 745 And Request For Discovery	02/22/2023	26-31
9	Second motion to dismiss counsel and request for self-representation status	03/302023	32-33
10	Judge Lisa R. Rodriguez Order	06/02/2023	34-35
11	Ex parte application for relief from denial due process and equal protection	06/29/2023	36-37
12	Judge Lisa R. Rodriguez Order	06/30/2023	38
13	State bar complaint	06/22/2023	39-43

14	California State bar notice (23-O-18671)	06/28/2023	44
15	Order Denying application for relief	07/25/2023	45-48
16	Judge Lisa R. Rodriguez Order	08/09/2023	49
17	Judge David Danielsen order denying Faretta/Lopez motion	02/09/2024	50
18	Minute Order denying Marsden motion	02/23/2024	51
19	Judge Theodore M. Weathers Order	04/05/2024	52
20	Petitioner's third request to the dismissed counsel and request for self-representation	08/15/2024	53-71
21	Judge David Danielsen's Resentencing minute Order	08/22/2024	72-73
22	Judge Danielsen's order denying motion for reconsideration of order causing unauthorized sentence	09/12/2024	74-75
23	9th circuit order require response to State Court proceedings	09/19/2024	76-77
24	Declaration of Lee Quillar in support of ongoing deprivation of State Court review	09/25/2024	78-79
25	Order treating motion as petition for writ of habeas corpus; order denying petition for writ of habeas corpus	10/30/2024	80/90
26	Defendant and appellant notice to prepare reporters transcripts	11/17/2024	91-94
27	Motion for order to transfer case to another County	11/20/2024	95-97
28	Declaration of Lee Quillar in support of motion for order to transfer case to another County	11/20/2024	98-102
29	Petitioner's excerpts of record in support of motion to transfer case to another County	11/20/2024	103-05
30	Respondent's reply regarding status of State Court proceedings	12/02/2024	106-09
31	Petitioner's reply to respond regarding status of State Court proceedings	12/12/2024	110-12
32	Motion for appointment to counsel on appeal	12/30/2024	113-15
33	Petitioner's letter to Appellant Counsel	03/11/2025	116
34	Petitioner second letter to Appellate counsel	03/31/2025	117
35	Court order regarding Delgadillo brief/granting petitioner 30 days to file supplemental brief	05/16/2025	118
36	Motion to augment and correct record on appeal	06/05/2025	119-21
37	Declaration of Lee Quillar in support of motion to augment and correct record on appeal	06/05/2025	122-24
38	Excerpts of records in support of motion to augment and correct record on appeal	06/05/2025	125-27
39	California court of appeal order dismissing appeal	10/23/2025	128



SUPERIOR COURT OF CALIFORNIA, COUNTY OF SAN DIEGO
☒ CENTRAL DIVISION, COURTHOUSE, 220 W. BROADWAY, SAN DIEGO, CA 92101
☐ EAST COUNTY DIVISION, 250 E. MAIN ST., EL CAJON, CA 92020
☐ NORTH COUNTY DIVISION, 325 S. MELROSE DR., VISTA, CA 92081
☐ SOUTH COUNTY DIVISION, 500 3RD AVE., CHULA VISTA, CA 91910

Clerk of the Superior Court
JAN 02 2018
By: C. Balmaceda, Deputy

PEOPLE OF THE STATE OF CALIFORNIA

DEFENDANT
Lee Virt Quiller

SUPERIOR COURT CASE NUMBER
CR75335

DA CASE NUMBER

MINUTES, RESPONSE, AND ORDER ON PETITION FOR RESENTENCING

TO BE FILLED OUT BY THE COURT ONLY:
Defendant has filed a petition for resentencing/sentence reduction and alleges pursuant to Pen. Code § 1170.18.
Defendant: ☒ has completed his/her sentence and petitions to have the felony count(s) designated as a misdemeanor(s).
☐ is still serving a sentence on the felony count(s) and petitions for resentencing.

TO BE FILLED OUT BY THE PROSECUTING AGENCY ONLY:
The District Attorney responds:
☒ The District Attorney agrees that the following counts are eligible for resentencing/reduction: Count One ONLY PC487.2
☐ Defendant is not entitled to the relief requested.
Reason: ☐ No counts eligible under Pen. Code § 1170.18
☐ Defendant has at least one prior conviction for an offense under Pen. Code § 667(e)(2)(C)(iv) or for an offense requiring registration pursuant to Pen. Code § 290(c).
☐ A hearing should be held to determine ☐ whether defendant poses an unreasonable risk of danger to public safety
☐ other:
☒ Defendant has completed his/her sentence and is entitled to have the felony conviction(s) designated as a misdemeanor(s).
☐ Defendant is still serving his/her sentence and is entitled to resentencing.

Date: Dec 19, 2017
Harrison Kennedy
Signature of Deputy District Attorney

COURT ORDER
☐ The Petition is denied.
☒ The Petition is granted and the counts identified above are ordered designated as a misdemeanor conviction(s).
☐ Formal probation is now ordered converted to Probation to the Court, Same Terms and Conditions.
☐ The matter is ordered set for hearing or resentencing on _____ at 1:30 p.m. in Department ____ of the:
☐ Central County Courthouse, 220 W. Broadway, San Diego, CA 92101
☐ East County Regional Center, 250 E. Main St., El Cajon, CA 92020
☐ North County Regional Center, 325 S. Melrose Dr., Vista, CA 92081
☐ South County Regional Center, 500 3rd Ave., Chula Vista, CA 91910
Resentencing does not permit a person to own, possess, or have in his or her custody or control any firearm (Pen. Code § 1170.18(k)).

Date: 1/2/18
Lisa R. Rodriguez
Judge of the Superior Court

CLERK'S CERTIFICATE
The foregoing document, consisting of _____ page(s), is a full, true, and correct copy of the ☐ original ☐ copy on file in this office.
Clerk of the Superior Court
Date: _____ by _____, Deputy

MINUTES, RESPONSE AND ORDER ON PETITION FOR RESENTENCING

Lee Quillar D22639

480 Alta Road, E25-B103

San Diego, CA 92179

In Propria Persona

Case No. S273832

IN THE SUPREME COURT

FOR THE STATE OF CALIFORNIA

LEE QUILLAR, Petitioner, vs. CALIFORNIA COURT OF APPEAL-FOURTH APPELLATE DISTRICT, DIVISION ONE, Respondent.

PETITION FOR WRIT OF MANDATE or PROHIBITION OR OTHER EXTRAORDINARY **[*14]** RELIEF

TO THE CHIEF JUSTICE AND ASSOCIATE JUSTICES OF THE SUPREME COURT:

Petitioner realleges:

1. After discovering that petitioner suffered multiple serious violations in being charged in case number SCE171374, to include: (1) he's currently serving an unauthorized sentence; (2) the trial court exceeded its jurisdiction in

charging petitioner under the Three Strikes Law; (3) petitioner suffered from judicial abuse; (4) petitioner suffered from "fraud upon the court"; and (5) petitioner is being completely denied of having "any" of his legitimate claims undergo judicial review in the San Diego Courts as an ongoing means of concealing the violations, as the courts refuse to file and/or place any of the claims within the court records. Thereafter, petitioner filed a petition for writ of mandate in the California Supreme Court, with a supporting request for judicial notice. (See case no. S273453.)

2. Petitioner explained that the San Diego Superior Court and California Court of Appeal (Fourth Appellate District), both, are refusing to: (a) properly process petitioner's documents as an ongoing design to conceal fraud upon the court; (b) petitioner never qualified to be sentenced to an indeterminate **[*15]** life term under the three strikes law; and (c) the San Diego courts have (for decades) refused to place within any court record the actual claims that are being raised by petitioner, or apply state and federal law to this case. (See Request for Judicial Notice, Exhibit H.)

3. On March 10, 2022, the above-entitled court issued an order transferring the case back to the California Court of Appeal-Fourth Appellate District, Division One; and on March 17, 2022, petitioner again, received his case back from the court of appeal unfiled. The petition for writ of mandate simply had a number stamped at the top of the page, and the request for judicial notice confirming abuse was not filed nor provided with a number. (See Exhibit I and J.)

CLAIMS NECESSITATING WRIT OF MANDATE:

4. Petitioner has been ardently attempting to have his claims demonstrating that he never qualified to be sentenced to an indeterminate life term, that the court exceeded its jurisdiction in charging petitioner under *California Penal Code section 667(b)-(i)*, that petitioner was alleged to have attended multiple court hearings wherein, he purportedly was representing himself that absolutely never occured, and numerous other violations.

5. On August 3, 2021, petitioner **[*16]** attempted to file a petition for writ of habeas corpus in the first instance in the Court of Appeal-Fourth Appellate District, Division One.

Petitioner explained: (1) he was a victim of judicial abuse, (2) he was a victim of fraud by judicial officers in the superior court, (3) none of his claims are being processed or addressed in the superior court, and (4) petitioner, who never qualified to be sentenced to an indeterminate term, have not been afforded the legal review required under the lack of jurisdiction guidelines.

6. Petitioner attached multiple exhibits showing "at no time was he charged for the alleged 'prior conviction' in case no. CR75335," which is not a serious or violent felony as is required in order to be sentenced to an indeterminate term under the Three Strike law. In knowing that petitioner did not qualify to be sentenced to a life term, the prosecution instead charged petitioner for "assault with great bodily injury on a peace officer," pursuant to *California Penal Code section 1192.7(c)(11)*.

7. Petitioner has never been convicted for, charged for, nor arrested for battery on a peace officer.

8. On August 23, 2021, the appellate court issued an order declining to adjudicate the petition for writ of habeas corpus **[*17]** in the first instance within the appellate court, and directed petitioner to file the petition in the superior court. (Exhibit A.)

9. Petitioner attempted to comply with the appellate court's order, and on September 1, 2021, he filed the petition for writ of habeas corpus in the El Cajon Superior Court. The claims consisted of:

I. THE TRIAL COURT EXCEEDED ITS JURISDICTION

AS PETITIONER'S ALLEGED FIRST SERIOUS

FELONY PRIOR NEVER QUALIFIED FOR THREE

STRIKE SENTENCING UNDER *SECTION 667(a)*

A. False Allegation of Assault w/Great Bodily Injury W/Deadly Weapon

B. Petitioner Do Not Qualify for Life Sentencing After Proposition 21

II. THE TRIAL COURT EXCEEDED ITS JURISDICTION

AS PETITIONER WAS NEVER DEEMED A WARD OF

THE JUVENILE COURT FOR PURPOSE OF BEING

SENTENCED UNDER *SECTION 667(d)(3)(D)*

A. Petitioner was Never Deemed a Ward of the Juvenile Court

III. THE TRIAL COURT EXCEEDED ITS JURISDICTION

IN ALLOWING THE PROSECUTION TO AMEND THE

INFORMATION ADDING A NON STRIKEABLE FIRST

SERIOUS FELONY PRIOR AFTER HAVING

DISCHARGED THE JURY

A. Petitioner was never charge for prior that was later used

B. The trial court exceeded jurisdiction under charged element

IV. THE TRIAL COURT EXCEEDED ITS JURISDICTION

IN CHARGING PETITIONER FOR A BOX CUTTER

BELONGING **[*18]** TO THE STORE CLERK, THAT WAS

NEVER USED, IS NOT A DEADLY OR DANGEROUS

WEAPON, CAUSING NO INJURIES, AND DOES NOT

CONSTITUTE A SERIOUS OR VIOLENT FELONY

FOR PURPOSE OF THREE STRIKE SENTENCING.

A. The box cutter petitioner was alleged to have had was not deadly

B. The trial court committed legal error leading to an illegal sentence

V. PETITIONER SUFFERED INEFFECTIVE ASSISTANCE

OF COUNSEL LEADING TO AN UNAUTHORIZED

INDETERMINATE SENTENCE UNDER *SECTION 667(b)-(i)*

A. Disbarred counsel Elizabeth Barranco failed to investigate priors

B. Counsel Barranco denied petitioner the right to be heard

Additional prejudicial unconstitutional violations re: sentencing

(See exhibit B.)

10. The superior court, in following the exact same procedures that petitioner explained to the appellate court in advance,[1] refused to return stamp filed copies of the case (see declaration of Raecheal Quillar), and completely refused to mention anything remotely relevant in relations to the petitioner's claims; starving the record of meritorious legitimate violations. See Order, Exhibit C.

11. The appellate court denied the initial petition "without prejudice" when issuing its August 23, 2021 order. (Exhibit A), and on November 23, 2021, petitioner filed **[*19]** a "notice and request for relief from arbitrary adjudicative procedures; denial of due process; and ongoing denial of adequate access to judicial review" in case number D079281. Petitioner also served the court with a separate request for judicial notice which lucidly demonstrated that his conviction was secured by fraud upon the court.

1 For decades the San Diego courts refused to address the claims showing an unauthorized sentence.

12. The court refused to file the request for judicial notice; and then, took judicial notice in case no. D075007; stating: "In denying the petition, this court ruled the trial court correctly determined the 1985 conviction qualified as a strike. (In re Quillar (Dec. 14, 2018, D075007)[nonpub. order].)" (See Exhibit E, p. 2.)

13. At no time was petitioner even charged for the elements in case no. CR75335, as alleged in the 1985 prior allegation.

Petitioner had a completely new, and erroneous "first prison prior allegation" designed by the prosecution, accusing petitioner of committing an assault (with great bodily injury) on a peace officer, pursuant to *penal code section 1192.7(c)(11)*.

14. On December 17, 2021, petitioner attempted to file a timely, and proper petition for rehearing, demonstrating:

I. The court misstated the facts in its order;

II. The appellate court misstated the law **[*20]** as it applies to this case in reference to the 1985 conviction for assault with deadly weapon (box cutter) as a serious felony;

III. The appellate court erred in not filing and/or taking judicial notice of evidence concretely showing that petitioner's sentence is completely unauthorized, due to never having been charged for the prior in case no. CR75335

IV. At no time was petitioner charged for "assault with deadly weapon likely to produce great bodily injury as was alleged in case no. D075007; but instead, erroneously charged for great bodily injury on a peace officer pursuant to PC *§1192.7 (c)(11)*;

V. Petitioner was sentenced under the wrong element in being charged for battery on a peace officer; and ADW/likely to produce GBI is not a serious felony unless the defendant actually caused great bodily injury, which the instant case has no such element under the non charged prior.

(See Exhibit F.)

15. On December 22, 2021, petitioner's entire legal packet was returned from the court of appeal-fourth appellate district, in which the clerk refused to file the petition for rehearing and the encluded request for judicial notice fully supporting petitioner's claims stating: "Case is closed and no further action **[*21]** will be taken." (See Exhibit G.)

16. As shown, the San Diego Courts have for decades concealed, hampered, and completely stripped petitioner of all means to have his claims showing fraud, judicial abuse, and that he never qualified to be sentenced to a life term, from entering into any court record.

WHEREFORE, Petitioner prays:

1. That the court issue a peremtory writ in the first instance commanding respondent superior court to (a) issue an order that addresses each of the claims raised by petitioner as explained at paragraph number 9 above; (b) order the respondent superior court to determine whether or not petitioner's conviction was secured by fraud upon the court; (c) order the respondent superior court to determine whether or not petitioner appeared at each of the hearings alleged on July 10, 1996, August 14, 1996, and August 20, 1996; (d)

Order the respondent court to determine whether petitioner suffered ineffective assistance of counsel by Elizabeth Ann Barranco, who has been disbarred for the allegations as were raised by petitioner 10 years earlier; and (e) issue all orders based on the claims raised, evidence submitted, and in accordance with the law.

2. That the court, alternatively, **[*22]** first issue an alternative writ commanding respondent to (a) file each petition, writ, motion, or any and all other forth-coming documents that are to address case number SCE171374; (b) timely file and return endorsed copies to the petitioner; and (c) immediately cease all interference with this case.

3. Issue any and all other relief deemed just, proper, and in accordance with the State and Federal Constitution.

Dated: March 21, 2022

Submitted by,

__

Lee Quillar/Petitioner

VERIFICATION

I, Lee Quillar, verify that I am the petitioner in this action, I have full knowledge of the statements made herein and I have read the petition for writ of mandate and all statements made are true and correct.

I declare under the penalty of perjury that the foregoing is true and correct and that this declaration was executed at San Diego, California, on March 21, 2022.

Respectfully submitted by,

Lee Quillar/Petitioner

Case No. __

Lee Quillar D22639

480 Alta Road, E25-B103

San Diego, CA 92179

In Propria Persona

IN THE SUPREME COURT

FOR THE STATE OF CALIFORNIA

LEE QUILLAR, Petitioner, vs. CALIFORNIA COURT OF APPEAL-FOURTH APPELLATE DISTRICT, Respondents.

MEMORANDUM OF POINTS AND AUTHORITIES IN SUPPORT OF PETITION FOR **[*23]** WRIT OF MANDATE or PROHIBITION OR OTHER EXTRAORDINARY RELIEF

TO THE CHIEF JUSTICE AND ASSOCIATE JUSTICES OF THE COURT:

Petitioner hereby submits the following memorandum of points and authorities in support of the petition for writ of mandate or prohibition or other extraordinary relief.

MERIT AND CLAIMS REQUIRING RELIEF:

Ground One: Petitioner was erroneously charged and convicted for assault on a peace officer pursuant to *California Penal Code section 1192.7(c)(11)*

On July 2, 1996, petitioner was charged in the San Diego Superior Court-East County Division, for grand theft person, and assault w/great bodily injury and w/deadly weapon on a peace officer, pursuant to *section 1192.7(c)(11)*; as a "first serious felony prior." (See Case no. SCE171374.)

On August 12, 1997, the prosecution filed a second amended information (the third information), again charging petitioner as having committed battery on a peace officer for purpose of enhancing his sentence under the Three Strike law, alleging petitioner violated *section 1192.7(c)(11)*.

After having been convicted by jury under this false allegation, on August 20, 1997, the court dismissed the jury. Then, on August 22, 1997, the prosecution amended the information (for the fourth time) charging petitioner for the very first time **[*24]** of violating *section 1192.7(c)(23)*, of the penal code; erroneously alleging that petitioner had a deadly weapon.

The *Sixth Amendment* commands that one accused of a crime must be informed of the nature of the crime. Fundamentally, when a defendant pleads not guilty, the court lacks jurisdiction to convict him (or her) of Ah offense that is neither charged nor necessarily included in the alleged crime. (*Cole v. Arkansas (1948) 333 U.S. 196, 201 [92 L.Ed. 644, 647, 68 S.Ct. 514]*; *People v. Thomas, 43 Cal. 3d 818, 239 Cal.Rptr. 307, 740 P.2d 419 (1987)*.)

Petitioner has no history of committing a battery on a peace officer; and the alleged "first serious felony prior" in case no. CR75335, do not qualify for purpose of a three strike sentence enhancement under *section 667(b)-(i)*.

> Ground Two: Amendment to an information after discharging the jury violates due process

Petitioner suffered a conviction that was neither tried nor proved by the jury, A strikingly similar case to petitioner's can be found in *People v. Lavoie, 29 Cal.App. 5th 875, 240 Cal.Rptr. 3d 825 (2018)*. In *Lavoie*, the court held:

> "In the absence of a defendant's forfeiture or waiver, *Pen. Code, §1025, subd. (b)*, requires that the same jury that decided the issue of a defendant's guilt shall also determine the truth of alleged prior convictions because a jury cannot determine the truth of the prior conviction allegation once it has been discharged, it follows that the information may not be amended to add prior conviction **[*25]** allegations after the jury has been discharged.

(See People v. Lavoie, HN1, citing *People v. Tindall, (2000) 24 Cal 4th 767 [102 Cal.Rptr. 2d 533, 14 P. 3d 207]*.)

> Ground Three: Petitioner's "uncharged alleged first serious felony prior" in case no. CR75335, never qualified for purpose of enhancing his sentence under the three strike law

There are numerous rulings that clearly show that petitioner in no way could have been legally convicted under the three strikes law, in relying on case number CR75335. The record shows:

(a) petitioner was never armed with a deadly weapon, (b) no one got hurt, (c) petitioner was only 17 years old when he entered into a plea agreement, (d) no petitions were ever filed pursuant to *Welfare and Institution Code §S 650 et seq.*, *603*, *707(b)*, and *707(c)*; prior to petitioner entering into a plea agreement, (e) petitioner was never deemed a ward of the juvenile court as required by *§667(d)(3)(D)*, and (f) the store clerk's dropped box cutter is not a deadly weapon. The high court has held:

> "A prior juvenile adjudication for an offense that would qualify as a serious or violent felony under the three strikes law if it were the subject of an adult conviction (*Cal. Penal Code §667(d)(1)*, *(2)*, *Cal. Penal Code § 1170. 12(b)(1)*, *(2)*) does not qualify as a strike unless the juvenile was adjudged a ward of the court in the prior proceeding for committing an offense that is listed **[*26]** in *Cal. Welf. & Inst. Code § 707(b)*.) (See *People v. Level, 97 Cal.App. 4th 1208, 119 Cal.Rptr. 2d 551 HN2 (2002)*.)

Petitioner was not adjudged a ward of the court, nor was he ever properly charged as an adult by having the required fitness hearing held, as no petitions for determination were ever filed pursuant to *§§ 650*, *707(c) of Welf. & Inst. Code.*

For purpose of a juvenile adjudication, the high court has held:

> "A prior juvenile adjudication cannot be used as a strike unless four conditions are met. *Cal. Penal Code § 667(d)(3)(A)-(D)*. These conditions include the requirement that the defendant in the prior juvenile proceeding, was adjudged a ward because he or she committed at least one offense listed in *Cal. Welf. & Inst., Code § 707(b)*.
>
> Furthermore, the section of the three strikes law delineating what prior juvenile adjudications qualify as strikes, should be read narrowly according to its terms.

(See *In re Jensen, 92 Cal.App. 4th 262, 111 Cal.Rptr. 2d 751 (2001)*.)

In not being able to properly charge petitioner under the three strikes law relying on petitioner's allegations in case number CR75335, the prosecution charged petitioner with having committed a battery on a peace officer pursuant to *§ 1192.7(c)(11)*; and then, once convicted under the heightened section; changed the allegation to make it reflect more in line with the charged allegation in case number CR75335. Yet and still, the allegations are not capable of being used as shown at ground Four.

> **[*27]** The trial court was completely without Ground Four: jurisdiction to sentence petitioner to an indeterminate term, and his current sentence is unauthorized and may be corrected at any time.

The trial court completely refuse to (1) address the merits, (2) place petitioner's claims "within any court record," (3) apply the law to this case, (4) file petitioner's actions without designing hardship, (5) acknowledge that the court exceeded its jurisdiction, or (6) grant petitioner access to judicial remedies as the state and federal law commands.

The California Supreme Court has consistently ruled:

> "[T]he languaged used in *section 1192.7, subdivision (c)(23)* make a conviction under *section 245, subdivision (a)(1)* a serious felony only if a deadly weapon is personally used by the defendant.

(See *People v. Williams, 50 Cal.App. 4th 1405, 58 Cal.Rptr. 2d 517 (1996)*; citing, *People v. Equarte, (1986) 42 Cal. 3d 456, 465-466 [229 Cal.Rptr. 116, 722 P. 2d 890]*.)

In Case number CR75335, the police report and preliminary examination (both) have no mention whatsoever of any bodily injury, or that anyone was hurt by the (non deadly weapon) box cutter.

Regardless of this fact, petitioner was not charged for assault w/deadly weapon LIKELY TO PRODUCE GREAT BODILY INJURY, pursuant to *section 1192.7(c)(23)*. Without ambiguity, the California Supreme Court has held:

> "A mere plea of guilty to a violation of *Cal. Penal Code § 245(a)(1)*, that is, assault upon the person of another **[*28]** with a deadly weapon or instrument other than a firearm or by means of force likely to produce great bodily injury, is insufficient evidence that the defendant personally uses a dangerous or deadly weapon within the meaning of *Cal. Penal Code § 1192.7 (c)(23)* and, therefore, insufficient evidence that the defendant suffers a prior felony conviction for purposes of the *Three Strikes Law, Cal. Penal Code § 667 et seq.*

As late as 2019, the Supreme Court again ruled that "a box cutter is not a deadly weapon and cannot be used to strike a defendant's prior conviction unless the defendant personally caused great bodily injury."

A Box Cutter Is Not A Deadly Weapon For Enhancement Purposes

For more than 77 years, the Supreme Court has ruled that a box cutter is not a deadly weapon for purposes of sentence enhancements. (See *People v. McCoy (1944) 25 Cal. 2d 177, 188 [153 P. 2d 315](McCoy)*.)

In 2019, the supreme court again affirmed a reversal in stating that an enhancement under the Three Strikes Law is not permissible when a box cutter is the weapon, as a box cutter is not an inherently deadly weapon as required by

section 1170.12, and 667(b)-(i). See People v. Aledamat (2019) 8 Cal. 5th 1, 251 Cal.Rptr. 3d 371, 447 P. 3d 277; 20 Cal.App. 5th 1149, 229 Cal. Rptr. 3d 771.

Petitioner was at no point in being charged alleged to have suffered the actual violation in which he pled to; in which, as shown, never qualified for purpose of an indeterminate sentence.

Now, the trial court **[*29]** refuse to address these claims leading to this request for extraordinary relief.

CONCLUSION

For the reasons expressed herein, the petition for writ of mandate or prohibition or other extraordinary relief should be granted.

Dated: March 21, 2022

By, __

Lee Quillar

Lee Quillar D22639

480 Alta Road, E25-B103

San Diego, CA 92179

In Propria Persona

Case No. S273832

IN THE SUPREME COURT

FOR THE STATE OF CALIFORNIA

LEE QUILLAR, Petitioner, vs. CALIFORNIA COURT OF APPEAL-FOURTH APPELLATE DISTRICT, Respondents.

REQUEST FOR JUDICIAL NOTICE IN SUPPORT OF PETITION FOR WRIT OF MANDATE or PROHIBITION OR OTHER EXTRAORDINARY RELIEF

Petitioner, Lee Quillar, pursuant to California Evidence Code §§ 452-453, respectfully request that the court take notice of the following documents:

1. California Appellate Court's August 23, 2021 order; an original copy attached as Exhibit A.

2. Petition for writ of habeas corpus w/memorandum of points and authorities; an original copy attached as Exhibit B.

3. El Cajon Superior Court Order ignoring all claims; an original copy attached as Exhibit C.

4. Declaration of Raecheal Quillar; an original copy attached as Exhibit D.

5. Court of appeal December 2, 2021 order failing to address claims and erroneously adjudicating **[*30]** an uncharged "strike prior"; an original copy attached as Exhibit E.

6. Petition for rehearing timely, and properly presented; an original copy attached as Exhibit F.

7. Court of appeal screening form, refusing to process petitioner's petition for rehearing; an original copy attached as Exhibit G.

8. California Supreme Court Coversheet showing filing; an original copy attached as Exhibit H.

9. California Court of Appeal-Fourth Appellate District, returned copy unfiled; original copy attached as Exhibit I.

10. California Court of Appeal-Fourth Appellate Distirct unfiled with no assigned number RJN motion; an original copy attached as Exhibit J.

Dated: March 21, 2022

By, __

Lee Quillar/Petitioner

SUPERIOR COURT OF CALIFORNIA

COUNTY OF SAN DIEGO

CENTRAL COURTHOUSE

220 WEST BROADWAY

SAN DIEGO, CA 92101

Hon. Lisa R. Rodriguez, Judge

Department 1502

Receipt of Ex. Parte Communication

Date: August 24, 2022

Re. LEE VIRT QUILLAR, SCE171374

The Court received the attached letters and requests from the above Defendant on August 1, August 15, and August 23, 2022. The court previously appointed the Public Defender's Office and the matter is set for a status conference on November 4, 2022, regarding Senate Bill 483. The clerk is ordered to file **[*31]** these letters. The clerk is also ordered to send a copy to via county mail to both the District Attorney and Defense Counsel,

IT IS SO ORDERED.

/s/ Lisa R. Rodriguez

LISA R. RODRIGUEZ

JUDGE OF THE SUPERIOR COURT

UNITED STATES COURT OF APPEALS FOR THE NINTH JUDICIAL CIRCUIT

LEE QUILLAR Petitioner, VS. ROB BONTA, CALIFORNIA ATTORNEY GENERAL, Respondent.

Related Cases: Superior Ct. SCE171374, Supreme Ct.S274133, 9TH Cir. 03-56118

DECLARATION OF LEE QUILLAR IN SUPPORT OF REQUEST FOR THE MONITORING OF STATE COURT REVIEW FOR PURPOSE OF EXHAUSTING CLAIMS DEMONSTRATING FRAUD, JUDICIAL ABUSE AND PROSECUTORIAL MISCONDUCT

DECLARATION OF LEE QUILLAR

BEFORE THE HONORABLE CHIEF JUSTICE MURGUIA, AND ASSOCIATE JUSTICES OF THE UNITED STATES COURT OF APPEALS-FOR THE NINTH JUDICIAL CIRCUIT:

I, Lee Quillar, declare:

1. On June 10, 1996, Declarant was arrested and charged for multiple state violations in which he was not facing more than his "second adult conviction when charged."

2. On July 2, 1996, the prosecution falsely accused declarant of having committed "Assault w/Great Bodily Injury and w/Deadly Weapon on a Peace Officer," pursuant to *California Penal Code Section 1192.7(c)(11)*; and for purpose of sentencing declarant to a life term under the California Three Strikes law. **[*32]** It was alleged that Declarant committed said violation in case no. CR75335, for purpose of attaching a "FIRST SERIOUS FELONY PRIOR/FIRST PRISON TERM" to case number SCE171374. (Exhibit A.)

3. Declarant have no history whatsoever for having committed a "battery on a peace officer pursuant to *section 1192.7(c)(11)*," in case no CR75335; and at no time were there any actual Welfare & Institution petitions filed to deem Declarant an adult In case no. CR75335, as required pursuant to *§§ 603*, *650*, *653.5*, or *707(b)* and *(c)*

4. On September 17, 1985, at age 17, Declarant entered into an illegal plea agreement in case no. CR75335, without having undergone a fitness hearing or having any petitions to find Declarant unfit for juvenile justice. (Exhibit B.) After conviction by plea, Declarant was then ordered to serve time in the California Youth Authority after having the court acknowledge that he was only 17 years old. (Exhibit C.)

5. Fifth-eight days after having pled guilty, on October 15, 1985, the court only then ordered Declarant to undergo a W&I 707.2 evaluation for purpose of amenability in the California Youth Authority. This occurred even without having the District Attorney or Probation Department comply with *§§ 603*, *650*, or *653.5*

6. In having **[*33]** already pled guilty on September 17, 1985, as a juvenile without any fitness hearings (*W &-I §§ 603*, *650*, *707(b)* and *(c)*); immediately after sentencing the "Abstract of Judgment was "DISCHARGED" and never filed In having the Youth Authority accept Declarant. (Exhibit D.)

7. On August 20, 1997, Declarant was found guilty in case no. SCE171374. The trial court dismissed the jury on the same date (8/20/1997). Then, two days after having dismissed the jury, on August 22, 1997, the prosecution amended the "FIRST PRISON PRIOR" allegation from *section 1192.7(c)(11)*, to *section 1192.7(c)(23)* by interlineation, charging Declarant for the very first time for "assault w/deadly weapon likely to produce great bodily injury" (a non strikeable offense); in a case that was discharged by the court in discovering that the court lacked jurisdiction over the defendant due to the Declarant's age. (Exhibit E.)

8. During trial in case number SCE171374, Declarant for more than ten months had been attempting to have trial counsel Elizabeth Barranco interview eight direct eye witnesses. Counsel misled Declarant throughout the entire trial in saying that his witnesses would be testifying. (Exhibit F.)

9. Declarant attempted to have his appellate record mail to him immediately **[*34]** after having been convicted, and was unable to get his trial counsel and appellate counsel Carl Fabian to respond. Three years after his conviction, and after the expiration of the AEDPA, COUNSEL Elizabeth Barranco only then mailed Declarant his records.

10. Declarant at this time discovered that counsel Barranco had used his case to embezzle state funds from the People of the State of California, in having it alleged that "declarant lied to a Ray Dobbs and time was wasted trying to verify declarant's first story!" Counsel Barranco then requested an additional 20 hours to be authorized for purposes of investigating and interviewing witnesses. (Exhibit G.)

11. At no time did Declarant speak to "any investigator" prior to trial, nor did any of his requested witnesses. (See Exhibit H & I.) Declarant discovered in 2011 that trial counsel Elizabeth Barranco had been disbarred in 2007, for

the exact reason as was explained to the court by Declarant prior to being convicted. (See paragraph 8 and Exhibit J.)

12. When arrested, Declarant was placed into the Psychiatric Security Unit (PSU), which is where he resided from June 11, 1996 until August 8, 1996. On July 10, 1996, the court stripped Declarant **[*35]** of professional counsel, forced Declarant to represent himself, waived Declarant's trial date, and falsely alleged that Declarant was present at the very time that he was undergoing psychiatric treatment, melieu therapy, and taking medications. (Exhibit K.)

13. On August 14, 1996, counsel Barranco aided the court in concealing the fact that Declarant was without counsel in alleging that she was being appointed as co-counsel to Declarant's fictitious self-representative status, (Exhibit L.)

14. On August 20, 1996, Declarant then had his fictitious pro per request withdrawn, allegedly at his request. (Exhibit M.) Declarant did not attend any of the above-mentioned hearings as alleged, and each hearing is based on judicial abuse.

15. In having been denied multiple times to a complete appellate record as guaranteed under the Constitution, Declarant filed a civil suit to compel the missing transcripts. Then, in 2011, Declarant was contacted by a complete stranger who read his civil suit. It was stated that superior court Judge Herbert J. Exarhos was still endorsing fictitious minute orders and submitting them before the court as an official document (Exhibit N.)

16. As clear as the fraud, abuse, **[*36]** and judicial misconduct is being expressed and demonstrated through official documentation, the state courts have adamantly refused to adjudicate or issue orders that addresses Declarant's merits.

17. Declarant has already prepared several actions that he is once again moving to file. Said actions are based on a variety of new laws that fully support his contentions, and In which he qualifies for. However, due to twenty-six plus years of concealment, Declarant does not expect any change in the type of review that he has been receiving.

18. For this reason, every action filed (or attempted to be filed), will be served upon the above-entitled court for purpose of proving exhaustion and diligence; as the lower courts refuses to record the actual claims that are being raised.

19. Declarant can easily verify by a "preponderance of the evidence" that he has been a victim of systemic racism and discrimination; and within 10 days of serving this action, Declarant will serve the above-entitled court a copy of his motion under the California Racial Justice Act of 2020," which is being "re-filed" in the superior court simultaneously. Additionally, Declarant has already filed another appeal in the state court of appeal (pending), he **[*37]** has a habeas corpus pending in the California Supreme Court, there will be a civil action forthcoming in the state court for injunctive relief, Declarant is preparing an additional federal habeas corpus currently, and preparing to file a habeas corpus under the California Racial Justice Act of 2020, once his motion is responded to in the Superior Court. Each of these documents will be served upon the Ninth Circuit in the above original case (03-56118).

20. Declarant has filed multiple State Bar Complaints, in which one is currently pending under case no.: 22-0-16149 Sheila Lavery O'Connor. Declarant submits this request based on the enormous amount of filings that he has submitted within the state courts, in which to date, one cannot find any mention of the actual claims that are being raised leading to no review and making it appear that Declarant is not exhausting his claims. (See recently filed petition for writ of mandate, Exhibit 0.)

I declare under the penalty of perjury that the foregoing is true and correct and that this declaration was executed on December 31, 2022, at Jamestown, California.

Submitted by,

/s/ Lee Quillar

Lee Quillar/ eclarant

UNITED STATES COURT OF APPEALS FOR THE NINTH JUDICIAL CIRCUIT

LEE QUILLAR Petitioner, VS. **[*38]** ROB BONTA, CALIFORNIA ATTORNEY GENERAL, Respondent.

Related Cases: Superior Ct. SCE171374, Supreme Ct.S274133, 9TH Cir. 03-56118

REQUEST FOR THE MONITORING OF STATE COURT REVIEW FOR PURPOSE OF EXHAUSTING CLAIMS DEMONSTRATING FRAUD, JUDICIAL ABUSE AND PROSECUTORIAL MISCONDUCT

BEFORE THE HONORABLE CHIEF JUSTICE MURGUIA, AND ASSOCIATE JUSTICES OF THE UNITED STATES COURT OF APPEALS-FOR THE NINTH JUDICIAL CIRCUIT:

Petitioner Lee Quillar, hereby moves the court requesting monitoring of each action to be filed within the state courts for purpose of exhausting of claims. For more than twenty-six years, petitioner as a pro per litigant has been unable to get the state courts to: (a) properly file his cases; (b) adjudicate legitimate claims demonstrating that petitioner has been a victim of judicial fraud; (c) adjudicate claims showing at no time did petitioner qualify to be sentenced to a life term under the California Three Strikes law; (d) the trial court exceeded its jurisdiction in convicting petitioner after stripping him of counsel during multiple critical stages; and (e) the state courts have consistently refused to place "any" of petitioner's most serious claims within any court order.

[*39] Petitioner has already completed several actions that are to be immediately filed at the state court level, to include a civil action for injunctive relief, and petitioner moves the above-mentioned Court in advance of his forth-coming filings in order to be alleviated from the various tactics that has been previously used in order to starve the record of the multiple abuses used to convict the petitioner.

GROUNDS IN SUPPORT OF REQUEST

California has implemented numerous procedures and new laws that is to reverse some of the systemic racism that has led to an enormous prison population increase. Especially, for people of color who has suffered greater than other ethnicities. Petitioner qualifies for several new Senate/Assembly Bills, however, he is being denied review in having his bonafide motions deemed letters, request, and other non-legal titles in having his actions reviewed.

Petitioner is also preparing to file a *Rule 60(b)* motion in case number 03-56118, which he can lucidly prove that his case was previously decided by the court based on fraudulent documentation. In preparing to apply the newly retroactive procedures, petitioner do not anticipate that the new rules will be applied to his **[*40]** individual circumstances leading to this request.

Furthermore, petitioner will be moving for the complete vacating of his conviction as required by law, and aim to demonstrate how none of the court's previously issued decisions were based on facts, due to fraud and abuse, causing numerous claims to go unheard.

As shown by the accompanied declaration in support of this request, petitioner attaches supporting documentation that cannot be disputed, to advance his request for the monitoring of state court review.

Dated: December 31 2022

Submitted by,

/s/ Lee Quillar

Lee Quillar/Petitioner

THE SUPERIOR COURT OF THE STATE OF CALIFORNIA IN AND FOR THE COUNTY OF SAN DIEGO

IN THE MATTER OF THE APPLICATION OF: LEE QUILLAR, Petitioner.

SCE171374

ORDER DENYING MOTION TO VACATE CONVICTION UNDER *PENAL CODE SECTION 745* AND REQUEST FOR DISCOVERY

THIS COURT, HAVING READ THE MOTION TO VACATE CONVICTION AND DISCOVERY REQUEST, AND THE UNDERLYING CASE FILE. FINDS AS FOLLOWS:

In 1997, a jury convicted Petitioner of causing a fire in an inhabited structure (*Pen. Code*[1] *§ 452(b)*), arson of the property of another (*§ 451(d)*), assault with a deadly weapon or by force likely to produce great bodily injury (*§ 245(a)(1)*), and false imprisonment by violence involving the personal use of a deadly weapon **[*41]** (*§§ 236*, *237*). The jury found true an allegation that Petitioner committed the false imprisonment using a knife as a deadly weapon. (*§ 12022(b)*.) Subsequently, the trial court found true two prison priors (*§ 667.5(b)*), two serious felony prior convictions (*§§ 667(a)*, *1192.7(c)*), and two felony strike prior convictions (*§ 667(b)-(i)*). The trial court sentenced Petitioner to an aggregate term of 36 years to life in state prison.

On January 24, 2023, Petitioner tiled a motion to vacate judgment and for discovery under *sections 745(d)* and *1054.9(c)*. Petitioner filed his motion *in propria persona*. For the reasons outlined below, the court denies Petitioner's motion and request for discovery.

The *California Racial Justice Act ("CRJA")* added *section 745*, which codifies the fundamental principle that "[t]he state shall not seek or obtain a criminal conviction or seek obtain, or impose a sentence on the basis of race, ethnicity, or national origin. (*§ 745(a)*.) A violation of that principle is proven if a defendant can establish one of five transgressions:

> (1) The judge, an attorney in the case, a law enforcement officer involved in the case, an expert witness, or juror exhibited bias or animus towards the defendant because of the defendant's race, ethnicity, or national origin.
>
> (2) During the defendant's trial, in court and during the proceedings, the judge, an attorney in the case, a law enforcement officer involved in the case, an expert witness, or juror, used racially discriminatory language about the defendant's race, ethnicity, or national origin, or otherwise exhibited bias or animus towards the defendant because of the defendant's race, ethnicity, or national origin, whether or not purposeful. This paragraph does not apply if the person speaking is relating language used by another that is relevant to the case or if the person speaking is giving a racially neutral and unbiased physical description of the suspect.
>
> (3) The defendant was charged or convicted of a more serious offense than defendants of other races, ethnicities, or national origins who have engaged in similar conduct and are similarly situated, and the evidence establishes that the prosecution **[*42]** more frequently sought or obtained convictions for more serious offenses against people who share the defendant's race, ethnicity, or national origin in the county where the convictions were sought or obtained.
>
> (4)(A) A longer or more severe sentence was imposed on the defendant than was imposed on other similarly situated individuals convicted of the same offense, and longer or more severe sentences were more frequently imposed for that offense on people that share the defendant's race, ethnicity, or national origin than on defendants of other races, ethnicities, or national origins in the county where the sentence was imposed.
>
> (B) A longer or more severe sentence was imposed on the defendant than was imposed on other similarly situated individuals convicted of the same offense, and longer or more severe sentences were more frequently

1 All further statutory references are to the Penal Code unless otherwise indicated.

> imposed for the same offense on defendants in cases with victims of one race, ethnicity, or national origin than in cases with victims of other races, ethnicities, or national origins, in the county where the sentence was imposed.

(*§ 745*.) *Section 745(d)* establishes a procedure whereby a defendant may request discovery in furtherance of a CRJA claim. (*§ 745(d)*.) *Section 745(d)* provides as follows: **[*43]**

> A defendant may file a motion requesting disclosure to the defense of all evidence relevant to a potential violation of *subdivision (a)* in the possession or control of the state. A motion filed under this section shall describe the type of records or information the defendant seeks. Upon a showing of good cause, the court shall order the records to be released. Upon a showing of good cause, and in order to protect a privacy right or privilege, the court may permit the prosecution to redact information prior to disclosure or may subject disclosure to a protective order. If a statutory privilege or constitutional privacy right cannot be adequately protected by redaction or a protective order, the court shall not order the release of the records.

(*§745(d)*.)

Petitioner's motion to vacate judgment and request for discovery under *section 745(d)* are procedurally barred at this time. *Section 745(b)* provides that, "if judgment has been imposed. [a defendant] may file a petition for writ of habeas corpus or a motion under *Section 1473.7* in a court of competent jurisdiction alleging a violation of *subdivision (a)*." (*§ 745(b)*.) Petitioner tiled a motion to vacate judgment. which *section 745(b)* generally authorizes. However, a motion to vacate under *section 1473.7* may be tiled only by a person who is no longer **[*44]** in criminal custody...." (*§ 1473.7(a)*: *People v. Vivar (2021) 11 Cal.5th 510. 527, 278 Cal. Rptr. 3d 2, 485 P.3d 425* ['Only defendants who have already completed their sentences may even seek relief under *section 1473.7*].) Petitioner is currently in criminal custody and serving his sentence in state prison. Therefore, he is ineligible to file a *section 1473.7* motion to vacate judgment. Furthermore, even if Defendant were eligible to file such a motion, that motion would still be premature under the tiered timing structure set out in *section 745*. *Section 745* establishes when it applies to final cases like Petitioner's. Relevant here, *section 745* applies "[c]ommencing January 1, 2026, to all cases filed pursuant to *section 1473.7* in which judgment was for a felony conviction . (*§ 745(j)(5)*.) As such *section 745* would not apply to a *section 1473.7* motion in Petitioner's case until 2026. Therefore, Petitioner's motion to vacate judgment. even if it were permitted by *section 1473.7*. would be premature. Moreover, if Petitioner had tiled a writ of habeas corpus under *section 1473(t)* instead of a motion to vacate judgment under *section 1473.7*. that habeas corpus petition would be premature under *section 745(j)(3)* because Petitioner is currently serving a 36-year sentence in state prison. (*See § 745(j)(3)* [*Section 745* applies [c]ommencing January 1, 2024, to all cases in which, at the time of the tiling of a petition pursuant to *subdivision (t) of Section 1473* raising a claim under this section, **[*45]** the petitioner is currently serving a sentence in the state prison...."].) In sum, the court denies Petitioner's motion to vacate judgment, and his *section 745(d)* discovery request, as premature and procedurally barred.

Finally, Petitioner is not entitled to discovery under *section 1054.9*. *Section 1054.9* allows certain qualifying defendants reasonable access to discovery materials "upon the prosecution of a postconviction writ of habeas corpus or a motion to vacate a judgment, or in preparation to file that writ or motion. (*§ 1054.9(a)*.) *Section 1054.9(c)* defines "discovery materials" as "materials in the possession of the prosecution and law enforcement authorities to which the same defendant would have been entitled at time of trial. (*§ 1054.9(c)*.) Here, Petitioner makes three specific discovery requests: (1) "the records of Prosecutor Wes Schermann from January 1, 1995, through December 31, 1996, relevant to all Three Strike convictions"; (2) "the records for Prosecutor L. Koster and G. Bennett from June 10, 1996, through December 31, 1996, relevant to all 'self-represented petitioners,' to include, the petitioners' waivers to counsel, the date of the waivers, the court department number, the time of the proceedings, and the presiding judge's name"; and (3) the records of Petitoiner's trial counsel, Elizabeth Barranco. (Motion to Vacate, pg. 3-4.) First. the records of prosecutors in other cases are not materials to which Petitioner "would have been entitled at time of trial." (*§ 1054.9(c)*.) Second. the records of Petitioner's own trial counsel are not "materials in the possession of the prosecution and law enforcement authorities." *(Ibid.)* As such. none of the records Petitioner requests are discoverable material within the meaning of *section 1054.9(c)*. Moreover, invocation

of section 1054.9 is inappropriate given the specific discovery procedure established in *section 745(d)* regarding CRJA claims. *(Cf.* State Dept. of Public Health v. Superior Court (2015) 60 Cal.4th 940. 960, 184 Cal. Rptr. 3d 60, 342 P.3d 1217 ["If conflicting statues cannot be reconciled, later enactments supersede earlier ones, and more specific provisions take precedence over more **[*46]** general ones."].) Petitioner cannot use section 1054.9 to bypass the discovery process found in *section 745(d)*. Thus, Petitioner is not entitled to the discovery he seeks under section 1054.9.

For the foregoing reasons, the motion is denied. However, the court notes that Petitioner has a pending June 2, 2023, hearing under Senate Bill No. 483 and section 1172.75. (Stats.2021. c. 728 (S.B.483), eff. Jan. 1, 2022: *see also* Stats.2022, c. 58 (A.B.200), eff. June 30, 2022.) If, after the court's ruling at that or any subsequent hearing, Petitioner's judgment is no longer final. he may file a habeas petition under *section 1473(f)* renewing his CRJA claims. *(See § 745(j)*, *(j)(1)* ["This section applies ... [t]o all cases in which judgment is not final."].)

A copy of this Order shall be served on (1) Petitioner: (2) the San Diego County District Attorney's Office (Attn: Mark Amador): and (3) the San Diego County Public Defender's Office (Attn: Matthew Wechter).

IT is SO ORDERED.

DATE: Feb 22, 2023

/s/ Lisa Rodriguez

HON. LISA RODRIGUEZ

JUDGE OF THE SUPERIOR COURT

ER 31

SUPERIOR COURT OF CALIFORNIA, COUNTY OF SAN DIEGO
☒ CENTRAL DIVISION, CENTRAL COURTHOUSE, 1100 UNION ST., SAN DIEGO, CA 92101
☐ CENTRAL DIVISION, COUNTY COURTHOUSE, 220 W. BROADWAY, SAN DIEGO, CA 92101
☐ CENTRAL DIVISION, HALL OF JUSTICE, 330 W. BROADWAY, SAN DIEGO, CA 92101
☐ CENTRAL DIVISION, FAMILY COURT, 1555 6TH AVE., SAN DIEGO, CA 92101
☐ CENTRAL DIVISION, MADGE BRADLEY, 1409 4TH AVE., SAN DIEGO, CA 92101
☐ CENTRAL DIVISION, KEARNY MESA, 8950 CLAIREMONT MESA BLVD., SAN DIEGO, CA 92123
☐ CENTRAL DIVISION, JUVENILE COURT, 2851 MEADOW LARK DR., SAN DIEGO, CA 92123
☐ EAST COUNTY DIVISION, 250 E. MAIN ST., EL CAJON, CA 92020
☐ NORTH COUNTY DIVISION, 325 S. MELROSE DR., VISTA, CA 92081
☐ NORTH COUNTY DIVISION, JUVENILE COURT, 325 S. MELROSE DR., VISTA, CA 92081
☐ SOUTH COUNTY DIVISION, 500 3RD AVE., CHULA VISTA, CA 91910

FOR COURT USE ONLY
FILED
MAR 07 2023
By: M. Jaimes de Quirk, Deputy

PLAINTIFF(S)/PETITIONER(S)
PEOPLE OF THE STATE OF CALIFORNIA

DEFENDANT(S)/RESPONDENT(S)
LEE QUILLAR

JUDGE: LISA R. RODRIGUEZ
DEPT: 1502

CLERK'S CERTIFICATE OF SERVICE BY MAIL

CASE NUMBER
SCE171374

I certify that I am not a party to the above-entitled cause, that I placed a copy of the following document(s): A COPY OF THE ORDER DENYING MOTION TO VACATE CONVICTION UNDER PENAL CODE SECTION 745 AND REQUEST FOR DISCOVERY FILED 2/22/2023, AND A COPY OF THIS CLERK'S CERTIFICATE OF SERVICE BY MAIL (FORM CIV-286), FILED 3/7/2023

in a sealed envelope addressed to the parties shown with postage prepaid, and deposited it in the United States mail at ☐ Chula Vista ☐ El Cajon ☒ San Diego ☐ Vista, California.

NAME & ADDRESS

LEE QUILLAR
CDCR #D22639, FACILITY A/15/3L
SIERRA CONSERVATION CENTER
5150 O'BYRNES FERRY ROAD
JAMESTOWN, CA 95327

NAME & ADDRESS

Date: March 7, 2023

Clerk of the Superior Court
by M. JAIMES DE QUIRK, Deputy

CLERK'S CERTIFICATE OF SERVICE BY MAIL

IN THE CALIFORNIA SUPERIOR COURT FOR THE COUNTY OF SAN DIEGO

PEOPLE OF THE STATE OF CALIFORNIA, Plaintiff And Respondent, -VS- LEE QUILLAR, Petitioner And Defendant.

Case No.: SCE171374

SECOND MOTION TO DISMISS COUNSEL AND REQUEST FOR SELF-REPRESENTATION STATUS

Petitioner, Lee Quillar, moves the court on his "second **[*47]** Request," to dismiss counsel and to be placed into "self-representation status". Petitioner previously served the court requesting that counsel be dismissed and that he be permitted to represent himself.

LEGAL AUTHORITIES IN SUPPORT OF REQUEST

A Defendant has an absolute right to represent himself (or herself). *People v. Orosco, 82 Cal. App. 5th 348, 298 Cal. Rptr. 3d 329*; *Faretta v. California 422 U.S. 806, 95 S. Ct. 2525, 45 L. Ed. 2d 562*; *U.S. Constitution 6th Amendment*.

It hereby requested that counsel J. Luis Guerrero, and/or any other counsel be dismissed of the legal obligation of representing the Petitioner.

Dated: March 19, 2023

By, /s/ Lee Quillar

Lee Quillar/Petitioner

PROOF OF SERVICE

I, Lee Quiliar am a resident of Sierra Conservation Center, in the County of Tuolumne, State of California. I am over the age of 18 years and I am/am not a party to this action.

On March 20 2023, I served a copy of the following document(s):

SECOND MOTION TO DISMISS COUNSEL AND REQUEST FOR, SELF-REPRESENTATION STATUS

The following parties were served:

California Superior Court

County of San Diego

220 West Broadway

San Diego, CA 92101

Matthew Wechter

Public Defender's Office

451 A Street, Suite 900

San Diego, CA 92101

I declare under the penalty of perjury that the foregoing is true and correct.

EXECUTED on: March 20, 2023, at Tuolumne, California.

BY, /s/ Lee Quillar

[*48] Lee Quillar/Declarant

SUPERIOR COURT OF CALIFORNIA COUNTY OF SAN DIEGO

CENTRAL COURTHOUSE

1100 UNION STREET

SAN DIEGO, CA 92101

Hon. Lisa R. Rodriguez, Judge

Department 1502

Ex Parte Order

Date: June 2, 2023

Re. People v. LEE QUILLAR

SCE171347

The Court received the attached correspondence from the above Defendant on May 15, 2023. This case is presently set for a status conference on October 13, 2023, at 9:00 am in this department pursuant to *Penal Code §§ 1172.7* and *1172.75*. The clerk is ordered to file the correspondence. The clerk is also ordered to send a copy to via county mail or electronic mail to both the District Attorney and Defense Counsel.

IT IS SO ORDERED.

/s/ Lisa R. Rodriguez

LISA R. RODRIGUEZ

JUDGE OF THE SUPERIOR COURT



Case: 26-4787, 10/28/2026, DktEntry: 9.2, (65 of 160)

SUPERIOR COURT OF CALIFORNIA, COUNTY OF SAN DIEGO

DATE 06-02-23 AT 09:00 A.M. CENTRAL STATUS CONFERENCE

PRESENT: HON. LISA R. RODRIGUEZ JUDGE PRESIDING, DEPARTMENT 1502

CLERK M. Jaimes de Quirk REPORTER I. Perkins, CSR 12727

THE PEOPLE OF THE STATE OF CALIFORNIA VS. QUILLAR LEE

PROPER J. L. Guerrero

VIOLATION OF PC452(B)/40 PC451(D) PC245(A)(1)

DEFENDANT PRESENT SELF REPRESENTED NOT PRESENT POST NOT PRODUCED FAILED TO APPEAR

PROB. REV. DEFENDANT ADVISED OF RIGHTS AND ADMITS / DENIES A VIOLATION OF PROBATION

JUDGMENT WAIVES ARRAIGNMENT. ARRAIGNED FOR JUDGMENT. IMPOSITION / EXECUTION OF SENTENCE IS SUSPENDED.

PROBATION IS: DENIED GRANTED YEARS (FORMAL /TO COURT) TO EXPIRE

COMMITMENT TO SHERIFF FOR DAYS. STAYED TO / PENDING SUCCESSFUL COMPL. OF PROBATION PAROLE NOT TO BE GRANTED

PERFORM DAYS PSF. HOURS VOL. WORK AT NONPROFIT ORG. SUBMIT PROOF TO PROBATION / COURT BY

4TH AMENDMENT WAIVER: IMPOSED. / REMAINS IN EFFECT. / DELETED. PROTECTIVE ORDER: ISSUED. / REMAINS IN EFFECT. / MODIFIED. / TERMINATED.

FURTHER CONDITIONS ARE SET FORTH IN PROBATION ORDER. WORK FURLOUGH, REPORT: TO 9665 OVERLAND AVE. STE 100, SAN DIEGO 8:00 A.

COMMITMENT TO GA. DEPT. OF CORRECTIONS & REHAB. DIVISION OF JUVENILE JUSTICE SAN DIEGO COUNTY SHERIFF (PC1170(h)(3)(B)/2057) ON

COUNT CODE & NO. FOR LOWER / MIDDLE / UPPER / INDETERMINATE TERM OF YEARS / MONTHS / TO LIFE.

EXECUTION OF CONCLUDING DAYS MONTHS YEARS OF SENTENCE IS SUSPENDED, DURING WHICH TIME THE DEFT. SHALL BE SUBJEC

TO MANDATORY SUPV. BY THE PROB. DEPT. (PC1170(h)(5)(B)). TERMS AND CONDITIONS SET FORTH IN THE ORDER GRANTING MANDATORY SUPV. (CRM-295).

PER PC1170(d) PER WI 731 PRINCIPAL COUNT. STIPULATED SENTENCE. NO EARLY RELEASE OF ANY TYPE AUTHORIZED.

SENTENCE PER PC667(b)-(i)/1170.12. NOTICE OF FIREARMS PROHIBITION GIVEN PER PC29805.

NO VISITATION PER PC1202.05. VICTIM IS UNDER 18 YRS. OF AGE. DA TO COMPLY WITH NOTICES.

TESTING: COMPLIANCE WITH PC296 VERIFIED. DNA (PC296) HIV (PC1202.1)

DEFENDANT ADVISED RE: PAROLE / APPEAL RIGHTS. REGISTER PER PC290 PC457.1 PC186.30

DEFENDANT TO PAY: FINE OF $ INCLUDING PENALTY ASSESSMENT, PLUS THE FOLLOWING:

INSTALLMENT/ACCOUNTS RECEIVABLE FEE (PC1205(e)) $ DRUG PROGRAM FEE (H&S 11372.7) $

LAB ANALYSIS FEE (H&S 11372.5) $ THEFT FINE (PC1202.5) $

COURT OPERATIONS ASSESSMENT (PC1465.8) $

CRIMINAL CONVICTION ASSESSMENT (GC70373) $ SEX OFFENDER REG. FINE (PC290.3) $

PROB. HAVING BEEN FORMALLY REVOKED, THE PREVIOUS REST. FINE OF $ SUSP. PER PC1202.44, IS NOW DUE.

RESTITUTION FINES: $ (PC1202.4(b)) PLUS 10% (PC1202.45) FORTHWITH (PC2085.5)

$ (PC1202.44/PC1202.45) SUSPENDED UNLESS PROBATION/PAROLE/SUPERVISION REVOKED.

RESTITUTION TO VICTIM(S) PER P.O.'S REPORT / RESTITUTION FUND (PC1202.4(f)) $ / IN AN AMOUNT

TO BE DETERMINED. JOINT & SEVERAL. AT COMBINED RATE OF $ PER MONTH TO START 60 DAYS AFTER RELEASE / ON

REPORT TO PROBATION REVENUE & RECOVERY COURT COLLECTIONS FORTHWITH WITHIN 72 HRS. OF RELEASE FROM CUSTODY.

PROCEEDINGS SUSPENDED PER PC1368. MENTAL COMPETENCY. (SEE BELOW FOR DATES OF EXAMINATION AND HEARING)

FUTURE HEARINGS WAIVERS TIME FOR JUDGMENT PRESENCE FOR RESTITUTION HRG. REFERRED FOR DIAGNOSTIC EVAL. PC1203.03. / WI707.2

Status Conference CONT. TO SET FOR 10/13/2023 AT 9:00AM IN DEPT. 1502 ON MOTION OF COURT / DDA / DEFT. / PROB. OFFICER.

TO BE HEARD CONCURRENTLY WITH PRELIMINARY HEARING IN CASE # TO TRIAL CASE(S)

CUSTODY STATUS DEFENDANT REMANDED TO CUSTODY OF SHERIFF WITHOUT BAIL. WITH BAIL SET AT $

MAY BE RELEASED TO REP. OF PD / PROB./APPROVED RES. TREATMENT PROG. STAY / SERVE BAL. OF CUST. WHEN BED AVAIL. AFTER CUSTOD

DEPT. ORDERED RELEASED FROM CUSTODY ON PROBATION ON OWN / SUPERVISED RECOGNIZANCE ON DEJ ON MANDATORY SUPERVISION.

DEFENDANT TO REMAIN AT LIBERTY ON BOND POSTED $ ON PROBATION ON DEJ ON OWN / SUPERVISED RECOGNIZANCE.

BONDS / WARRANTS BENCH WARRANT TO ISSUE, BAIL SET AT $ COUNSEL REPORTS NO CONTACT WITH DEFENDANT.

SERVICE FORTHWITH ORDERED WITHHELD TO BENCH WARRANT ISSUED / SPECIFIED IS RECALLED / RESCINDED

DECLARATION OF NON-COLLUSION & RE-ASSUMPTION OF LIABILITY FILED. BAIL FORF. IS SET ASIDE. BAIL REINSTATED EXONERATED FORFEITED

UPON PAYMENT OF COURT COST $ WITHIN 30 DAYS. COST WAIVED. BOND AMT $ BOND NO.

BOND COMPANY AGENT

OTHER ALL PROPERTY IMPOUNDED, SEIZED, OR HELD IN CUSTODY IN THIS CASE TO BE DISPOSED OF PER POSSESSING AGENCY'S POLICY.

PROBATION: PREPARE SUPPLEMENTAL REPORT. / SUBMIT POST-SENT. REPORT TO CDCR PER PC1203.c. SEE ATTACHED MINUTES FOR ADDITIONAL ORDERS

CONCURRENT WITH / CONSECUTIVE TO: CLERK REGISTRAR OF VOTERS DMV ABSTRACT R.A.C.

Motion filed by Defendant to be axed and provided to counsel.

ATTEST A TRUE COPY, Clerk of the Superior Court by Deputy

Distribution by 10/2/2023 to JAIL DEPT ATTY PROS. PROB. BAR Other CRT

FELONY MINUTES – PRONOUNCEMENT OF JUDGMENT

IN THE CALIFORNIA SUPERIOR COURT FOR THE COUNTY OF SAN DIEGO CENTRAL DIVISION

LEE QUILLAR Applicant, ON EXPARTE MOTION.

Case No.:

EXPARTE APPLICATION FOR RELIEF FROM DENIAL OF DUE PROCESS AND EQUAL PROTECTION

BEFORE THE HONORABLE MICHAEL S. GROCH, SUPERVISING JUDGE: COMES NOW, Applicant Lee Quillar, on Exparte Motion seeking relief from a denial of the Applicant's right to due process and equal protection.

I. GROUNDS FOR RELIEF

In having the California Department of Corrections and Rehabilitation request that the Applicant's case be reviewed pursuant to Senate Bill 483, counsel was appointed. Based on the facts of the Applicant's case, various letters were written to counsel, in which it was explained that the entire sentence leading to the Applicant's **[*49]** abstract of judgment commitment, is based on an "erroneous charge of having committed a battery on a peace officer, pursuant to *§1192.7(c) (11) of the Penal Code*." It was further explained that the Applicant's Case is completely unauthorized by law. (See Exhibit A, and Motion to Vacate Sentence in Excess of the Court's Jurisdiction.)

In being ignored, in January Of 2023, this Applicant filed a motion to dismiss counsel and requested to be placed into self-representation status. However, the court did not respond. On March 30, 2023, a "second motion to dismiss counsel" was filed, and again, the court did not respond. (Exhibit B.)

On May 15, 2023, a Motion to Vacate Judgment in Excess of the Court's Jurisdiction" was filed thoroughly explaining the violations.

The Applicant's documents (which were labeled correspondences for the second time by the court) were provided to Counsel J.L. Guerrero, wherein, the Applicant is being forced to accept Counsel Guerrero as attorney of record. (See Exhibit C.)

This Applicant has been providing the court with extra copies of his documents with self-addressed envelopes, in which, they are not being returned for purpose of record keeping. The motions are not being returned, the court is **[*50]** not issuing any decisions regarding the motions, "forced counsel" is not addressing any of the merits, and the Applicant is being completely deprived of his State and Federal right to represent himself, in which he is fully qualified to do so.

II. RELIEF REQUESTED

It is hereby requested that: (i) this Applicant be immediately certified as a self-representative defendant; (ii) Counsel J.L. Guerrero be immediately dismissed as counsel of record; (iii) all motions, transcripts, and other filings be cerified by the court clerk as an original and true copy, effective August 2022 to current date, and provided to the Applicant/Defendant.

Dated: June 25, 2023

Submmitted by,

/s/ Lee Quillar

Lee Quillar/Applicant

SUPERIOR COURT OF CALIFORNIA COUNTY OF SAN DIEGO

CENTRAL COURTHOUSE

1100 UNION STREET

SAN DIEGO, CA 92101

Hon. Lisa R. Rodriguez, Judge

Department 1502

Ex Parte Order

Date: June 30, 2023

Re. People v. LEE QUILLAR

SCE171347

The Court received the attached correspondence from the above Defendant on June 15, 2023. This case is presently set for a status conference on October 13, 2023, at 9:00 am in this department pursuant to *Penal Code §§ 1172.7* and *1172.75*. The clerk is ordered to file the correspondence. The clerk is also ordered to send a copy to via county mail or electronic **[*51]** mail to both the Deputy District Attorney William Mitchell and Defense Counsel, Deputy Public Defender Luis Guerrero. A copy of this order is to be forwarded to Defendant.

IT IS SO ORDERED.

/s/ Lisa R. Rodriguez

LISA R. RODRIGUEZ

JUDGE OF THE SUPERIOR COURT

ER 39

The State Bar of California

OFFICE OF CHIEF TRIAL COUNSEL

845 South Figueroa Street, Los Angeles, CA 90017

800-843-9253
Fax: 213-765-1168

Attorney Misconduct Complaint Form

Your Information			
Title: Citizen			
First Name: Lee	**Middle Name:** Virt		
Last Name: Quillar			
Address: 480 Alta Road, D18-202			
City: San Diego	**State:** CA	**Zip Code:** 92179	
Email: None			
Home Phone: N/A	**Work Phone:** N/A	**Cell Phone:** N/A	

If you prefer to communicate by email, please provide an email address. Complaints are confidential unless charges are filed. So that we may promptly communicate with you, please provide an email address to which you have exclusive access is not share with others.

Attorney's Information			
First Name: Luis	**Middle Name:** J.		
Last Name: Guerrero			
Address: 451 A Street, Suite 900			
City: San Diego	**State:** CA	**Zip Code:** 92101	
Email: Unknown	**CA Bar License #:** Unknown		
Primary Phone: 619-338-4700	**Other Phone:**		
Cell Phone:	**Website:**		

Complaint Information

To better achieve the State Bar's mission to protect the public, please answer the following questions:

Have you or a member of your family complained to the State Bar about this attorney previously?

☐ Yes ☒ No

Did you hire this attorney?

☐ Yes ☒ No

San Francisco Office
180 Howard Street
San Francisco, CA 94105

www.calbar.ca.gov

Los Angeles Office
845 S. Figueroa Street
Los Angeles, CA 90017

ER 40

Does this complaint involve allegations of theft?
☐ Yes ☒ No

Does this complaint involve allegations of attorney misconduct where a person 65 years of age or older was victimized?
☐ Yes ☒ No

Does this complaint involve allegations of attorney misconduct where a person who is incapacitated, infirm, disabled, incarcerated, an immigrant, or a minor was victimized?
☒ Yes ☐ No

Does this complaint involve allegations that the attorney has abandoned a client?
☒ Yes ☐ No
By refusing to safeguard Complainant's rights.

Statement of Complaint

Include with your submission, a statement of what the attorney did or did not do that is the basis of your complaint. Please state the facts as you understand them. Do not include opinions or arguments. If you hired the attorney(s), state what you hired the attorney(s) to do. Additional information may be requested.

SEE ATTACHED COMPLAINT INFORMATION

Ex 41

Related Court Case Information (If known)

Name of Court: Unknown	Case Name:
Case Number:	Approx. date case was filed:
Size of law firm complained about:	

If you are not a party to this case, what is your connection with it? Explain briefly.

Translation Information

☒ Not Applicable

The State Bar accepts complaints in over 200 languages. If you need translation services to communicate with the State Bar, please let us know by completing this section of the complaint form. We will communicate with you through a translation service in the language of your choice. Do you need translation services?

☐ Yes ☐ No

Please state the language in which you need formal translation:

The State Bar's mission is to protect complainants regardless of their immigration status. Complainants who are unable to complete this form due to disability, language restrictions, or other circumstances may obtain help by calling the complaint line at 800-843-9053.

Submission

☒ By checking this box I certify that all information on this form is true and correct. I understand that the content of my complaint can be disclosed to the attorney. I understand that I waive the attorney client privilege and any other applicable privilege between myself and the attorney to the extent necessary for the investigation and prosecution of the allegations.

Signature: [signature] Date: June 22, 2023

STATE BAR COMPLAINT CONT'

Re: Attorney J.L. Guerrero

June 2023

This State Bar Complaint is being filed in order to compel Attorney J.L. Guerrero, to: (a) immediately cease from representing complainant; (b) to formally file a request to be dismissed as counsel of record with the court; and (c) release all court orders, transcripts, and any other documentation related to complainant's case, to the complainant forthwith.

GROUNDS OF COMPLAINT

In having discovered and demonstrated to counsel J.L. Guerrero that original counsel Elizabeth Ann Barranco used complainant's case to embezzle funds from the People of the State of California; having deprived complainant of his complete "compulsory process" to have eight direct eye witnesses testify due to failing to investigate or interview witnesses; failing to prevent the prosecution from filing erroneous charges for purpose of enhancing complainant's sentence "illegally" pursuant to the Three Strikes law (*§667(b)-(0)*; and that, on **[*52]** June 3, 2007, Attorney Elizabeth Ann Barranco was disbarred after actually admitting her wrongs; no action was taken by counsel Guerrero.

CURRENT CLAIMS

In having the California Legislature implement various changes in California sentencing laws, Complainant's case was forwarded to the court for review under *Penal Code §1172.75*. On November 4, 2022, a hearing was held in the San Diego Superior Court.

Prior to the hearing counsel Guerrero was provided with concrete evidence showing that complainant has been serving an "illegal life term sentence," in having been falsely charged for committing a "battery on a peace officer" for purposes of enhancing his sentence under the California Three Stikes law, pursuant to *§1192.7(c)(11)*.

Counsel Guerrero refused to communicate in any way with Complainant and joined in moving for an excessively long extension of time (more than a year). In having counsel Guerrero ignore each of complainant's communications, in January of 2023, complainant moved to have counsel Guerrero dismissed, and to be placed into self representative status. Following, a hearing was established for June 2, 2023, purportedly for a status review. Counsel Guerrero then mailed complainant a "false" and "misleading" **[*53]** letter alleging that an appeal was being prepared to challenge a denial of one of complainant's issues to justify the excessive delays, in which nothing has been done in complainant's case relative to the serious violations; as, at no time did complainant ever qualify to be sentenced to a life term. (See misleading letter of counsel Guerrero, Exhibit A.)

On March 30, 2023, a second motion to dismiss counsel was filed by complainant. (See Exhibit B.) Complainant also filed a "Motion to Vacate Judgment Secured in Excess of the Court's Jurisdiction, with a Memorandum and Request for Judicial Notice in Support Thereof.

On June 2, 2023, Counsel Guerrero ignored each of complainant's motions to dismiss, Guerrero has not further communicated with complainant about his own case issues as was alleged within the bogus letter that was written on February 6, 2023, Counsel Guerrero has "FORCED" his representation on complainant, as he is still seizing each of complainant's documents while declining to address the merits contained within them, and then, moved for an additional excessively long extension to October 13, 2023. (See Exhibit C.)

Lucidly, this Counsel is not working for the benefit of this **[*54]** complainant, all while refusing to dismiss himself as requested.

By,

Lee Quillar/Complainant

June 28, 2023

Lee Virt Quillar D22639

480 Alta Rd

D18-202

San Diego CA 92179

RE: Case Number: 23-0-18671 Jose Luis Guerrero

Dear Lee Virt Quillar:

We have received your complaint against one or more California attorney(s). We have assigned the number shown above to this matter; please reference this number in your communications with us.

Your complaint will first be reviewed by an attorney in the Intake Unit. If we need further information, we will contact you. We will also advise you of any determination in this matter. If you want to know the status of your complaint, you may contact us by calling the State Bar's toll-free complaint line at 800-843-9053.

Thank you for your patience.

Sincerely,

OFFICE OF CHIEF TRIAL COUNSEL/INTAKE

THE SUPERIOR COURT OF THE STATE OF CALIFORNIA IN AND FOR THE COUNTY OF SAN DIEGO

IN THE MATTER OF THE APPLICATION OF: LEE QUILLAR, Petitioner.

SCE171374

ORDER DENYING APPLICATION FOR RELIEF

THIS COURT FINDS AS FOLLOWS:

In 1997, a jury convicted Petitioner of causing a fire in an inhabited structure (*Pen. Code*[1] *§ 452(b)*), arson of the property of another (*§ 451(d)*), assault with a deadly weapon or by force likely **[*55]** to produce great bodily injury (*§ 245(a)(1)*), and false imprisonment by violence involving the personal use of a deadly weapon (*§§ 236*, *237*). The jury found true an allegation that Petitioner committed the false imprisonment using a knife as a deadly weapon. (*§ 12022(b)*.) Subsequently, the trial court found true two prison priors (*§ 667.5(b)*), two serious felony prior convictions (*§§ 667(a)*, *1192.7(c)*), and two felony strike prior convictions (*§ 667(b)-(i)*). The trial court sentenced Petitioner to an aggregate term of 36 years to life in state prison. Currently, Petitioner's case is under consideration for possible relief under *sections 1172.75* and *1172.7*. Petitioner has appointed counsel and a status conference is set for October 13, 2023, at 9 a.m.

On or about June 29, 2023, the court received an ex parte motion from Petitioner in which he requests (i) to be immediately certified as a self-representative defendant; (ii) Counsel J.L. Guerrero be immediately dismissed as counsel of record; (iii) all motions, transcripts, and other filings be certified by the court clerk as an original and true copy, effective August 2022 to current date, and provided to the Applicant/Defendant." (Petitioner's Motion, pg. 2.)

First, Petitioner's request for immediate self-representation is denied. **[*56]** Under the *Sixth* and *Fourteenth Amendments*, a criminal defendant has the right to self-representation "at all critical stages of a criminal prosecution." *(People v. Fedalizo (2016) 246 Cal.App.4th 98, 103, 200 Cal. Rptr. 3d 653*.) Even assuming *arguendo* the existence of a right to self-representation at critical stages of post-conviction proceedings, Petitioner's *section 1172.75*/*1172.7* review has not yet reached a critical stage. A status conference does not qualify as a critical stage of the proceedings. Therefore, Petitioner's request for immediate self-representation and relief of appointed counsel is denied.

Second, Petitioner's request for all motions, transcripts, and other filings since August 2022 is denied. Because Petitioner does not offer to pay for these documents, the court construes his request as one for free copies. As Petitioner has not shown a particularized need for those documents, the court is under no obligation to provide records to Petitioner free of charge. (*Cf. People v. Bizieff (1991) 226 Cal.App.3d 1689, 1702, 277 Cal. Rptr. 678* [noting that under federal law, the trial court may deny a request for free transcripts where the defendant "fails to show a particularized need . ."].) Petitioner also expresses a desire for conformed copies of his filings. The court does provide conformed copies, but only if a requesting party provides an extra copy **[*57]** of the filing along with a self-addressed and stamped envelope. Petitioner has not satisfied any of these requirements with the instant filing, nor does as a review of the case tile show that the court has failed to abide by the foregoing procedure for providing conformed copies. If Petitioner fulfills the requirements for conformed copies in the future, the court will provide them.

In short, Petitioner has not shown any type of violation, let alone a due process or equal protection violation. The court has acknowledged and responded to Petitioner's prior filings through written orders. For the foregoing reasons, Petitioner's application is denied.

A copy of this Order shall be served on Petitioner, the San Diego Office of the Primary Public Defender (Attn: Luis Guerrero), and the San Diego County District Attorney's Office, Appellate Division (Attn: William Mitchell).

---

1 All further statutory references are to the Penal Code unless otherwise indicated.

IT IS SO ORDERED.

DATE: July 25, 2023

/s/ Lisa R. Rodriguez

HON. LISA R. RODRIGUEZ

JUDGE OF THE SUPERIOR COURT

E.R. 48

SUPERIOR COURT OF CALIFORNIA, COUNTY OF SAN DIEGO

- ☒ CENTRAL DIVISION, CENTRAL COURTHOUSE, 1100 UNION ST., SAN DIEGO, CA 92101
- ☐ CENTRAL DIVISION, COUNTY COURTHOUSE, 220 W. BROADWAY, SAN DIEGO, CA 92101
- ☐ CENTRAL DIVISION, HALL OF JUSTICE, 330 W. BROADWAY, SAN DIEGO, CA 92101
- ☐ CENTRAL DIVISION, FAMILY COURT, 1555 6TH AVE., SAN DIEGO, CA 92101
- ☐ CENTRAL DIVISION, MADGE BRADLEY, 1409 4TH AVE., SAN DIEGO, CA 92101
- ☐ CENTRAL DIVISION, KEARNY MESA, 8950 CLAIREMONT MESA BLVD., SAN DIEGO, CA 92123
- ☐ CENTRAL DIVISION, JUVENILE COURT, 2851 MEADOW LARK DR., SAN DIEGO, CA 92123
- ☐ EAST COUNTY DIVISION, 250 E. MAIN ST., EL CAJON, CA 92020
- ☐ NORTH COUNTY DIVISION, 325 S. MELROSE DR., VISTA, CA 92081
- ☐ NORTH COUNTY DIVISION, JUVENILE COURT, 325 S. MELROSE DR., VISTA, CA 92081
- ☐ SOUTH COUNTY DIVISION, 500 3RD AVE., CHULA VISTA, CA 91910

FOR COURT USE ONLY

FILED
Clerk of the Superior Court
JUL 25 2023
By: M. Jaimes de Quirk, Deputy

PLAINTIFF(S)/PETITIONER(S)
PEOPLE OF THE STATE OF CALIFORNIA

DEFENDANT(S)/RESPONDENT(S)
LEE QUILLAR

JUDGE: LISA R. RODRIGUEZ
DEPT: 1502

CASE NUMBER
SCE171374

CLERK'S CERTIFICATE OF SERVICE BY MAIL

I certify that I am not a party to the above-entitled cause, that I placed a copy of the following document(s): A COPY OF THE ORDER DENYING APPLICATION FOR RELIEF, AND A COPY OF THIS CLERK'S CERTIFICATE OF SERVICE BY MAIL (FORM CIV-286), BOTH FILED 7/25/2023

in a sealed envelope addressed to the parties shown with postage prepaid, and deposited it in the United States mail at ☐ Chula Vista ☐ El Cajon ☒ San Diego ☐ Vista, California.

NAME & ADDRESS

LEE QUILLAR
CDCR #D22639
D18-202
RICHARD J. DONOVAN CORRECTIONAL FACILITY
480 ALTA ROAD
SAN DIEGO, CA 92179

NAME & ADDRESS

Date: July 25, 2023

Clerk of the Superior Court
by M. JAIMES DE QUIRK, Deputy

14

SDSC CIV-286 (Rev. 12/14) CLERK'S CERTIFICATE OF SERVICE BY MAIL Code Civ. Proc. §§1013a(4) Page 1 of 1

SUPERIOR COURT OF CALIFORNIA COUNTY OF SAN DIEGO

CENTRAL COURTHOUSE

1100 UNION STREET

SAN DIEGO, CA 92101

Hon. Lisa R. Rodriguez, Judge

Department 1502

Ex Parte Order

Date: August 9, 2023

Re. People v. LEE QUILLAR

SCE171347

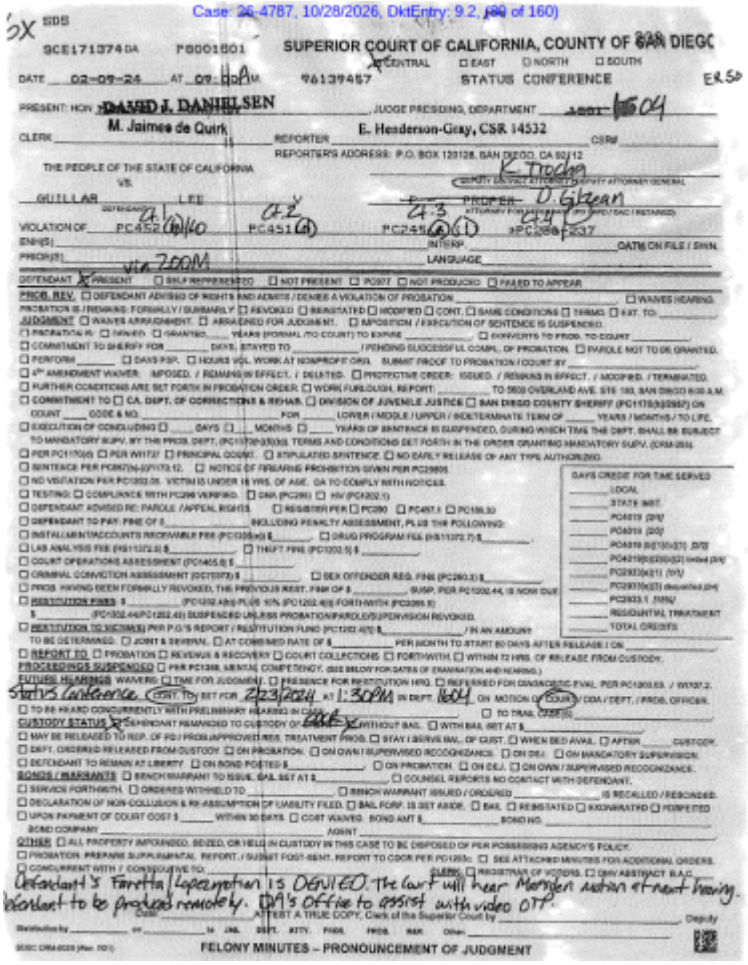
The Court received the attached correspondence from **[*58]** the above Defendant on August 7, 2023. This case is presently set for a status conference on October 13, 2023, at 9:00 am in this department pursuant to *Penal Code §§ 1172.7* and *1172.75*. The clerk is ordered to file the correspondence. The clerk is also ordered to send a copy to via county mail or electronic mail to both the District Attorney and Defense Counsel.

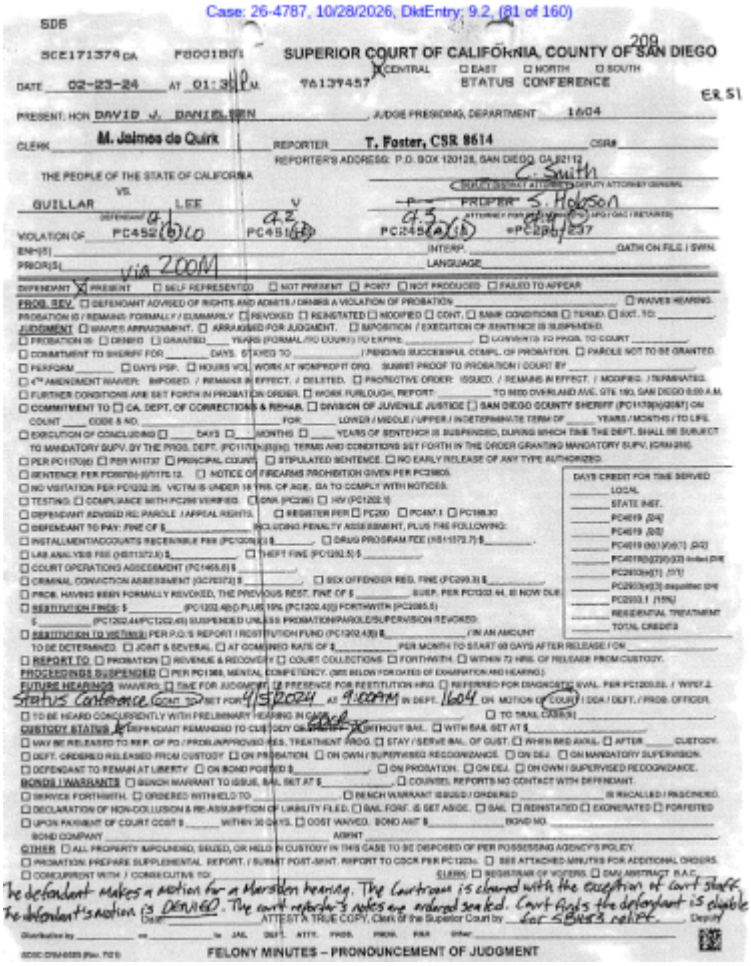
IT IS SO ORDERED.

/s/ Lisa R. Rodriguez

LISA R. RODRIGUEZ

JUDGE OF THE SUPERIOR COURT





SDS

SCE171379 DA F8001801 SUPERIOR COURT OF CALIFORNIA, COUNTY OF SAN DIEGO 208

DATE 02-23-24 AT 01:30 P.M. 76139457 ☒ CENTRAL ☐ EAST ☐ NORTH ☐ SOUTH STATUS CONFERENCE

ER 51

PRESENT: HON. DAVID J. DANIELSEN, JUDGE PRESIDING, DEPARTMENT 1604

CLERK M. Jaimes de Quirk REPORTER T. Foster, CSR 8614 CSR#

REPORTER'S ADDRESS: P.O. BOX 120128, SAN DIEGO, CA 92112

THE PEOPLE OF THE STATE OF CALIFORNIA VS. GUILLAR LEE V

DEPUTY DISTRICT ATTORNEY C. Smith DEPUTY ATTORNEY GENERAL

PROBATION S. Hobson

VIOLATION OF PC452(b)(c) PC451(b) PC245(a)(1) PC236/237

ENH(S) INTERP. OATH ON FILE / SWN.

PRIOR(S) via ZOOM LANGUAGE

DEFENDANT ☒ PRESENT ☐ SELF REPRESENTED ☐ NOT PRESENT ☐ PC977 ☐ NOT PRODUCED ☐ FAILED TO APPEAR

PROB. SEV. ☐ DEFENDANT ADVISED OF RIGHTS AND ADMITS / DENIES A VIOLATION OF PROBATION ☐ WAIVER HEARING

PROBATION IS / REMAINS: FORMALLY / SUMMARILY ☐ REVOKED ☐ REINSTATED ☐ MODIFIED ☐ CONT. ☐ MAIN. CONDITIONS ☐ TERMD. ☐ EXT. TO

JUDGMENT ☐ WAIVES ARRAIGNMENT. ☐ ARRAIGNED FOR JUDGMENT. ☐ IMPOSITION / EXECUTION OF SENTENCE IS SUSPENDED.

☐ PROBATION IS ☐ DENIED ☐ GRANTED ____ YEARS (FORMAL/NO COURT) TO EXPIRE ☐ CONVICTS TO PROB. TO COURT

☐ COMMITMENT TO SHERIFF FOR ____ DAYS. ☐ FINED TO ____ / PENDING SUCCESSFUL COMPL. OF PROBATION. ☐ PAROLE NOT TO BE GRANTED.

☐ PERFORM ____ ☐ DAYS PSP. ☐ HOURS VOL. WORK AT NONPROFIT ORG. SUBMIT PROOF TO PROBATION / COURT BY

☐ 4TH AMENDMENT WAIVER: IMPOSED / REMAINS IN EFFECT. / DELETED. ☐ PROTECTIVE ORDER: ISSUED. / REMAINS IN EFFECT. / MODIFIED. / TERMINATED.

☐ FURTHER CONDITIONS ARE SET FORTH IN PROBATION ORDER. ☐ WORK FURLOUGH, REPORT: ____ TO 9500 OVERLAND AVE. STE 150, SAN DIEGO 8:00 A.M.

☐ COMMITMENT TO ☐ CA. DEPT. OF CORRECTIONS & REHAB. ☐ DIVISION OF JUVENILE JUSTICE ☐ SAN DIEGO COUNTY SHERIFF (PC1170(h)/(5)(B)) ON COUNT ____ CODE & NO. ____ FOR ____ LOWER / MIDDLE / UPPER / INDETERMINATE TERM OF ____ YEARS / MONTHS / TO LIFE.

☐ EXECUTION OF CONCLUDING ☐ ____ DAYS ☐ ____ MONTHS ☐ ____ YEARS OF SENTENCE IS SUSPENDED, DURING WHICH TIME THE DEFT. SHALL BE SUBJECT TO MANDATORY SUPV. BY THE PROB. DEPT. (PC1170(h)(5)(B)). TERMS AND CONDITIONS SET FORTH IN THE ORDER GRANTING MANDATORY SUPV. (CRIM-2150).

☐ PER PC1170(d) ☐ PER WITT37 ☐ PRINCIPAL COUNT ☐ STIPULATED SENTENCE. ☐ NO EARLY RELEASE OF ANY TYPE AUTHORIZED.

☐ SENTENCE PER PC667(b)-(i)/1170.12. ☐ NOTICE OF FIREARMS PROHIBITION GIVEN PER PC29805.

☐ NO VISITATION PER PC1202.05. VICTIM IS UNDER 18 YRS. OF AGE. DA TO COMPLY WITH NOTICES.

☐ TESTING: ☐ COMPLIANCE WITH PC296 VERIFIED. ☐ DNA (PC296) ☐ HIV (PC1202.1)

☐ DEFENDANT ADVISED RE: PAROLE / APPEAL RIGHTS. ☐ REGISTER PER ☐ PC290 ☐ PC457.1 ☐ PC186.30

☐ DEFENDANT TO PAY: FINE OF $____ INCLUDING PENALTY ASSESSMENT, PLUS THE FOLLOWING:

☐ INSTALLMENTS/COUNTS RECEIVABLE PER (PC1205(b)) $____ ☐ DRUG PROGRAM FEE (H&S 11372.7) $____.

☐ LAB ANAL. VS/B FEE (VS/T 11372.5) $____ ☐ THEFT FINE (PC1202.5) $____.

☐ COURT OPERATIONS ASSESSMENT (PC1465.8) $____.

☐ CRIMINAL CONVICTION ASSESSMENT (GC70373) $____. ☐ SEX OFFENDER REG. FINE (PC290.3) $____.

☐ PROB. HAVING BEEN FORMALLY REVOKED, THE PREVIOUS REST. FINE OF $____ SUSP. PER PC1202.44, IS NOW DUE.

☐ RESTITUTION FINES: $____ (PC1202.4(b)) PLUS 10% (PC1202.4(f)) FORTHWITH (PC2085.5)

$____ (PC1202.44/PC1202.45) SUSPENDED UNLESS PROBATION/PAROLE/SUPERVISION REVOKED.

☐ RESTITUTION TO VICTIM(S) PER P.O.'S REPORT / RESTITUTION FUND (PC1202.4(f)) $____ / IN AN AMOUNT TO BE DETERMINED. ☐ JOINT & SEVERAL. ☐ AT COMBINED RATE OF $____ PER MONTH TO START 60 DAYS AFTER RELEASE / FOR ____

DAYS CREDIT FOR TIME SERVED
____ LOCAL
____ STATE INST.
____ PC4019 (2/4)
____ PC4019 (2/3)
____ PC4019 (6)(1)(3)(6)(7) (2/2)
____ PC4019(b)(2)(f)(3) limited (2/4)
____ PC2933(e)(1) (1/1)
____ PC2933(e)(3) disqualified (2/4)
____ PC2933.1 (15%)
____ RESIDENTIAL TREATMENT
____ TOTAL CREDITS

☐ REPORT TO ☐ PROBATION ☐ REVENUE & RECOVERY ☐ COURT COLLECTIONS ☐ FORTHWITH. ☐ WITHIN 72 HRS. OF RELEASE FROM CUSTODY.

PROCEEDINGS SUSPENDED ☐ PER PC1368, MENTAL COMPETENCY. (SEE BELOW FOR DATES OF EXAMINATION AND HEARING.)

FUTURE HEARINGS WAIVERS: ☐ TIME FOR JUDGMENT. ☐ PRESENCE FOR RESTITUTION HRG. ☐ REFERRED FOR DIAGNOSTIC EVAL. PER PC1203.03. / WVRT 2.

Status Conference (COURT TO) SET FOR 4/5/2024 AT 9:00AM IN DEPT. 1604 ON MOTION OF (COURT) / DDA / DEFT. / PROB. OFFICER.

☐ TO BE HEARD CONCURRENTLY WITH PRELIMINARY HEARING IN CASE# ☐ TO TRIAL CASE(S)

CUSTODY STATUS ☒ DEFENDANT REMANDED TO CUSTODY ☐ RELEASED FROM CUSTODY ☐ WITHOUT BAIL. ☐ WITH BAIL SET AT $____

☐ MAY BE RELEASED TO REP. OF PO / PROB./APPROVED RES. TREATMENT PROG. ☐ STAY / SERVE BAL. OF CUST. ☐ WHEN BRO AVAIL. ☐ AFTER ____ CUSTODY.

☐ DEFT. ORDERED RELEASED FROM CUSTODY ☐ ON PROBATION ☐ ON OWN / SUPERVISED RECOGNIZANCE ☐ ON DEJ. ☐ ON MANDATORY SUPERVISION.

☐ DEFENDANT TO REMAIN AT LIBERTY ☐ ON BOND POSTED $____ ☐ ON PROBATION. ☐ ON DEJ. ☐ ON OWN / SUPERVISED RECOGNIZANCE.

BONDS / WARRANTS ☐ BENCH WARRANT TO ISSUE, BAIL SET AT $____. ☐ COUNSEL REPORTS NO CONTACT WITH DEFENDANT.

☐ SERVICE FORTHWITH. ☐ ORDERED WITHHELD TO ____ ☐ BENCH WARRANT ISSUED / ORDERED ____ IS RECALLED / RESCINDED.

☐ DECLARATION OF NON-COLLUSION & RE-ASSUMPTION OF LIABILITY FILED. ☐ BAIL FORF. IS SET ASIDE. ☐ BAIL ☐ REINSTATED ☐ EXONERATED ☐ FORFEITED

☐ UPON PAYMENT OF COURT COST $____ WITHIN 30 DAYS. ☐ COST WAIVED. BOND AMT $____ BOND NO. ____

BOND COMPANY AGENT

OTHER ☐ ALL PROPERTY IMPOUNDED, SEIZED, OR HELD IN CUSTODY IN THIS CASE TO BE DISPOSED OF PER POSSESSING AGENCY'S POLICY.

☐ PROBATION: PREPARE SUPPLEMENTAL REPORT. / SUBMIT POST-SENT. REPORT TO CDCR PER PC1203. ☐ SEE ATTACHED MINUTES FOR ADDITIONAL ORDERS.

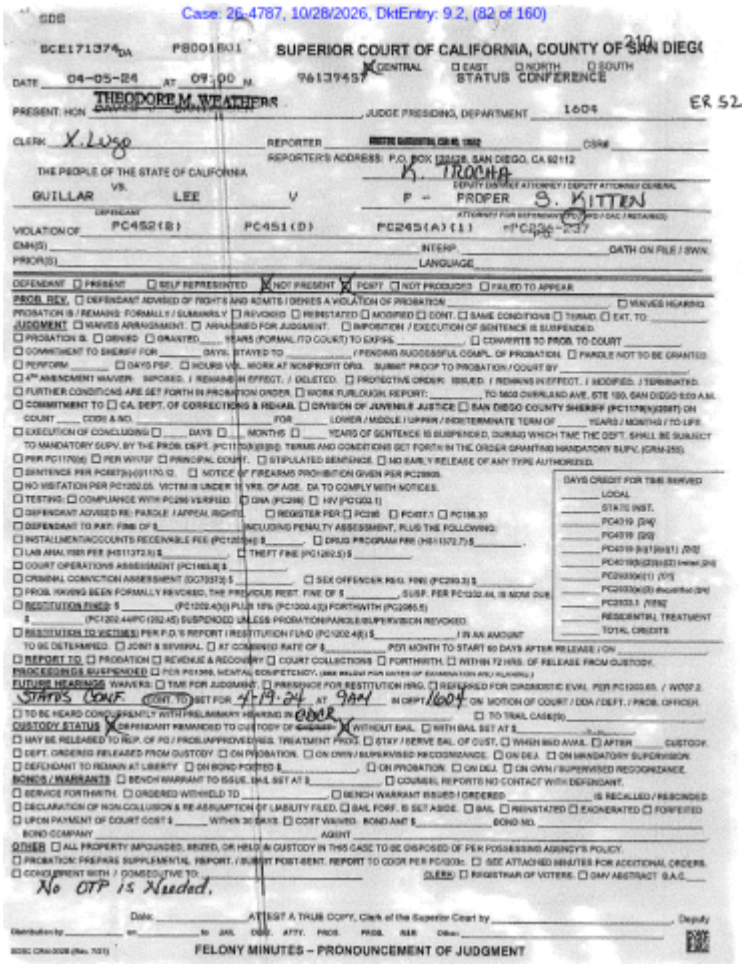
☐ CONCURRENT WITH / CONSECUTIVE TO: ____ CLERK: ☐ REGISTRAR OF VOTERS ☐ DMV ABSTRACT R.A.C.

The defendant makes a motion for a Marsden hearing. The Courtroom is cleared with the exception of court staff. The defendant's motion is DENIED. The court reporter's notes are ordered sealed. Court finds the defendant is eligible for SB483 relief.

Date ____ ATTEST A TRUE COPY, Clerk of the Superior Court by ____ Deputy

Distribution by ____ on ____ to JAIL DEFT. ATTY. PROB. PROB. DA Other ____

SDSC CRM-0025 (Rev. 7/21) FELONY MINUTES – PRONOUNCEMENT OF JUDGMENT


Case: 25-4787, 10/28/2026, DktEntry: 9.2, (82 of 160)

SCE171374 PS0018611 SUPERIOR COURT OF CALIFORNIA, COUNTY OF SAN DIEGO

DATE 04-05-24 AT 09:00 M. 96139457 CENTRAL EAST NORTH SOUTH STATUS CONFERENCE

PRESENT: HON. THEODORE M. WEATHERS JUDGE PRESIDING, DEPARTMENT 1604

CLERK X. Lugo REPORTER CSR#

REPORTER'S ADDRESS: P.O. BOX 120128, SAN DIEGO, CA 92112

THE PEOPLE OF THE STATE OF CALIFORNIA VS. DEFENDANT GUILLAR LEE V P - PROPER K. TROCHA S. KITTEN

VIOLATION OF PC452(B) PC451(D) PC245(A)(1) PC236-237

ENH(S) INTERP DATH ON FILE / SWN

PRIOR(S) LANGUAGE

DEFENDANT PRESENT SELF REPRESENTED NOT PRESENT PCRPT NOT PRODUCED FAILED TO APPEAR

PROB. REV. DEFENDANT ADVISED OF RIGHTS AND ADMITS / DENIES A VIOLATION OF PROBATION WAIVES HEARING

PROBATION IS / REMAINS: FORMAL / SUMMARY REVOKED REINSTATED MODIFIED CONT. SAME CONDITIONS TERMD EXT. TO

JUDGMENT WAIVES ARRAIGNMENT ARRAIGNED FOR JUDGMENT IMPOSITION / EXECUTION OF SENTENCE IS SUSPENDED

PROBATION IS DENIED GRANTED YEARS (FORMAL / TO COURT) TO EXPIRE CONVERTE TO PROB. TO COURT

COMMITMENT TO SHERIFF FOR DAYS, STAYED TO / PENDING SUCCESSFUL COMPL. OF PROBATION PAROLE NOT TO BE GRANTED

PERFORM DAYS PSP HOURS VOL. WORK AT NONPROFIT ORG. SUBMIT PROOF TO PROBATION / COURT BY

4TH AMENDMENT WAIVER IMPOSED. / REMAINS IN EFFECT. / DELETED. PROTECTIVE ORDER: ISSUED / REMAINS IN EFFECT. / MODIFIED. / TERMINATED.

FURTHER CONDITIONS ARE SET FORTH IN PROBATION ORDER WORK FURLOUGH REPORT: TO 1600 OVERLAND AVE, STE 100, SAN DIEGO 8:00 A.M.

COMMITMENT TO CA. DEPT. OF CORRECTIONS & REHAB. DIVISION OF JUVENILE JUSTICE SAN DIEGO COUNTY SHERIFF (PC1170(h)(3)(B)) ON

COUNT CODE & NO. FOR LOWER / MIDDLE / UPPER / INDETERMINATE TERM OF YEARS / MONTHS / TO LIFE

EXECUTION OF CONCURRING DAYS MONTHS YEARS OF SENTENCE IS SUSPENDED, DURING WHICH TIME THE DEFT. SHALL BE SUBJECT TO MANDATORY SUPV. BY THE PROB. DEPT. (PC1170(h)(5)(B)). TERMS AND CONDITIONS SET FORTH IN THE ORDER GRANTING MANDATORY SUPV. (CRM-255).

PER PC1170(d) PER WIT/OP PRINCIPAL COUNT STIPULATED SENTENCE NO BAIL / RELEASE OF ANY TYPE AUTHORIZED

SENTENCE PER PC667(b)-(i)/1170.12 NOTICE OF FIREARMS PROHIBITION GIVEN PER PC29805.

NO VISITATION PER PC1202.05. VICTIM IS UNDER 18 YRS. OF AGE. DA TO COMPLY WITH NOTICES.

TESTING: COMPLIANCE WITH PC296 VERIFIED DNA (PC296) HIV (PC1202.1)

DEFENDANT ADVISED RE: PAROLE / APPEAL RIGHTS REGISTER PER PC290 PC457.1 PC186.30

DEFENDANT TO PAY: FINE OF $ INCLUDING PENALTY ASSESSMENT, PLUS THE FOLLOWING:

INSTALLMENT/ACCOUNTS RECEIVABLE FEE (PC1203ab) $ DRUG PROGRAM FINE (HS11372.7) $

LAB ANALYSIS FEE (HS11372.5) $ THEFT FINE (PC1202.5) $

COURT OPERATIONS ASSESSMENT (PC1465.8) $

CRIMINAL CONVICTION ASSESSMENT (GC70373) $ SEX OFFENDER REG. FINE (PC290.3) $

PROB. HAVING BEEN FORMALLY REVOKED, THE PREVIOUS REST. FINE OF $ SUSP. PER PC1202.44, IS NOW DUE

RESTITUTION FINES: $ (PC1202.4(b)) PLUS 10% (PC1202.4(g)) FORTHWITH (PC2085.5)

$ (PC1202.44/PC1202.45) SUSPENDED UNLESS PROBATION/PAROLE/SUPERVISION REVOKED

RESTITUTION TO VICTIMS PER P.O.'S REPORT / RESTITUTION FUND (PC1202.4(f)) $ / IN AN AMOUNT TO BE DETERMINED JOINT & SEVERAL AT COMBINED RATE OF $ PER MONTH TO START 60 DAYS AFTER RELEASE / ON

REPORT TO PROBATION REVENUE & RECOVERY COURT COLLECTIONS FORTHWITH WITHIN 72 HRS. OF RELEASE FROM CUSTODY.

PROCEEDINGS SUSPENDED PER PC1368, MENTAL INCOMPETENCY, (SEE ORDER FOR DATES OF EXAMINATION AND HEARING)

FUTURE HEARINGS WAIVERS TIME FOR JUDGMENT PRESENCE FOR RESTITUTION HRG. REFERRED FOR DIAGNOSTIC EVAL. PER PC1203.03 / WIC707.2

STATUS CONF. CONT. TO SET FOR 4-19-24 AT 9AM IN DEPT. 1604 ON MOTION OF COURT / DDA / DEFT. / PROB. OFFICER

TO BE HEARD CONCURRENTLY WITH PRELIMINARY HEARING IN COURT TO TRIAL CAL(S)

CUSTODY STATUS DEFENDANT REMANDED TO CUSTODY OF SHERIFF WITHOUT BAIL WITH BAIL SET AT $

MAY BE RELEASED TO REP. OF PO / PROB.APPROVED RES. TREATMENT PROG. STAY / SERVE BAL. OF CUST. WHEN BED AVAIL. AFTER CUSTODY

DEPT. ORDERED RELEASED FROM CUSTODY ON PROBATION ON OWN / SUPERVISED RECOGNIZANCE ON DEJ. ON MANDATORY SUPERVISION

DEFENDANT TO REMAIN AT LIBERTY ON BOND POSTED $ ON PROBATION ON DEJ. ON OWN / SUPERVISED RECOGNIZANCE

BONDS / WARRANTS BENCH WARRANT TO ISSUE, BAIL SET AT $ COUNSEL REPORTS NO CONTACT WITH DEFENDANT

SERVICE FORTHWITH ORDERED WITHHELD TO BENCH WARRANT ISSUED / ORDERED IS RECALLED / RESCINDED

DECLARATION OF NON-COLLUSION & RE-ASSUMPTION OF LIABILITY FILED. BAIL FORF. IS SET ASIDE BAIL REINSTATED EXONERATED FORFEITED

UPON PAYMENT OF COURT COST $ WITHIN 30 DAYS COST WAIVED BOND AMT $ BOND NO.

BOND COMPANY AGENT

OTHER ALL PROPERTY IMPOUNDED, SEIZED, OR HELD IN CUSTODY IN THIS CASE TO BE DISPOSED OF PER POSSESSING AGENCY'S POLICY.

PROBATION: PREPARE SUPPLEMENTAL REPORT. / SUBMIT POST-SENT. REPORT TO CDCR PER PC1203c SEE ATTACHED MINUTES FOR ADDITIONAL ORDERS.

CONCURRENT WITH / CONSECUTIVE TO: CLERK: REGISTRAR OF VOTERS: DMV ABSTRACT SAC

No OTP is Needed.

Date: ATTEST A TRUE COPY, Clerk of the Superior Court by , Deputy

Distribution by on to JAIL DIST. ATTY. PROB. PROB. SUB Other

FELONY MINUTES – PRONOUNCEMENT OF JUDGMENT

ER 52

IN THE CALIFORNIA SUPERIOR COURT FOR THE COUNTY OF SAN DIEGO

NUMBER: SCE171374

EXHIBIT A IN SUPPORT OF:

PETITIONER'S THIRD REQUEST TO DISMISS COUNSEL AND REQUEST FOR SELF-REPRESENTATION

PAGES 1 thru 14

NOTICE:

PAGES 1 THROUGH 4 ARE OUT OF ORDER

IN THE CALIFORNIA SUPERIOR COURT FOR THE COUNTY OF SAN DIEGO

LEE QUILLAR, Petitioner, VS. PEOPLE OF THE STATE OF CALIFORNIA, Respondent.

Case No.: SCE171374

PETITIONER'S THIRD REQUEST TO DISMISS COUNSEL AND REQUEST FOR SELF-REPRESENTATION

Date: August 22, 2024

Time: 9:30 a.m.

Dept: TBA

Judge: Hon. David Danielsen

TO THE HONORABLE DAVID J. DANIELSEN:

Petitioner, Lee Quillar, move the court requesting in his "Third Attempt" to be afforded of the right to represent himself for the reasons as shown below.

In 1996, petitioner was sentenced in "excess of the court's jurisdiction, " in having the prosecution **[*59]** allege that he qualified to be sentenced pursuant to *California Penal Code section 667(b)-(i)*. (See case no. SCE171374, INFORMATION, filed July 2, 1996; amended August 12, 1997.)

Petitioner was charged, convicted, and sentenced under the false allegation of having violated *section 1192.7(c)(11)*, (battery on a peace officer).

In 1985, petitioner entered into an unconstitutional plea agreement at age seventeen (17), without having the prosecution or probation department file a petition to deem petitioner unfit for juvenile justice under. *Welfare & Institution Code §§ 603*, *650*, *653.5*, *681*, or *707(b)*. (See case no. CR75335.)

Petitioner has takened enormous steps to secure his rights to due process and equal protection in his attempt to have the Public Defender's Office assist him with various clear constitutional violations, and which centeres around his current sentence.

Petitioner has done all of the following, plus much more:

1. On October 19, 2022, petitioner contacted PD Matthew Wechter, explaining he never qualified for a "third strike sentence." (See EXHIBIT A, p. 1)

2. In January 2023, petitioner moved to have counsel dismissed after having been ignored and failing to file a brief as requested by the court as far back as August 3, 2022. (EXHIBIT A, pp. 2-4.)

3. On March 30, 2023, petitioner filed **[*60]** his "Second Request" to dismiss counsel and request to represent himself. (EXHIBIT A, p. 5-6.)

4. In June 2023, petitioner filed a complaint with the State Bar, to compel counsel Jose L. Guerrero to be relieved from this case due to the refusal and failure to aid petitioner with his clear claims demonstrating his sentence is unauthorized. (EXHIBIT A, p. 7-10.)

5. On November 21, 2023, petitioner served a letter on PD Katherine Brener, again, attempting to have the unauthorized sentence addressed at the Senate Bill 483 hearing. (EXHIBIT A p. 11.)

6. On November 29, 2023, petitioner sent a letter to Attorney Shonte Hobson, once more thoroughly explaining that he has been serving an unauthorized sentence. The November 29, 2023 letter followed a verbal conversation, in which petitioner explained that case no. CR75335, was secured by way of fraud. (I.e., the probation report falsely alleges that petitioner stabbed someone in the leg with a box cutter, when in fact, petitioner never even had possession of a box-cutter, not at any time-(Emphasis added).) (EXHIBIT A p. 12.)

7. On December 5, 2023, petitioner served another letter on Shonte Hobson, again informing her that petitioner never qualified **[*61]** to be sentenced under the three strikes law, and that (a) the elements in case no. CR75335, were never relied on by the court in sentencing petitioner to a FIRST SERIOUS FELONY PRIOR, (b) the false allegation that petitioner committed a battery on a peace officer was relied on for purpose of sentencing him to life, (c) *People v. King, 77 Cal. App. 5th 629, at 635, 292 Cal. Rptr. 3d 731*, make clear that a court must have jurisdiction (as the court does) to address an unauthorized sentence, and (d) *section*

1172.75(d)(2), requires the court to apply "...any other changes in the law that reduce sentence." (EXHIBIT A p. 13)

8. On December 12, 2023, petitioner sent his final request for assistance to address the unauthorized sentence to PD Matthew Wechter, Katherine Braner, and Shonte Hobson. To date, no one has so much as commented on petitioner's claims; and he is being completely deprived of having this legitimate unconstitutional violations briefed, after more than two years in having the Department of Corrections and the court put the public defender's office on notice. (EXHIBIT A, p. 14.)

9. Petitioner, who is actually innocent in the allegation that he qualified to be sentenced pursuant to 667(d)(3)(A)-(D), appears to now have dilatory tactics being forced upon him to further conceal **[*62]** facts showing that he has been serving a completely unauthorized life sentence.

CONCLUSION

As reflected by the record, petitioner is completely capable of maintaining his own claims, and after more than two years of being ignored by the public defenders office, this request should be granted.

Dtae: August 12, 2024

Respectfully,

/s/ Lee Quillar

Lee Quillar

PROOF OF SERVICE

I, Lee Quillar, Declare: I am over the age of 18 years and I am/am not a party to this action,

On August 13th, 2024, I served the following document(s):

PETITIONER'S THIRD REQUEST TO DISMISS COUNSEL AND AND REQUEST FOR SELF-REPRESENTATION

The following parties were served:

California Superior Court for the County of San Diego 1100 Union Avenue San Diego, CA 92101

I declare under the penalty of perjury that the foregoing is true and correct and that this declaration was executed on August 13th, 2024, at San Diego, California.

IN THE SUPERIOR COURT OF THE STATE OF CALIFORNIA IN AND FOR THE COUNTY OF SAN DIEGO

PEOPLE OF THE STATE OF CALIFORNIA vs. LEE VIRT QUILLAR, Defendant

SCE171374

TENTATIVE ORDER DENYING REQUEST FOR RESENTENCING PURSUANT TO PENAL CODE §§ 1172.7/1172.75 (SB 483); ORDER APPOINTING COUNSEL AND REQUESTING BRIEFING

THE COURT FINDS AS FOLLOWS:

Defendant is in the **[*63]** custody of the California Department of Corrections and Rehabilitation (CDCR). Piasuant to Penal Code §§ 11723 and 1172.75, CDCR identified Defendant as a person currently serving a prison term that includes an enhancement that had been imposed pursuant to Penal Code § 667.5(b) or Health and Safety Cede §

11370.2, which are enhancements that may be legally invalid. (See Pen. Code, §§ 1172.7(a) and 1172.75(a).) Defendant also filed a petition for a writ of habeas emus for resentencing. On May 31, 2022, the Court has determined that sine the defendant was not currently serving a sentence for a prison prior and denied the request. However, the court appointed the public defender and provided notice to the Petitioner, the Public Defender and the District Attorney.

While it was found true that Defendant suffered two prior prisons term pursuant to Penal Code § 667.5(b), the punishment for those enhancements was stayed on. October 9, 1997. Thus since there was no additional punishment imposed for either a Penal Code § 667.5(b) or Health and Safety Code § 11370.2 enhancement, it appears Defendant is not entitled to relief pursuant to Penal Code § 1172.7 or 1172.75.

Based on the above, relief pursuant to Penal Code § § 1172.7 and 1172.75 is tentatively denied, The Office of the Primacy Public Defender (PPD) is appointed to represent defendant and shall inform the court in writing within 10 calendar days of this order whether **[*64]** it accepts appointment. If PPD accepts appointment, then within 21 calendar days of this status conference the PPD shall file briefing on the issue of Defendant's eligibility for relief or whether it agrees with the tentative denial. It PPD does not agree with the tentative denial, the People shall have 7 court days from the filing of PPD's Points and Authorities to file a response. This matter is set for status conference on November 4, 2022, at 9:00 am in Department 1502,

A oopy of this Order together with the abstract of judgment shall be served on: (1) the Office of the Primary Public Defender (Attn: Matthew Wechter); and (2) the San Diego County District Attorney's Office (Attn: Mark Amador). The PPD is directed to provide a copy of this order to the defendant.

IT IS SO ORDERED.

DATED: Aug 3, 2022

/s/ Lisa R. Rodriguez

LISA R. RODRIGUEZ

JUDGE OF THE SUPERIOR COURT

SUPERIOR COURT OF THE STATE OF CALIFORNIA FOR THE COUNTY OF SAN DIEGO

THE PEOPLE OF THE STATE OF CALIFORNIA, Plaintiff, v. Lee Quillar, CDC#: D22639 Defendant.

Case No.: SCB171374

ACCEPTANCE OF APPOINTMENT OF COUNSEL FOR PC 1172.7/1172.15 RESENTENCING

Office of Primary Public Defender is in receipt of the Order Appointing Counsel for PC 1170/1170.1 **[*65]** resentencing, We accept the appointment and acknowledge the status date. The Office of Primary Public Defender will reach out to the client forthwith to provide assistance pursuant to PCI 170/1170.1 as cited in the Order, and will notify the court on or before the court status date of 11/4/22 with any additional information related to the case.

Dated: 8/5/22

Respectfully submitted,

By: /s/ Matthew Wechter

MATTHEW WECHTER

Attorney for

Lee Quillar

October 19, 2022

Re; Assembly Bill 518

Attorney Wechter;

I previously sent case to you which explained that a party who has been sentenced under *California Penal Code section 667.5(b)*, qualifies for resentencing even if there were no sentence imposed under the guilty finding.

At the time of my sentencing, *penal code section 654* provided that when an act or omission can be punished by different provisions of law, the trial court must impose sentence "under the provision that provides for the longest term of imprisonment."

Effective January 1, 2022, Assembly Bill 518 went into effect which now provides that; "an act or omission that is punishable in different ways by two different provisions of law can be punished under either provision"; the longest term of imprisonment is no longer mandated.

As you should already be fully aware, **[*66]** I never qualified (in anyway) to be sentenced to a life term under the Three Strikes law, whereby, I was sentenced for "battery on a peace officer under *section 1192.7(c)(11)*; as a FIRST SERIOUS FELONY PRIOR.

In having my case reviewed, I wanted to bring this new sentencing procedure to your attention perchance you were not privy to this information.

Respectfully submitted by,

/s/ Lee Quillar

Lee Quillar

IN THE CALIFORNIA SUPERIOR COURT FOR THE COUNTY OF SAN DIEGO

PEOPLE OF THE STATE OF CALIFORNIA, Plaintiff And Respondent, -VS- LEE QUILLAR, Petitioner And Defendant.

Case No.: SCE171374

SECOND MOTION TO DISMISS COUNSEL AND REQUEST FOR SELF-REPRESENTATION STATUS

Petitioner, Lee Quillar, moves the court on his "second Request," to dismiss counsel and to be placed into "self-representation status". Petitioner previously served the court requesting that counsel be dismissed and that he be permitted to represent himself.

LEGAL AUTHORITIES IN SUPPORT OF REQUEST

A Defendant has an absolute right to represent himself (or herself). *People v. Orosco, 82 Cal. App. 5th 348, 298 Cal. Rptr. 3d 329*; *Faretta v. California 422 U.S. 806, 95 S. Ct. 2525, 45 L. Ed. 2d 562*; *U.S. Constitution 6th Amendment*.

It hereby requested that counsel J. Luis Guerrero, and/or any other counsel be dismissed of the legal obligation of representing the Petitioner.

Dated: March 19, 2023

By, /s/ Lee Quillar

Lee Quillar/Petitioner **[*67]**

PROOF OF SERVICE

I, Lee Quillar, am a resident of Sierra Conservation Center, in the County of Tuolumne, State of California, I am over the age of 18 years and I am/am not a party to this action.

On March 20, 2023, I served a copy of the following document(s):

SECOND MOTION TO DISMISS COUNSEL AND REQUEST FOR, SELF-REPRESENTATION STATUS

The following parties were served:

California Superior Court

County of San Diego

220 West Broadway

San Diego, CA 92101

Matthew Wechter

Public Defender's Office

451 A Street, Suite 900

San Diego, CA 92101

I declare under the penalty of perjury that the foregoing is true and correct,

EXECUTED on: March 20, 2023, at Tuolumne, California.

BY, /s/ Lee Quillar

Lee Quillar/Declarant

STATE BAR COMPLAINT CONT'

Re: Attorney J.L. Guerrero

June, 2023

This State Bar Complaint is being filed in order to compel Attorney J.L. Guerrero, to: (a) immediately cease from representing complainant; (b) to formally file a request to be dismissed as counsel of record with the court; and (c) release all court orders, transcripts, and any other documentation related to complainant's case, to the complainant forthwith.

GROUNDS OF COMPLAINT

In having discovered and demonstrated to counsel J.L. Guerrero **[*68]** that original counsel Elizabeth Ann Barranco used complainant's case to embezzle funds from the People of the State of California; having deprived complainant of his complete "compulsory process" to have eight direct eye witnesses testify due to failing to investigate or interview witnesses; failing to prevent the prosecution from filing erroneous charges for purpose of enhancing complainant's sentence "illegally" pursuant to the Three Strikes law (*§667(b)-(i)*); and that, on June 3, 2007,

Attorney Elizabeth Ann Barranco was disbarred after actually admitting her wrongs; no action was taken by counsel Guerrero.

CURRENT CLAIMS

In having the California Legislature implement various changes in California sentencing laws, Complainant's case was forwarded to the court for review under *Penal Code §1172.75*. On November 4, 2022, a hearing was held in the San Diego Superior Court.

Prior to the hearing counsel Guerrero was provided with concrete evidence showing that complainant has been serving an "illegal life term sentence," in having been falsely charged for committing a "battery on a peace officer" for purposes of enhancing his sentence under the California Three Stikes law, pursuant to *§1192.7(0.)(11)*.

Counsel Guerrero refused to communicate **[*69]** in any way with Complainant and joined in moving for an excessively long extension of time (more than a year). In having counsel Guerrero ignore each of complainant's communications, in January of 2023, complainant moved to have counsel Guerrero dismissed, and to be placed into self representative status. Following, a hearing was established for June 2, 2023, purportedly for a status review. Counsel Guerrero then mailed complainant a "false" and "misleading" letter alleging that an appeal was being prepared to challenge a denial of one of complainant's issues to justify the excessive delays, in which nothing has been done in complainant's case relative to the serious violations; as; at no time did complainant ever qualify to be sentenced to a life term. (See misleading letter of counsel Guerrero, Exhibit A.)

On March 30, 2023, a second motion to dismiss counsel was filed by complainant. (See Exhibit B.) Complainant also filed a "Motion to Vacate Judgment Secured in Excess of the Court's Jurisdiction, with a Memorandum and Request for judicial Notice in Support Thereof.

On June 2, 2023, Counsel Guerrero ignored each of complainant's motions to dismiss, Guerrero has not further communicated **[*70]** with complainant about his own case issues as was alleged within the bogus letter that was written on February 6, 2023, Counsel Guerrero has "FORCED" his representation on complainant, as he is still seizing each of complainant's documents while declining to address the merits contained within them, and then, moved for an additional excessively long extension to October 13, 2023. (See Exhibit C.)

Lucidly, this Counsel is not working for the benefit of this complainant, all while refusing to dismiss himself as requested.

By,

/s/ Lee Quillar

Lee Quillar/Complainant

August 17, 2023

PERSONAL AND CONFIDENTIAL

Lee Virt Quiliar

480 Alta Road

D22639 D18-202

San Diego, CA 92179

Re: Respondent: Jose Guerrero

Case Number: 23-0-18671

Dear Lee Virt Quillar:

Your complaint against attorney Jose Guerrero has been reviewed and forwarded to the Enforcement Unit for further investigation and prosecution, if warranted.

I have assigned Investigator Laurie Collier and Trial Counsel Timothy Byer to investigate your complaint. We are in the process of evaluating your complaint and may request your assistance in providing additional information and documentation after we obtain a response from the Respondent. It is important that you **[*71]** provide the State Bar with your current email address and telephone number so that we can reach you if we do require additional information.

For your information, all documents that you send to the State Bar, whether copies or originals, become State Bar property and are subject to destruction, **If you have any questions regarding this request, or if you have a change of address or telephone number, please call Investigator Laurie Collier directly at 213-765-1631**.

Thank you for bringing this matter to our attention. We look forward to your continued assistance.

Sincerely,

OFFICE OF CHIEF TRIAL COUNSEL

Re: Assisting with unauthorized sentence

Case No. SCE171374

To: Katherine Braner:

In having CDCR identify me as an inmate potentially eligible for relief under SB 483, the court was informed. I previously explained to (then) unknown counsel that my sentence is currently unauthorized, as I never qualified for sentencing under the three strikes law.

I also explained that case no. CR75335, was reduced to a misdemeanor back in 2018. Since the court now has proper jurisdiction, I am wondering why no one is assisting me with these clear claims?

I was charged, convicted, and sentence for committing a battery **[*72]** on a peace officer or purpose of alleging a FIRST SERIOUS PRISON PRIOR, which does not exist. (See bifurcated hearing and PB report.)

If case CR75335 was reduced to a misdemeanor in 2018, and the court has full jurisdiction over my claims, why have no one addressed this issue? Since 2022 (August), my case has been open, however, no pleadings have been filed in my behalf. Why?

If you could answer these questions it would be greatly appreciated.

Sincerely,

/s/ Lee Quillar

Lee Quillar

Lee Quillar D22639

480 Alta Road, D18-202

San Diego, CA 92179

Shonte Hobson

Attorney At Law

451 A. Street, Ste. 900

San Diego, CA 92101

Re: Unauthorized sentence

November 29, 2023

Dear Ms. Hobson:

This letter is to provide you with the information that I previously shared with you regarding my unauthorized sentence.

Enclosed, please find my plea-bargain from case no. CR75335, showing that I pled to: violating PC *§§ 487.2*, *245(a)(1)*.

I pled to "assault likely to produce gbi," without a deadly weapon. On July 2, 1997, I was erroneously charged for violating *§ 1192.7(c)(11)* (assault w/great bodily injury on a peace officer) for purposes of charging me under the three strikes law.

On August 22, 1997, the court in case no. SCE171374, "erroneously found me guilty for violating *1192.7(c)(11)*," and the probation **[*73]** department falsely accused me of the same. (See Exhibit B & C.)

It was alleged that such violating occured in case no. CR75335.

On January 2, 2018, case no. CR75335 was reduced to a misdemeanor under proposition 47. (Ex D.) I wish to inform you in advance that you will most likely never see a case like mine again, as two of my cases have more false information than the truth which is being currently verified.

I will update you as the information comes in.

Thank you for any and all assistance that you provide me!

Respectfully,

/s/ Lee Quillar

Lee Quillar

Lee Quillar D22639

480 Alta Road, D18-202

San Diego, CA 92179

Public Defender's Office

451 A Street, Ste. 900

San Diego, CA 92101

Attn: Shonte Hobson

I am hereby respectfully requesting that these procedures be addressed within any motion filed!

Re: Addressing unauthorized sentence and reduction to misdemeanor in case no. CR75335

December 5, 2023

MS. Hobson:

On December 4, 2023, I received your notice in the GTL App regarding my § 1172.75 resentencing hearing. As I have previously mentioned, legally, I am not a three striker and I never qualified to be sentenced to a life term. Section 1192.7(c)(11) was erroneously used to sentence me to an indeterminate term.

As for resentencing, firstly, People v. King, 77 Cal.App. 5th 629, at p. 635, 292 Cal. Rptr. 3d 731, make clear that the court **[*74]** must have jurisdiction to address an unauthorized sentence. When the California Department of Corrections and Rehabilitation initiated resentencing pursuant to § 1172.75, the court is now obligated to correct the long-standing error. (See People v. Cota, 97 Cal. App. 5th 318, 315 Cal. Rptr. 3d 412, 2023 Cal.App. LEXIS 890)("the trial court had jurisdiction to resentence defendant because CDCR identified defendant as eligible for resentencing, which authorized the trial court to act, and the trial court had inherent authority to adopt a suitable procedure for the exercise of its jurisdiction.")

Secondly, I mailed you documents on November 29, 2023, concretely showing: a) I never qualified to be sentenced under § 667(b)-(i); and b) the elements in case no. CR75335 were never used to sentence me, as they did not qualify, and said case has since been reduced to a misdemeanor. Section 1172.75(d)(2), requires the court to apply "...any other changes in the law that reduce sentence."

The alleged FIRST SERIOUS FELONY PRIOR was reduced to a misdemeanor under § 1170.18. Under § 1170.18(j), (formerly 1170.18(k)) "A felony conviction that is recalled and resentenced under subd. (b) or designated as a misdemeanor under subd. (g) shall be considered a misdemeanor for all purposes..." (See § 1170.18(j).) In support, People v. Coddington, 96 Cal.App 5th 562, 314 Cal. Rptr. 3d 610 (2023), states: "when a sentence is subject to recall, the resentencing **[*75]** court has jurisdiction to modify every aspect of the sentence, and not just the portion subject to recall." (Coddington @ p. 568.)(Citing People v. Buycks, (2018) 5 Cal. 5th 857, 893, 236 Cal. Rptr. 3d 84, 422 P.3d 531.

Finally, the Supreme Court has ruled that § 1172.75 defendants are eligible for resentencing under enhancements imposed as "PRIOR SERIOUS FELONY ENHANCEMENTS," under § 667(a)(1), because § 1172.75 requires courts to apply changes in law reducing sentences. (See People v. Monroe, 85 Cal.App. 5th 393, @ 399, 301 Cal. Rptr. 3d 345.)

Sincerely,

/s/ L. Quillar

L. Quillar

Lee Quillar D22639

480 Alta Road, D18-202

San Diego, CA 92179

To: Public Defender's Office

451 A Street, Ste. 900

San Diego, CA 92101

Re: Final Request for Assistance Addressing Unauthorized Sentence

Case No. SCE171374

December 12, 2023

In July of 2022, the California Department of Corrections and Rehabilitation put the court on notice that the above-named party qualify to be resentenced under Assembly Bill 483.

On August 3, 2022, the court issued a tentative decision erroneously stating that the herein defendant do not qualify under AB 483, and directed the public defender's office within 10 days to inform the court whether or not the PD accepts appointment. (See Attachment A.) On August 5, 2022, the PD accepted appointment (Attch-B.)

In not having heard from anyone with the PD office after more than five months of corresponding, I moved to have **[*76]** counsel dismissed and requested to represent myself. (See 2nd request, Attch-C.)

In still having been ignored, I filed a complaint with the State Bar. Since that time, I have written several more letters to various attorneys representing the public defender's office. In each letter, it was thoroughly explained that I was CHARGED, CONVICTED, and SENTENCED under the three strikes law ILLEGALLY, in having been charged for committing a battery on a peace officer under *§ 1192.7(c) (11)*, for purpose of alleging a FIRST SERIOUS FELONY PRIOR in case no. CR75335. (See Information dated July 2, 1996; Minute Order dated August 22, 1997; and pp. 12 ~~& 13~~; Attachment D, E & F.)

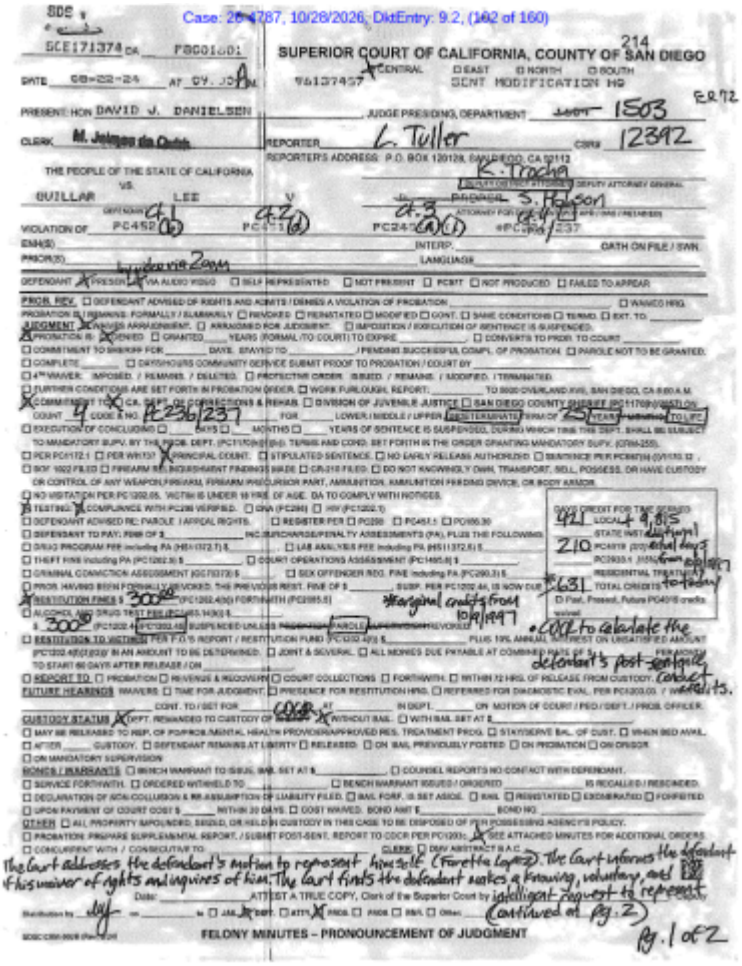
At no time did I qualify to be sentenced to a life term under *§ 667(b)-(i)*, as alleged. I am now asking: (1) why has no one at the PD's office responded to the serious and clearly defined Constitutional violations? (2) Why has no one filed a brief as request by the court on August 3, 2022, (Attch A) that addresses facts showing case no. CR75335, was reduced to a misdemeanor on January 2, 2018? (3) Why has no one filed a brief as requested by the court showing that I have been charged, convicted, and sentenced erroneously for committing a battery on a **[*77]** peace officer as a FIRST SERIOUS FELONY PRIOR? (4) Why have no one filed a brief as requested by the court that will show that I was never charged for the elements in case no. CR75335, which does not qualify as a strike prior? (5) Why has no one explained to the court that it has jurisdiction as my entire sentence in in excess of the court's original jurisdiction? (6) After more than SIXTEEN MONTHS, why has no briefing been done? Due to having asked these questions for well over a year without a single reply, effective 10 days after mailing this letter, I will move forward on my own in addressing these issues. In having no one file "ANY" action in my behalf after more than 16 months that would provide me adequate review, I am clearly without effective assistance.

CC: Matthew Wechter, Katherine Braner,

Shonte Hobson

Respectfully, /s/ Lee Quillar

Lee Quillar



SDS

Case: 25-4787, 10/28/2026, DktEntry: 9.2, (162 of 160)

SCE171374 DA FSC01601

214

SUPERIOR COURT OF CALIFORNIA, COUNTY OF SAN DIEGO

DATE 08-22-24 AT 09:30 AM

CENTRAL EAST NORTH SOUTH

SENT MODIFICATION HO

ER72

PRESENT: HON DAVID J. DANIELSEN JUDGE PRESIDING, DEPARTMENT 1503

CLERK M. Jaimes de Ortiz REPORTER L. Tuller CSR# 12392

REPORTER'S ADDRESS: P.O. BOX 120128, SAN DIEGO, CA 92112

THE PEOPLE OF THE STATE OF CALIFORNIA K. Trocha DEPUTY ATTORNEY GENERAL

VS. GUILLAR LEE V PROBATION S. Hobson

DEFT NAME ATTORNEY FOR

VIOLATION OF PC452(b) PC243(d) PC243(a)(1) PC236/237

ENH(S) INTERP: OATH ON FILE / SWN

PRIOR(S) LANGUAGE

DEFENDANT PRESENT VIA AUDIO VIDEO SELF REPRESENTED NOT PRESENT PCRT NOT PRODUCED FAILED TO APPEAR

PROB. REV. DEFENDANT ADVISED OF RIGHTS AND ADMITS / DENIES A VIOLATION OF PROBATION WAIVED HRG.

PROBATION IS REINSTATED FORMALLY / SUMMARILY REVOKED REINSTATED MODIFIED CONT. SAME CONDITIONS TERMD. EXT. TO

JUDGMENT WAIVES ARRAIGNMENT. ARRAIGNED FOR JUDGMENT. IMPOSITION / EXECUTION OF SENTENCE IS SUSPENDED.

PROBATION IS DENIED GRANTED YEARS (FORMAL/TO COURT) TO EXPIRE. CONVERTS TO PROB. TO COURT

COMMITMENT TO SHERIFF FOR DAYS. STAYED TO / PENDING SUCCESSFUL COMPL. OF PROBATION PAROLE NOT TO BE GRANTED.

COMPLETE DAYS/HOURS COMMUNITY SERVICE SUBMIT PROOF TO PROBATION / COURT BY

4TH WAIVER IMPOSED. / REMAINS. / DELETED. PROTECTIVE ORDER ISSUED / REMAINS. / MODIFIED. / TERMINATED.

FURTHER CONDITIONS ARE SET FORTH IN PROBATION ORDER. WORK FURLOUGH; REPORT TO 9500 OVERLAND AVE, SAN DIEGO, CA 8:00 A.M.

COMMITTED TO CA. DEPT. OF CORRECTIONS & REHAB. DIVISION OF JUVENILE JUSTICE SAN DIEGO COUNTY SHERIFF (PC1170(h) JURISDICTION

COUNT 4 CODE & NO. PC236/237 FOR LOWER / MIDDLE / UPPER (DETERMINATE) TERM OF 25 YEARS TOLLED

EXECUTION OF CONCURRENT DAYS MONTHS YEARS OF SENTENCE IS SUSPENDED, DURING WHICH TIME THE DEPT. SHALL BE SUBJECT TO MANDATORY SUPV. BY THE PROB. DEPT. (PC1170(h)(5)(b)). TERMS AND COND. SET FORTH IN THE ORDER GRANTING MANDATORY SUPV. (CRM-255).

PER PC1172.1 PER WIT37 PRINCIPAL COUNT: STIPULATED SENTENCE NO EARLY RELEASE AUTHORIZED SENTENCE PER PC667(b)-(i)/1170.12

BOY 1022 FILED FIREARM RESTRAINT FINDINGS MADE GRJ210 FILED DO NOT KNOWINGLY OWN, TRANSPORT, SELL, POSSESS, OR HAVE CUSTODY OR CONTROL OF ANY WEAPON, FIREARM, FIREARM PRECURSOR PART, AMMUNITION, AMMUNITION FEEDING DEVICE, OR BODY ARMOR.

NO VISITATION PER PC1202.05. VICTIM IS UNDER 18 YRS. OF AGE. DA TO COMPLY WITH NOTICES.

HIV TESTING COMPLIANCE WITH PC296 VERIFIED. DNA (PC296) HIV (PC1202.1)

DEFENDANT ADVISED RE: PAROLE / APPEAL RIGHTS. REGISTER PER PC290 PC457.1 PC186.30

DEFENDANT TO PAY, FINE OF $ INC. SURCHARGE/PENALTY ASSESSMENTS (PA), PLUS THE FOLLOWING:

DRUG PROGRAM FEE including PA (HS 11372.7) $ LAB ANALYSIS FEE including PA (HS 11372.5) $

THEFT FINE including PA (PC1202.5) $ COURT OPERATIONS ASSESSMENT (PC1465.8) $

CRIMINAL CONVICTION ASSESSMENT (GC 70373) $ SEX OFFENDER REG. FINE including PA (PC290.3) $

PRIOR HAVING BEEN FORMALLY REVOKED, THE PREVIOUS REST. FINE OF $ SUSP. PER PC1202.44, IS NOW DUE

RESTITUTION FINES $ 300 (PC1202.4(b)) FORTHWITH (PC1015.5) *marginal credits from 10/8/1997

ALCOHOL / DRUG TEST FEE (PC1463.14(b)) $

$ 300 (PC1202.44) (PC1202.45) SUSPENDED UNLESS PAROLE REVOKED

RESTITUTION TO VICTIM(S) PER P.O.'S REPORT / RESTITUTION FUND (PC1202.4(f)) $ PLUS 10% ANNUAL INTEREST ON UNSATISFIED AMOUNT (PC1202.45)(f)(g)(i) IN AN AMOUNT TO BE DETERMINED. JOINT & SEVERAL ALL MONIES DUE PAYABLE AT COMMENCEMENT RATE OF $ PER MONTH TO START 60 DAYS AFTER RELEASE / ON

REPORT TO PROBATION REVENUE & RECOVERY COURT COLLECTIONS FORTHWITH. WITHIN 72 HRS. OF RELEASE FROM CUSTODY.

FUTURE HEARINGS WAIVERS. TIME FOR JUDGMENT. PRESENCE FOR RESTITUTION HRG. REFERRED FOR DIAGNOSTIC EVAL. PER PC1203.03. / WAIVED.

CUSTODY STATUS DEFT. REMANDED TO CUSTODY OF SHERIFF WITHOUT BAIL. WITH BAIL SET AT $

MAY BE RELEASED TO REP. OF PO/PROB./MENTAL HEALTH PROVIDER/APPROVED RES. TREATMENT PROG. STAY/SERVE BAL. OF CUST. WHEN BED AVAIL.

AFTER CUSTODY. DEFENDANT REMAINS AT LIBERTY RELEASED. ON BAIL PREVIOUSLY POSTED ON PROBATION ON OR/SOR

ON MANDATORY SUPERVISION

BONDS / WARRANTS BENCH WARRANT TO ISSUE, BAIL SET AT $ COUNSEL REPORTS NO CONTACT WITH DEFENDANT.

SERVICE FORTHWITH. ORDERED WITHHELD TO BENCH WARRANT ISSUED / ORDERED IS RECALLED / RESCINDED.

DECLARATION OF NON-COLLUSION & RE ASSUMPTION OF LIABILITY FILED. BAIL FORF. IS SET ASIDE. BAIL REINSTATED EXONERATED FORFEITED

UPON PAYMENT OF COURT COST $ WITHIN 30 DAYS. COST WAIVED. BOND AMT $ BOND NO.

OTHER ALL PROPERTY IMPOUNDED, SEIZED, OR HELD IN CUSTODY IN THIS CASE TO BE DISPOSED OF PER POSSESSING AGENCY'S POLICY.

PROBATION: PREPARE SUPPLEMENTAL REPORT. / SUBMIT POST-SENT. REPORT TO COCR PER PC1203. SEE ATTACHED MINUTES FOR ADDITIONAL ORDERS

CONCURRENT WITH / CONSECUTIVE TO: CLERK: DMV ABSTRACT M.A.C.

The Court addresses the defendant's motion to represent himself (Faretta Lopez). The Court informs the defendant of his waiver of rights and inquires of him. The Court finds the defendant makes a knowing, voluntary, and intelligent request to represent himself. On

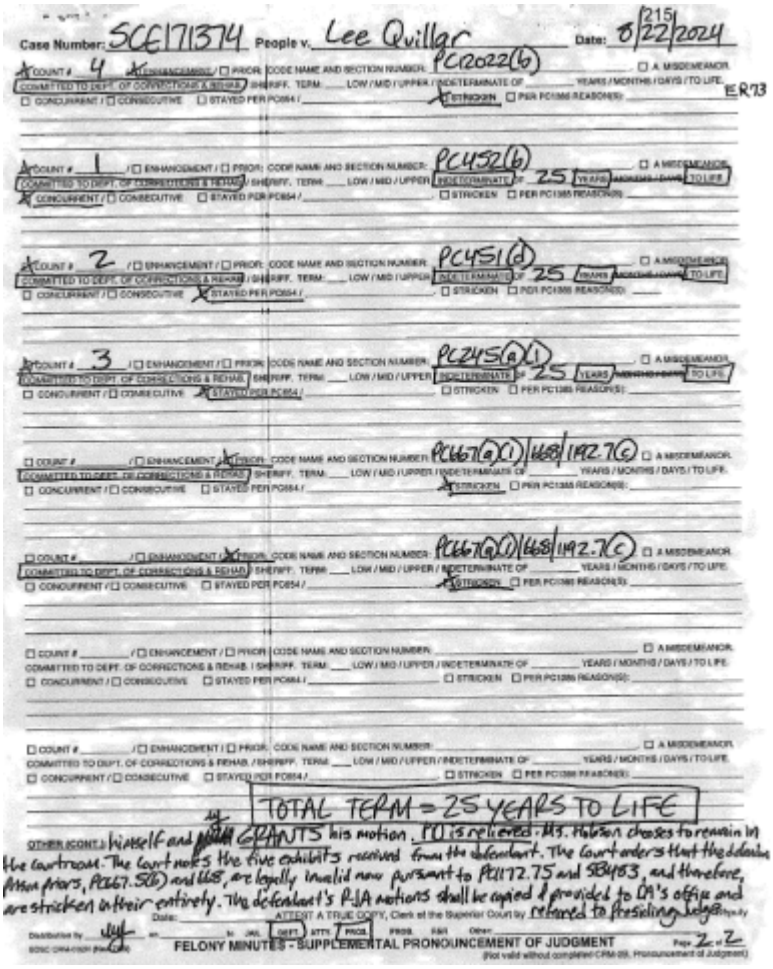
Date: ATTEST A TRUE COPY, Clerk of the Superior Court by

Distribution by dlf on to JAIL DEPT. ATTY PROB. PROB. DA's Other

(continued at pg. 2)

FELONY MINUTES – PRONOUNCEMENT OF JUDGMENT

pg. 1 of 2



Case Number: SCE171374 People v. Lee Quillar Date: 8/22/2024 215

COUNT # 4 / ENHANCEMENT / PRIOR: CODE NAME AND SECTION NUMBER: PC12022(b) A MISDEMEANOR
COMMITTED TO DEPT. OF CORRECTIONS & REHAB. / SHERIFF. TERM: LOW / MID / UPPER / INDETERMINATE OF YEARS / MONTHS / DAYS / TO LIFE
CONCURRENT / CONSECUTIVE STAYED PER PC654 / STRICKEN PER PC1385 REASON(S)

ER73

COUNT # 1 / ENHANCEMENT / PRIOR: CODE NAME AND SECTION NUMBER: PC452(b) A MISDEMEANOR
COMMITTED TO DEPT. OF CORRECTIONS & REHAB. / SHERIFF. TERM: LOW / MID / UPPER / INDETERMINATE OF 25 YEARS / MONTHS / DAYS / TO LIFE
CONCURRENT / CONSECUTIVE STAYED PER PC654 / STRICKEN PER PC1385 REASON(S)

COUNT # 2 / ENHANCEMENT / PRIOR: CODE NAME AND SECTION NUMBER: PC451(d) A MISDEMEANOR
COMMITTED TO DEPT. OF CORRECTIONS & REHAB. / SHERIFF. TERM: LOW / MID / UPPER / INDETERMINATE OF 25 YEARS / MONTHS / DAYS / TO LIFE
CONCURRENT / CONSECUTIVE STAYED PER PC654 / STRICKEN PER PC1385 REASON(S)

COUNT # 3 / ENHANCEMENT / PRIOR: CODE NAME AND SECTION NUMBER: PC245(a)(1) A MISDEMEANOR
COMMITTED TO DEPT. OF CORRECTIONS & REHAB. / SHERIFF. TERM: LOW / MID / UPPER / INDETERMINATE OF 25 YEARS / MONTHS / DAYS / TO LIFE
CONCURRENT / CONSECUTIVE STAYED PER PC654 / STRICKEN PER PC1385 REASON(S)

COUNT # / ENHANCEMENT / PRIOR: CODE NAME AND SECTION NUMBER: PC667(a)(1)/668/1192.7(c) A MISDEMEANOR
COMMITTED TO DEPT. OF CORRECTIONS & REHAB. / SHERIFF. TERM: LOW / MID / UPPER / INDETERMINATE OF YEARS / MONTHS / DAYS / TO LIFE
CONCURRENT / CONSECUTIVE STAYED PER PC654 / STRICKEN PER PC1385 REASON(S)

COUNT # / ENHANCEMENT / PRIOR: CODE NAME AND SECTION NUMBER: PC667(a)(1)/668/1192.7(c) A MISDEMEANOR
COMMITTED TO DEPT. OF CORRECTIONS & REHAB. / SHERIFF. TERM: LOW / MID / UPPER / INDETERMINATE OF YEARS / MONTHS / DAYS / TO LIFE
CONCURRENT / CONSECUTIVE STAYED PER PC654 / STRICKEN PER PC1385 REASON(S)

COUNT # / ENHANCEMENT / PRIOR: CODE NAME AND SECTION NUMBER: A MISDEMEANOR
COMMITTED TO DEPT. OF CORRECTIONS & REHAB. / SHERIFF. TERM: LOW / MID / UPPER / INDETERMINATE OF YEARS / MONTHS / DAYS / TO LIFE
CONCURRENT / CONSECUTIVE STAYED PER PC654 / STRICKEN PER PC1385 REASON(S)

COUNT # / ENHANCEMENT / PRIOR: CODE NAME AND SECTION NUMBER: A MISDEMEANOR
COMMITTED TO DEPT. OF CORRECTIONS & REHAB. / SHERIFF. TERM: LOW / MID / UPPER / INDETERMINATE OF YEARS / MONTHS / DAYS / TO LIFE
CONCURRENT / CONSECUTIVE STAYED PER PC654 / STRICKEN PER PC1385 REASON(S)

TOTAL TERM = 25 YEARS TO LIFE

OTHER (CONT.): himself and GRANTS his motion. PD is relieved. Ms. Hobson chooses to remain in the courtroom. The Court notes the five exhibits received from the defendant. The Court orders that the defendant prior priors, PC667.5(b) and 668, are legally invalid now pursuant to PC1172.75 and SB483, and therefore, are stricken in their entirety. The defendant's PJA motions shall be copied & provided to DA's office and referred to Presiding Judge.

Date: ATTEST A TRUE COPY, Clerk of the Superior Court by

Distribution by: JAIL DEPT. ATTY. PROB. PROB. FAR Other:

FELONY MINUTES - SUPPLEMENTAL PRONOUNCEMENT OF JUDGMENT Page 2 of 2

(Not valid without completed CPM-09, Pronouncement of Judgment)

SUPERIOR COURT OF CALIFORNIA COUNTY OF SAN DIEGO

CENTRAL COURTHOUSE

1100 UNION STREET

SAN DIEGO, CA 92101

Criminal Minute Order

Date: September 12, 2024

Hon. David J. Danielsen, Judge

Department 1503

Not Reported

Case: SCE 171374

<u>People v. Lee Quillar</u>

The Court has read and considered pro per documents filed 8/31/24 and entitled as follows:

1. Motion for Reconsideration of Order **[*78]** Causing an Unauthorized Sentence,

2. Memorandum of Points in Support of Motion for Reconsideration of Order Causing an Unauthorized Sentence,

3. Declaration of Lee Quillar in Support of Motion for Reconsideration of Order Causing an Unauthorized Sentence,

4. Request for Judicial Notice in Support of Motion for Reconsideration of Order Causing an Unauthorized Sentence (including Exhibits A, B and C),

5. Appendix I in Support of Motion for Reconsideration of Order Causing an Unauthorized Sentence (Motion to Dismiss Counsel filed 8/15/24 including Exhibit A which attaches Exhibits 1-14 to the Motion).

The Motion for Reconsideration is denied.

IT IS SO ORDERED.

/s/ David J. Danielsen

JUDGE OF THE SUPERIOR COURT

E275

SUPERIOR COURT OF CALIFORNIA, COUNTY OF SAN DIEGO

☒ CENTRAL DIVISION, CENTRAL COURTHOUSE, 1100 UNION ST., SAN DIEGO, CA 92101
☐ CENTRAL DIVISION, COUNTY COURTHOUSE, 220 W. BROADWAY, SAN DIEGO, CA 92101
☐ CENTRAL DIVISION, HALL OF JUSTICE, 330 W. BROADWAY, SAN DIEGO, CA 92101
☐ CENTRAL DIVISION, FAMILY COURT, 1555 6TH AVE., SAN DIEGO, CA 92101
☐ CENTRAL DIVISION, MADGE BRADLEY, 1409 4TH AVE., SAN DIEGO, CA 92101
☐ CENTRAL DIVISION, KEARNY MESA, 8950 CLAIREMONT MESA BLVD., SAN DIEGO, CA 92123
☐ CENTRAL DIVISION, JUVENILE COURT, 2901 MEADOW LARK DR., SAN DIEGO, CA 92123
☐ EAST COUNTY DIVISION, 250 E. MAIN ST., EL CAJON, CA 92020
☐ NORTH COUNTY DIVISION, 325 S. MELROSE DR., VISTA, CA 92081
☐ NORTH COUNTY DIVISION, JUVENILE COURT, 325 S. MELROSE DR., VISTA, CA 92081
☐ SOUTH COUNTY DIVISION, 500 3RD AVE., CHULA VISTA, CA 91910

FILED
SEP 13 2024
By: M. James de Quirk, Deputy

PLAINTIFF(S)/PETITIONER(S)
PEOPLE OF THE STATE OF CALIFORNIA

DEFENDANT(S)/RESPONDENT(S)
LEE QUILLAR

JUDGE: DAVID J. DANIELSEN
DEPT: 1503

CASE NUMBER
SCE171374

CLERK'S CERTIFICATE OF SERVICE BY MAIL

I certify that I am not a party to the above-entitled cause, that I placed a copy of the following document(s): A COPY OF THE CRIMINAL MINUTE ORDER FILED 9/12/2024, AND A COPY OF THIS CLERK'S CERTIFICATE OF SERVICE BY MAIL (FORM CIV-286), FILED 9/13/2024

in a sealed envelope addressed to the parties shown with postage prepaid, and deposited it in the United States mail at ☐ Chula Vista ☐ El Cajon ☒ San Diego ☐ Vista, California.

NAME & ADDRESS

LEE QUILLAR
CDCR #D22639
RICHARD J. DONOVAN CORRECTIONAL FACILITY
D18-212
480 ALTA ROAD
SAN DIEGO, CA 92179

NAME & ADDRESS

SAN DIEGO COUNTY DISTRICT ATTORNEY'S OFFICE
ATTN: MARK AMADOR, DDA
330 WEST BROADWAY
SAN DIEGO, CA 92101

Date: September 13, 2024

Clerk of the Superior Court
by M. JAMES DE QUIRK, Deputy

CLERK'S CERTIFICATE OF SERVICE BY MAIL

UNITED STATES COURT OF APPEALS FOR THE NINTH CIRCUIT

LEE QUILLAR,

Applicant,

v.

JAMES HILL, Warden,

Respondent.

No. 24-497

ORDER

Before: WARDLAW, BADE, and H.A. THOMAS, Circuit Judges.

The application for authorization to file a second or successive *28 U.S.C. § 2254* habeas corpus petition in the district court raises issues that warrant a response. *See 9th Cir. R. 22-3(d)*. Specifically, the record indicates that, following the denial of his first *§ 2254* petition, the applicant pursued sentencing relief in state court and may have been successful. Respondent **[*79]** is therefore directed to address whether authorization is necessary. *See Brown v. Atchley, 76 F 4th 862, 872-73 (9th Cir. 2023)*; *Morales v. Sherman, 949 F.3d 474, 475-76 (9th Cir. 2020)*.

Within 35 days after the date of this order, respondent must file a response addressing the status of the state court proceedings. The applicant may file a reply within 14 days after service of the response.

The Clerk will add to the docket and serve an electronic copy of this order, the application filed at Docket Entry No. 1, and the supplement filed at Docket Entry No. 4 on Charles Ragland, Senior Assistant Attorney General, Office of the Attorney General, State of California, 600 W. Broadway, Suite 1800, San Diego, CA 92101.

Lee Quillar D22639

480 Alta Road, D18-212

San Diego, CA 92179

In Pro Per.

UNITED STATES COURT OF APPEALS FOR THE NINTH CIRCUIT

No.: 24-497

LEE QUILLAR,

Petitioner,

vs.

JAMES HILL, Warden,

Respondent.

DECLARATION OF LEE QUILLAR IN SUPPORT OF ONGOING DEPRIVATION OF STATE COURT REVIEW

I, Lee Quillar, declare:

1. On February 13, 2024, I filed a declaration expressing my being obstructed from receiving adequate review after having this case reopened.

2. On August 22, 2024, I served the court with my third request to dismiss counsel "thoroughly" demonstrating that I was being completely ignored in having **[*80]** purely false charges used to sentence me to a life term in which I never qualified to be sentenced to. (See enclosed excerpts of records.)

3. On the same day, I was purportedly resentenced, without my being present in court, without a waiver to appear, and without having a court reporter present.

4. As of September 24, 2024, there is no record whatsoever to show the results of having my case reopened since July 2022; and none of the claims raised by petitioner have been addressed, now, "twenty-six months" (26) after this case was reopened.

5. Under *section 1172.75*, all ameliorated changes are suppose to apply to this petitioner, however, because petitioner absolutely never qualified to be sentenced to a life term as a three striker, none of the Constitutional, statutory, or legislative rules are being applied to this declarant/petitioner.

6. Currently, there is no appellate record available that would permit this declarant to appeal, "if, an actual resentencing has occured." Due to the egregious abuses leading to this conviction no safeguards are being provided currently.

I declare under the penalty of perjury that the foregoing is true and correct, except for matters stated on information and belief, **[*81]** and as to those matters I believe them to be true.

Executed on September 25, 2024, at San Diego, California.

By,

/s/ Lee Quillar

Lee Quillar/Declarant

THE SUPERIOR COURT OF THE STATE OF CALIFORNIA IN AND FOR THE COUNTY OF SAN DIEGO

IN THE MATTER OF THE APPLICATION OF:

LEE QUILLAR,

Petitioner.

EHC 1513

SCE 171374

ORDER TREATING MOTION FILING AS PETITION FOR WRIT OF HABEAS CORPUS; ORDER DENYING PETITION FOR WRIT OF HABEAS CORPUS

THIS COURT, HAVING READ THE MOTION AND THE FILE IN THE ABOVE-CAPTIONED MATTER, FINDS AS FOLLOWS:

I.

CASE HISTORY

On August 20, 1997, after a jury trial, Petitioner was convicted of unlawfully causing a fire of an inhabited structure in violation of *Penal Code section 452, subdivision (b)*, arson of property of another in violation of *Penal Code*

section 451, subdivision (d), assault with a deadly weapon and by means or force likely to produce great bodily injury in violation of Penal Code section 245, subdivision (a)(1), and false imprisonment in violation of Penal Code sections 236/237. The jury also found true that Petitioner personally used a deadly or dangerous weapon in the commission of the false imprisonment offense within the meaning of Penal Code section 12022, subdivision (b).

On August 22, 1997, the trial court found that the Petitioner had suffered two prison priors, two prior serious felony convictions, and two prior felony strike convictions. On October 9, 1997, **[*82]** Petitioner was sentenced to a total term 36 years to life in state prison.

On October 29, 1997, Petitioner filed a notice of appeal. On February 29, 2000, the remittitur issued. The court of appeal ordered a technical error in the abstract of judgment to be corrected and affirmed the judgment in all other respects.

On December 11, 2000, Petitioner filed a petition for a writ of habeas corpus, case number EHC 284. Petitioner contended the court improperly instructed the jury and failed to hold an Evidence Code section 402 hearing on the priors, and he was provided ineffective assistance of counsel. On January 8, 2001, the petition was denied.

On January 3, 2005, Petitioner filed a second petition for a writ of habeas corpus, case number EHC 467. Petitioner claimed his prior writ was wrongly decided and raised a number of other issues. On February 28, 2005, the petition was denied.

On February 8, 2005, Petitioner filed a third petition in the Superior Court for the County of Solano. On March 10, 2005, the petition was transferred to the Superior Court for the County of San Diego, as the petition raised various claims that collaterally attacked his conviction and sentence. On March 25, 2005, this court received the **[*83]** petition, case number EHC 478. The petition was the same petition filed in case number EHC 467 and was denied.

Petitioner filed a fourth petition for a writ of habeas corpus in the Central Division of the San Diego Superior Court, case number HC 23205. Petitioner contended the California Department of Corrections and Rehabilitation (CDCR) was unlawfully denying him the right for parole consideration pursuant to Proposition 57. On December 4, 2018, the petition was granted. The CDCR was directed to evaluate Petitioner for parole consideration within 90 days.

On April 26, 2021, Petitioner filed a fifth petition for a writ of habeas corpus, case number EHC 1327. Petitioner contended his due process rights were violated at his parole hearing, as he was under a "brain fog" brought on by an adverse reaction to the coronavirus and could not effectively communicate, the Board allowed factual errors to stand without correction, and mitigating factors were not placed on the record. On July 1, 2021, the petition was denied.

On September 1, 2021, Petitioner filed his sixth petition for a writ of habeas corpus, case number EHC 1352. Petitioner contended his prior juvenile conviction in 1986 was not lawfully obtained **[*84]** and he did not plead guilty to a Penal Code section 1192.7, subdivision (c)(11) allegation. After the jury trial had concluded, the allegation was amended to Penal Code section 1192.7, subdivision (c)(23). Petitioner argued that the court did not have jurisdiction to sentence Petitioner pursuant to the Three Strikes law or to amend the Information after the jury was discharged, and he received ineffective assistance of counsel, as this issue was never addressed. On October 25, 2021, the petition was denied.

On May 12, 2022, Petitioner filed his seventh petition for writ of habeas corpus, case number EHC 1395. Petitioner contended he was eligible for resentencing pursuant to Senate Bill (S.B.) 483 and his entire sentence is illegal, as the court relied on false evidence to impose a sentence under the Three Strikes law. The court denied the petition without prejudice and notified Petitioner that the process of determining eligibility for resentencing under Penal code section 1172.75 had already begun and Petitioner would be granted a hearing if he otherwise qualified for relief.

On August 27, 2024, Petitioner was resentenced pursuant to Penal Code section 1172.75. In resentencing Petitioner, the trial court took into consideration the law at the time of resentencing. Petitioner's new sentence is 25

years to life calculated as follows: Indeterminate **[*85]** sentence of 25 to life on Count 4, 25 years to life on Count 1 to run concurrent to Count 4, and 25 years to life on Counts 2 and 3 that is stayed pursuant to *Penal Code section 654*. The trial court struck Petitioner's two prison priors and dismissed two serious felony priors (*Pen. Code, § 667.5, subd. (a)*).

Petitioner did not appeal the new sentence. Instead, Petitioner filed a motion for reconsideration of the new sentence. On September 12, 2024, the trial court denied the request to reconsider. The sentence imposed remains 25 years to life.

On October 1, 2024, Petitioner filed a petition for writ of mandate in the Fourth District Court of Appeal, Division One. (Quillar v. Superior Court, D084918.) While this court cannot discern what the issues presented were, it presumes that Petitioner sought review of the trial court's denial of the motion to reconsider. On October 18, 2024, the Court of Appeal denied the writ of mandate.

On October 10, 2024, the Honorable Judge Roderick W. Shelton issued an ex parte minute order deeming Petitioner's previously filed "Motion to Vacate Judgment Secured in Violation of the *California Racial Justice Act of 2020*" a petition for writ of habeas corpus. Judge Shelton transferred the matter to this court to address the merits of the petition. **[*86]** As such, this court treats the filing as Petitioner's eighth Petition for Writ of Habeas Corpus ("Petition"). The Petition is denied.

II.

LEGAL PRINCIPLES

A. Racial Justice Act — Statutory Overview

The Racial Justice Act states that "[t]he state shall not seek or obtain a criminal conviction or seek, obtain, or impose a sentence on the basis of race, ethnicity, or national origin." (*Pen. Code, § 745, subd. (a)*. " 'State' includes the Attorney General, a district attorney, or a city prosecutor." (*Pen. Code, § 745, subd. (h)(5)*.) "The [Racial Justice] Act sets forth four categories of conduct, any of which, if proved, is enough to 'establish' a violation of *section 745, subdivision (a)*." (*Young v. Superior Court (2022) 79 Cal.App.5th 138, 147, 294 Cal. Rptr. 3d 513 (Young)*.) Only two of those categories are at issue in this case:

> "(3) The defendant was charged or convicted of a more serious offense than defendants of other races, ethnicities, or national origins who have engaged in similar conduct and are similarly situated, and the evidence establishes that the prosecution more frequently sought or obtained convictions for more serious offenses against people who share the defendant's race, ethnicity, or national origin in the county where the convictions were sought or obtained.
>
> (4)(A) A longer or more severe sentence was imposed on the defendant than was **[*87]** imposed on other similarly situated individuals convicted of the same offense, and longer or more severe sentences were more frequently imposed for that offense on people that share the defendant's race, ethnicity, or national origin than on defendants of other races, ethnicities, or national origins in the county where the sentence was imposed.
>
> (B) A longer or more severe sentence was imposed on the defendant than was imposed on other similarly situated individuals convicted of the same offense, and longer or more severe sentences were more frequently imposed for the same offense on defendants in cases with victims of one race, ethnicity, or national origin than in cases with victims of other races, ethnicities, or national origins, in the county where the sentence was imposed."

(*Pen. Code, § 745, subds. (a)(3), (4)(A) & (B)*.)[1]

Section 745 defines, terms related to these subdivisions:

> "More frequently sought or obtained" or "more frequently imposed" means that the totality of the evidence demonstrates a significant difference in seeking or obtaining convictions or in imposing sentences comparing individuals who have engaged in similar conduct and are similarly situated, and the prosecution cannot establish race-neutral reasons for the disparity. The evidence may include statistical evidence, aggregate data, or nonstatistical evidence. Statistical significance is a factor the court may consider, but is not necessary to establish a significant difference. In evaluating the totality of the evidence, the court shall consider whether systemic and institutional racial bias, **[*88]** racial profiling, and historical patterns of racially biased policing and prosecution may have contributed to, or caused differences observed in, the data or impacted the availability of data overall. Race-neutral reasons shall be relevant factors to charges, convictions, and sentences that are not influenced by implicit, systemic, or institutional bias based on race, ethnicity, or national origin."

(*Pen. Code, § 745, subd. (h)(1)*.)

> "Similarly situated" means that factors that are relevant in charging and sentencing are similar and do not require that all individuals in the comparison group are identical. A defendant's conviction history may be a relevant factor to the severity of the charges, convictions, or sentences. If it is a relevant factor and the defense produces evidence that the conviction history may have been impacted by racial profiling or historical patterns of racially biased policing, the court shall consider the evidence."

(*Pen. Code, § 745, subd. (h)(6)*.)

The moving party is not required to prove "intentional discrimination" but still must prove a violation of the CRJA by a preponderance of the evidence. (*Pen. Code, § 745, subd. (c)(2)*.)

B. Racial Justice Act Hearing Requirements

In *Young, supra*, the Court of Appeal explained how the Racial Justice Act operates: **[*89]**

"Procedurally, the Act authorizes defendants to seek relief for a violation of *section 745, subdivision (a)*, prior to imposition of judgment, by 'motion ... in the trial court.' (*§ 745, subd. (c)*.) If such a motion is brought, the court shall, upon a showing of a prima facie violation of *section 745, subdivision (a)*, hold a hearing at which 'evidence may be presented by either party, including, but not limited to, statistical evidence, aggregate data, expert testimony, and the sworn testimony of witnesses'; the court may appoint an independent expert; and the defendant shall bear the burden of proof of a violation of *section 745, subdivision (a)* by a preponderance of the evidence. (*§ 745, subd. (c)*.) At the conclusion of the hearing, 'the court shall make findings on the record.' (*§ 745, subd. (c)(3)*.) And if a violation of *section 745, subdivision (a)* is proved, 'the court shall impose a remedy specific to the violation found from the following list' (*§ 745, subd. (e)*): declaration of a mistrial, discharge of the jury and empanelment of a new jury; or dismissal of enhancements, special circumstance allegations, or other special allegations; or reduction of one or more charges. (*§ 745, subd. (e)(1)(A)-(C)*.) Claimed violations of *section 745, subdivision (a)* may also be raised postjudgment, by petition for habeas corpus under *section 1473, subdivision (f)* or by motion to vacate an allegedly invalid conviction or sentence under *section 1473.7*. The Act authorizes **[*90]** a set of remedies specific to postjudgment requests for relief. (*§ 745, subd. (e)(2)(A)-(B)*.)" (*Young, supra, 79 Cal.App.5th at p. 148*.)

As relevant here, the Racial Justice Act states that the trial court "shall hold a hearing" if "the defendant makes a prima facie showing of a violation," (*§ 745, subd. (c)*), and specifically defines the term "prima facie showing": " 'Prima facie showing' means that the defendant produces facts that, if true, establish that there is a substantial

1 The other two categories concern alleged bias or animus during trial of the judge, attorneys, law enforcement officers involved in the case, expert witnesses, and jurors (§ 745, subd. (a)(1)) and whether during trial the judge, attorneys, law enforcement officers, expert witnesses, or jurors used racially discriminatory language, whether or not purposeful (§ 745, subd. (a)(2)).

likelihood that a violation of [the Racial Justice Act] occurred." (*§ 745, subd. (h)(2)*.) Under the Racial Justice Act, "a 'substantial likelihood' requires more than a mere possibility, but less than a standard of more likely than not." (*Ibid.*)

To date, there are only two published cases discussing and applying the "prima facie standard" outlined in the CRJA. In *Finley v. Superior Court (2023) 95 Cal.App.5th 12, 312 Cal. Rptr. 3d 907 (Finley)*, the defendant was charged with several firearm possession crimes after police discovered a handgun during a search of his car. The defendant filed a motion under the CRJA claiming that police stopped and searched his car because he was Black. The trial court denied the defendant's motion for failure to state a prima facie violation of the CRJA. The Court of Appeal held that the trial court's review of the defendant's motion went beyond the confines **[*91]** of determining whether it stated a prima facie case. The Court of Appeal granted the defendant's petition for writ of mandate and directed the trial court to rehear the motion. In so doing, the Court of Appeal further defined the "prima facie standard."

Specifically, the *Finley* court held, "a defendant seeking relief under the Racial Justice Act must state fully and with particularity the facts on which relief is sought, and include copies of reasonably available documentary evidence supporting the claim. The court should accept the truth of the defendant's allegations, including expert evidence and statistics, unless the allegations are conclusory, unsupported by the evidence presented in support of the claim, or demonstrably contradicted by the court's own records. (See *People v. Harden (2022) 81 Cal.App.5th 45, 56, 296 Cal.Rptr.3d 634* [defendant did not make prima facie showing for resentencing under new felony murder rule when "record of conviction irrefutably establishes as a matter of law that the jury determined [the defendant] was the actual killer"].) And again, the court should not make credibility determinations at the prima facie stage." (*Finley, supra, 95 Cal.App.5th at p. 23*, fn. omitted.)

In *Mosby v. Superior Court of Riverside County (2023) 99 Cal.App.5th 106, 317 Cal. Rptr. 3d 658*, as modified February 9, 2024, rehearing denied February 15, 2024 (*Mosby*), the Fourth **[*92]** District Court of Appeal, Division Two, discussed the prima facie showing required for petitioners seeking relief pursuant to *section 745, subdivisions (a)(3)* and *(a)(4)*. The *Mosby* court acknowledged that the Legislature had failed to give guidance or instruction on what level of proof, documentation, or statistics were needed to make a prima facie showing. However, in *Mosby*, the Black defendant who was charged with murder with special circumstances, and for whom the prosecutor sought the death penalty, filed a motion for relief under *subdivisions (a)(3)* and *(a)(4)*. In support of the motion, the defendant submitted extensive statistical evidence showing a racial disparity in the charging of nonminority defendants and minority defendants. The statistical evidence was supported by professionally prepared evaluations and reports identifying and correlating the disparate treatment of minority defendants that were similarly situated to the defendant. The trial court denied the motion for failure to make a prima facie showing.

The Court of Appeal reversed finding that the evidence presented was sufficient to show more than a mere possibility of a violation of the CRJA related to racial discrimination in charging. The *Mosby* court held that, where a defendant has provided **[*93]** not only statistical evidence of past discrimination by the prosecutor in seeking the death penalty, but also the facts of several cases that shared many characteristics with the defendant's case, the prima facie standard was met, and a hearing was required. While declining to establish a bright-line rule of what constitutes evidence of similar conduct, the ***Mosby*** court held:

> "Based on the foregoing, if a defendant provides statistical evidence showing a racial disparity in the charging of nonminority defendants and African-American defendants, and provides evidence of nonminority defendants who engage in similar conduct and are similarly situated but were charged with lesser crimes than the charged African-American defendant, this is sufficient to show there was more than a mere possibility that a violation of *section 745, subdivision (a)*, has occurred. As such, a defendant has met his burden of establishing a prima facie case. An evidentiary hearing should be ordered at that point to consider all of the relevant factors in charging and allow the District Attorney to present race-neutral reasons for the disparity in seeking the death penalty.

> While we cannot establish a bright-line rule of what constitutes sufficient **[*94]** evidence of "similar conduct" in all cases, here, Petitioner in the Second Motion provided the facts of several cases that shared many of the same characteristics as this case, including other drive-by shootings and multiple murders committed by nonminority defendants who were not charged with the death penalty. In addition, Petitioner presented ample evidence that the District Attorney's capital system more frequently sought convictions for more serious offenses against African-American defendants. This was enough to provide more than a "mere possibility" that a violation of *section 745, subdivision (a)(3)*, had occurred. The trial court erred by finding Petitioner did not establish a prima facie showing of a violation. Once Petitioner presented this evidence, the trial court should have ordered an evidentiary hearing at which the burden shifted to the District Attorney to show the race-neutral reasons for the disparity in seeking the death penalty against Petitioner, which include the relevant factors to charges that were not influenced by implicit or systemic racial bias. The trial court, after receiving such evidence, could then make a decision based on the totality of the evidence."

(*Id. at pp. 677-678*.)

III.

ANALYSIS

A. Petitioner [*95] Waived His Claim

Petitioner was resentenced on August 22, 2024. At the resentencing hearing, he did not make any claims associated with the CRJA. He made no objections based on the CRJA. He provided no supporting documents or arguments based on a CRJA violation. Additionally, Petitioner did not appeal the new sentence.

A CRJA claim may be raised on direct appeal from conviction or sentence if the claim is based on the trial record. (*Pen. Code, § 745, subd. (b)*.) However, such claims are still subject to appellate rules of forfeiture. (*People v. Lashon (2024) 98 Cal.App.5th 804, 810-811, 317 Cal. Rptr. 3d 92 (Lashon)*.) In *Lashon*, the court observed the Legislature "did not include any language indicating a *section 745* claim could be presented on direct appeal *for the first time*." (*Lashon, supra, 98 Cal.App.5th at p. 812*.) *Lashon* also noted the Legislature included a waiver provision, providing that a CRJA motion may be deemed waived if not "made as soon as practicable upon the defendant learning of the alleged violation." (*Pen. Code, § 745, subd. (c)*; *Lashon, supra, 98 Cal.App.5th at p. 813*.) Based on this statutory language, and its examination of *section 745*'s legislative history, *Lashon* concluded that a CRJA claim on direct appeal "is subject to the general appellate rules of preservation and forfeiture of claims that could have been but were not made in the trial court." (*Lashon, supra, 98 Cal.App.5th at pp. 812-815*.) "It makes little sense for the Legislature to prescribe **[*96]** a comprehensive procedure for making and adjudicating a *section 745* motion at the trial level (including a specific waiver provision for untimely motions), only to allow defendants who could have but did not use that procedure (thereby preserving their claim for review) to bypass that procedure and pursue a *section 745* claim for the first time on direct appeal." (*Lashon, supra, 98 Cal.App.5th at p. 813*.)

In this case, Petitioner did not preserve the issue at the August 22, 2024, resentencing hearing. Additionally, he did not appeal the new sentence. As such, he may not now collaterally attack his final judgment by a habeas writ. His claim was forfeited when he failed to raise it at the resentencing and is now barred.

B. Petitioner Has Not Made a Prima Facie Showing

Even if Petitioner had not forfeited his CRJA claim, it would fail on the merits. The CRJA requires that a court appoint counsel and hold a hearing only if a petitioner has made a prima facie showing of a violation. (*Pen. Code, §*

1473, subd. (e).) As addressed in *Finely* and *Mosby*, this is a relatively low standard. Petitioner has not met his burden in this case.

Petitioner cites to no same or similarly charged cases in support of his theory that the sentence imposed was based on his race. Petitioner has also not provided **[*97]** any statistics that would support his argument. Instead, Petitioner cites to statistics that were used by the Legislature when crafting the CRJA. These statistics are unavailing. They have no direct correlation to Petitioner's case.

Additionally, Petitioner's arguments seem to center around his allegations that his prior offenses were inaccurate or the product of fraud. Those issues have already been addressed by this court and the Court of Appeal. He loosely connects these allegations to a claim of racial bias. Again, Petitioner's claims are not supported by direct evidence of a violation of the CRJA. Petitioner is not entitled to bootstrap successive collateral attacks to a CRJA violation in order to avoid procedural bars.

Based on the facts alleged in the Petition, Petitioner has not provided "statistical evidence showing a racial disparity in the charging of nonminority defendants and [Black] defendants, and provide[d] evidence of nonminority defendants who engage in similar conduct and are similarly situated but were charged with lesser crimes than the charged [Black] defendant...." (*Mosby, supra, 99 Cal.App.5th at p. 677*.)

IV.

CONCLUSION

The Petition is denied. A copy of this Order shall be served on Petitioner, Lee Quillar, **[*98]** CDCR No. D22639, RJD State Prison, 480 Alta Road, San Diego, CA 92179, and the San Diego Office of the District Attorney, East County Division.

IT IS SO ORDERED.

DATE: 10-30-24

/s/ Daniel G. Lamborn

DANIEL G. LAMBORN

JUDGE OF THE SUPERIOR COURT

ER 90

SUPERIOR COURT OF CALIFORNIA, COUNTY OF SAN DIEGO

☒ CENTRAL DIVISION, CENTRAL COURTHOUSE, 1100 UNION ST., SAN DIEGO, CA 92101
☐ CENTRAL DIVISION, HALL OF JUSTICE, 330 W. BROADWAY, SAN DIEGO, CA 92101
☐ CENTRAL DIVISION, KEARNY MESA, 8950 CLAIREMONT MESA BLVD., SAN DIEGO, CA 92123
☐ CENTRAL DIVISION, JUVENILE COURT, 2851 MEADOW LARK DR., SAN DIEGO, CA 92123
☐ EAST COUNTY DIVISION, 250 E. MAIN ST., EL CAJON, CA 92020
☐ NORTH COUNTY DIVISION, 325 S. MELROSE DR., VISTA, CA 92081
☐ NORTH COUNTY DIVISION, JUVENILE COURT, 325 S. MELROSE DR., VISTA, CA 92081
☐ SOUTH COUNTY DIVISION, 500 3RD AVE., CHULA VISTA, CA 91910

FOR COURT USE ONLY

FILED
Clerk of the Superior Court
OCT 30
By: K. Chavez, Deputy

PLAINTIFF(S)/PETITIONER(S)
The People Of the state of California

DEFENDANT(S)/RESPONDENT(S)
LEE QUILLAR

JUDGE: DANIEL G. LAMBORN
DEPT: 14

CASE NUMBER
SCE171374

CLERK'S CERTIFICATE OF SERVICE BY MAIL

I certify that I am not a party to the above-entitled cause, that I placed a copy of the following document(s):

CERTIFIED COPY OF ORDER TREATING MOTION FILING AS PETITION FOR WRIT OF HABEAS CORPUS; ORDER DENYING PETITION FOR WRIT OF HABEAS CORPUS

in a sealed envelope addressed to the parties shown with postage prepaid, and deposited it in the United States mail at ☐ Chula Vista ☒ El Cajon ☐ San Diego ☐ Vista, California.

NAME & ADDRESS

SAN DIEGO OFFICE OF THE DISTRICT ATTORNEY
EAST COUNTY DIVISION
VIA INTEROFFICE MAIL

NAME & ADDRESS

LEE QUILLAR CDCR No. D22639
RJD STATE PRISON
480 ALTA ROAD
SAN DIEGO, CA. 92179

Clerk of the Superior Court

Date: October 30, 2024

by K. Chavez, Deputy
Deputy Name

SDSC DV-286 (Rev. 12/14) **CLERK'S CERTIFICATE OF SERVICE BY MAIL** Code Civ. Proc. §1013a(4)
Page 1 of 1

Lee Quillar D22639

480 Alta Road, D18-212

San Diego, CA 92179

In Propria Persona

IN THE CALIFORNIA SUPERIOR COURT FOR THE COUNTY OF SAN DIEGO

PEOPLE OF THE STATE OF CALIFORNIA

Plaintiff,

vs.

LEE QUILLAR,

Defendant.

Case No. SCE171374

DEFENDANT AND APPELLANT NOTICE TO PREPARE REPORTER'S TRANSCRIPT

To the clerk of the court:

NOTICE IS HEREBY GIVEN that Defendant and Appellant, Lee Quillar, requests that a reporter's transcript be prepared.

The notice of appeal was filed on October 23, 2024. It is requested that the transcript be prepared to consist of transcription of the following oral proceedings in the above-entitled matter:

1. The proceeding held on June 2, 2023, before the Honorable Lisa R. Rodriguez, in Department 1502;

2. The marsden hearing held between the Defendant and Counsel Shonte Hobson, on August 22, 2024, before the Honorable David Danielsen, Department 1503;

3. The resentencing report held on August 22, 2024, before the Honorable David Danielsen, Department 1503.

In addition, **[*99]** the clerk transcript should be completed to include the orders addressing each of the following:

1. Request for Postconviction Discovery, filed August 15, 2022, before the Honorable Lisa R. Rodriguez, Department 1502;

2. Request for Postconviction Discovery, filed August 23, 2022, before the Honorable Lisa R. Rodriguez, Department 1502;

3. Motion to Vacate Judgment and request for Discovery pursuant to *California Penal Code section 745(d)* and *1054.9(c)*, filed January 24, 2023, before the Honorable Lisa R. Rodriguez; Department 1502;

4. Request for Judicial Notice in Support of Motion to Vacate Judgment pursuant to *California Penal Code section 745(d)* and *1054.9(c)*, filed January 24, 2024, before the Honorable Lisa R. Rodriguez, Department 1502;

5. Second Motion to Dismiss Counsel, filed March 30, 2024, before the Honorable Lisa R. Rodriguez, Department 1502;

6. Motion to Vacate Judgment in Excess of the Court's Jurisdiction, filed May 15, 2023, before the Honorable Lisa R. Rodriguez, Department 1502;

7. Request for Judicial Notice in Support of Motion to Vacate Judgment in Excess of the Court's Jurisdiction, filed May 15, 2023, before the Honorable Lisa R. Rodriguez, Depatment 1502;

8. Motion for Reconsideration, filed August 7, 2023, before the Honorable Lisa R. Rodriguez, Department **[*100]** 1502;

9. Request for Judicial Notice in Support of Motion to Dismiss Counsel, filed January 12, 2024, before the Honorable Lisa R. Rodriguez, Department 1502;

10. Motion to Vacate Judgment Secured in Violation of the *California Racial Justice Act of 2020*, filed May 9, 2024, before the Honorable David J. Danielsen, Department 1503;

11. Request for Judicial Notice in Support of Motion to Vacate Judgment Secured in Violation of the *California Racial Justice Act of 2020*, filed May 30, 2024, before the Honorable David J. Danielsen, Department 1503;

12. Amended Motion to Vacate Judgment Secured in Violation of the *California Racial Justice Act of 2020*, filed May 30, 2024, before the Honorable David J. Danielsen, Department 1503;

13. Third Request to Dismiss Counsel, filed August 15, 2024, before the Honorable David J. Danielsen, Department 1503, and,

14. Motion for Reconsideration, filed September 5, 2024, before the Honorable David J. Danielsen, Department 1503.

Each of these requested orders and reporter transcription are necessary for purpose of the claims that will be raised within the appellate court by the Appellant, who was placed into self representation status prior to being resentenced.

Hence, pursuant to California Rules of Court, Rule 8324(b), Appellant request that the above-mentioned orders which addressed each of the filed documents **[*101]** be included with the normal record.

Dated: November 17, 2024

Respectfully,

Lee Quillar/Appellant **PROOF OF SERVICE**y

I, Lee Quillar, Declare: I am over the age of 18 years and I am/am not a party to this action.

On November, 2024, I served the following document(s): DEFENDANT AND APPELLANT'S NOTICE TO PREPARE REPORTER'S TRANSCRIPT

The following parties were served:

San Diego Superior Court

1100 Union Street

San Diego, CA 92101

Court of Appeal

Fourth Appellate District

450 B. Street, #300

San Diego, CA 92101

I declare under the penalty of perjury that the foregoing is true and correct and that this declaration was executed on November, 2024, at San Diego, California.

By, __

/s/ Lee Quillar

Lee Quillar

CASE No. __

Lee Quillar D22639

480 Alta Road, D18-212

San Diego, CA 92179

In Propria Persona

IN THE SUPREME COURT FOR THE STATE OF CALIFORNIA

LEE QUILLAR,

Petitioner,

vs.

JAMES HILL, Warden,

Respondent.

Sup. Crt No. SCE171374

App. No. D085131

MOTION FOR ORDER TO TRANSFER CASE TO ANOTHER COUNTY (Los Angeles)

TO THE CHIEF JUSTICE AND ASSOCIATE JUSTICES OF THE CALIFORNIA SUPREME COURT:

COMES NOW, Petitioner and Defendant, In Propria Persona, and pursuant to the *Fourteenth Amendment of the United States Constitution*; *California Constitution, Article VI, section 1*; and *California Code of Civil Procedures, section 187*; respectfully moves this Honorable court, to utilize its inherent **[*102]** powers for purpose of transferring the above-entitled cause to some other appropriate county and for good cause thereof, would respectfully show the following:

1. Since 1997, petitioner has been serving a completely unauthorized life sentence, wherein, the trial court charged, convicted, and sentenced petitioner under an allegation that he suffered a FIRST SERIOUS FELONY PRIOR that does not exist;

2. During trial, petitioner was (i) stripped of counsel, (ii) forced into self representation, (iii) had fraudulent minute orders presented alleging that he was present, and (iv) all while he was undergoing psychiatric treatment confined in a hospital.

3. Trial counsel used petitioner as an alibi to embezzle funds from the People of the State of California, depriving him of his *Sixth Amendment* right to present "direct eye witnesses"; and

4. Petitioner was denied of all transcripts that are Constitutionally mandated to be included within the normal record.

A. GROUNDS FOR TRANSFERRING CASE TO ANOTHER COUNTY

In July 2022, the California Department of Corrections and Rehabilitation, contacted the court, informing that petitioner's *667.5(b)* prior is now invalid.

In being required to be resentenced, petitioner is being deprived **[*103]** of his most basic rights to due process protections, and based on the various instances of fraud that has led to his conviction; as well as having had the trial court "purposely exceed its jurisdiction," in order to sentence petitioner to a life term that he never qualified to receive.

B. CURRENT VIOLATIONS DEPRIVING PETITIONER OF DUE PROCESS

Petitioner was:

(a) Petitioner was resentenced by having his case broken down between four (4) different judges and two separate courts, each making independent decisions within the same resentencing hearings;

(b) The public defender's office has refused to so much as comment on the violations that petitioner has suffered, in being appointed for more than two years;

(c) Petitioner has been denied to have "any" of his claims adjudicated within four (4) separate courts, to include the court of appeal-fourth appellate district;

(d) Petitioner was resentenced on August 22, 2024, in which the court relied on knowingly false evidence, again, exceeding the court's jurisdiction;

(e) Petitioner was denied of his due process rights to be present at his resentencing hearing without waiving his appearance; and

(f) Court orders, transcripts, judgments, and other documents **[*104]** are not being provided to petitioner regarding matters that directly affect his liberties, and/or criminal case.

Accompanying this motion is petitioner's declaration fully supported by a currently developing record, demonstrating each of the facts expressed above.

WHEREFORE, petitioner pray as follow:

1. That the court grant this motion;

2. That a hearing be held on this matter;

3. That petitioner be allowed to supplement and/or amend his motion;

4. For such other, and further relief as the court deems just and proper.

Date: November 20th, 2024

Respectfully,

/s/ Lee Quillar

Lee Quillar/Petitioner

Case No. __

Lee Quillar D22639

480 Alta Road, D18-212

San Diego, CA 92179

In Propria Persona

IN THE SUPREME COURT FOR THE STATE OF CALIFORNIA

LEE QUILLAR,

Petitioner,

vs.

JAMES HILL, Warden,

Respondent.

Sup. Crt. NO. SCE171374

App. No. D085131

DECLARATION OF LEE QUILLAR IN SUPPORT OF MOTION FOR ORDER TO TRANSFER CASE TO ANOTHER COUNTY

(Los Angeles)

I, Lee Quillar, declare:

1. In October of 1997, Declarant was sentenced to a life term under the California Three Strikes law. Under no legal standard did declarant ever qualify to be sentenced to life pursuant to *667, subdivision (b)-(i)*, of the penal code.

2. In July of 2022, after twenty-six (26) years of non **[*105]** stop litigating, the California Department of Corrections and Rehabilitation, informed the San Diego Court, that declarant's sentence is now invalid under Senate Bill 483.

3. Absolutely "no one" within the San Diego Public Defenders office have been willing to so much as mention the violations that declarant is suffering from, let alone assist him with the claims.

4. Declarant filed multiple motions to vacate judgment, as well as motions for discovery pursuant to *penal code section 745(d)* and *1054.9*. As has been the case for more than twenty (20) years, the court applied a standard of review, and relied on a statute that is completely irrelevant to the actual grounds, erroneously denying the motion. (See judge Rodriguez's order, pp. 4-9.)

5. Declarant has literally undergone a resentencing hearing under Senate Bill 483, whereby, he had Four Judges, and Two Different Courts dispose of his resentencing hearing in order to conceal the record; all while receiving dead silence from the public defender.

6. In seeking relief from the Fourth District Appellate Court, all actions that were mailed demonstrated concrete violations of a fundamental nature, were not filed and returned to declarant; essentially endorsing the major abuse within **[*106]** the trial court.

7. Enclosed, entitled "petitioner's excerpts of records in support of motion to transfer case to another county," are more than twenty (20) actions that were filed, none of them were addressed based on the merits. Declarant filed more than five racial justice motions, in which the "third judge in the case" directed the actions to a completely different court six weeks "after" the "second judge" resentenced declarant on August 22, 2024; which none of declarant's claims were addressed on record.

8. This led to declarant filing a motion for reconsideration which again was not recorded, no order was issued, and a simple minute order was provided. (See Judge David Danielsen's minute order, pp. 1-2.)

9. Just prior to resentencing, judge Danielsen said he would be forwarding each of my pending motions to another judge. The Third Judge, Roderick W. Shelton, purportedly converted declarant's motions to a habeas corpus, then, the Fourth Judge Daniel G. Lamborn, issued an order with an array of misstatements detailing events that were once again conjured up for purpose of concealing the facts of the case, and what has happened to declarant.

10. The Fourth Judge (Lamborn), alleges: (a) On August 27, 2024, petitioner was resentenced (See Daniel Lamborn order, p. 3 line 15); which, petitioner was resentence August 22, 2024; (b) The Fourth Judge (Lamborn) alleges petitioner did not appeal the new sentence (see Lamborn order, p. 3 line 21); which petitioner appeal was filed a full week (September 23, 2024) before the order was issued; (c) While this court cannot discern what the issues presented were, it presumes that petitioner sought review of the trial court's denial of the motion to reconsider (Lamborn order, p. 3 line 25); which petitioner served the superior court simultaneously the same actions filed within the court of appeal; (d) On October 10, 2024, the Honorable Judge Roderick W. Shelton (Third Judge) issued an ex parte minute order deeming petitioner's previously filed "Motion **[*107]** to Vacate Judgment Secured in Violation of *California Racial Justice Act of 2020*" a petition for writ of habeas corpus (Lamborn order, p. 4 line 1-3) which, petitioner's motion to vacate judgment secured in violation of the California Racial Justice Act of 2020, was pending before the very First Judge, Lisa R. Rodriguez, since August 15 & 23, 2022, then erronoeously addressed by teh First Judge on February 22, 2023. (See Lisa R. Rodriguez order, pp. 4-9)

11. The Fourth Judge, goes further and proper describe the criteria of the racial justice act in which petitioner followed (see Lamborn's order p. 5 section B. Racial Justice Act Hearing Requirements; then state: "Petitioner waived his claim," "At the resentencing hearing, he did not make any claims associated with the CRJA. He made no objections based on the CRJA violation. Additionally, petitioner did not appeal the new sentence. (See Lamborn order, p. 8, line 22-25.)

12. As mentioned above, petitioner has been enduring these unconstitutional, highly abusive, manipulative dilitory tactics from the San Diego Courts for more than two decades. This declarant has been keeping the Ninth Circuit appraise, as it is his only way to verify that he is mailing documents that are not being addressed.

13, Declarant has been severely oppressed, in having: the **[*108]** court refuse to file his actions, issue orders based on his lucidly clear writings, address the merits demonstrating that he was a victim of fraud by multiple state actors in being charged, false evidence has been attached to his case inflamming charges that absolutely does not exist, declarant has been accused of stabbing people when there are no medical reports, preliminary hearing reports, or any other evidence to substantiate the allegations, judgments are being entered against him, but he is not being provided the judgment for purpose of appeals, on August 22, 2024, none of declarant's statements were address, none of his actions were addressed, he was not even permitted to be present in court; and now, the East County Court has issued its Ninth order rehashing events that has not occured.

14. As far back as February 13, 2024, declarant brought to the attention of the Ninth Circuit what he is suffering, and it has not abated, not even a little, necessitating the need to move this case out of San Diego County. (See attachment A & B.)

I declare under the penalty of perjury that the foregoing is true and correct and that this delcaration was executed on November 20, 2024, at San Diego, **[*109]** California.

By, __

Lee Quillar

PROOF OF SERVICE BY MAIL

I, Lee Quillar, declare: I am over the age of 18 years and I am/am not a party to this action.

On November 21, 2024, I served the following document(s): motion to transfer case to another county; declaration of Lee Quillar in support of motion to transfer case to another county; excerpts of records in support of motion to transfer case to another county

The following parties were served:

California Supreme Court

350 McAllister Street

San Francisco, CA 94102-4797

United States Court of Appeal

for the Ninth Circuit

95 Seventh Street

P.O. Box 193939

San Francisco, CA 94119

California Court of Appeal

750 B. Street, #300

San Diego, CA 92101

Charles Ragland

600 W. Broadway, Ste. #1800

San Diego, CA 92101

I declare under the penalty of perjury that the foregoing is true and correct and that this declaration was executed on November 21, 2024, at San Diego, California.

Submitted by,

/s/ Lee Quillar

Lee Quillar/Appellant

Case No. __

Lee Quillar D22639

480 Alta Road, D18-212

San Diego, CA 92179

In Propria Persona

IN THE SUPREME COURT FOR THE STATE OF CALIFORNIA

LEE QUILLAR,

Petitioner,

vs.

JAMES HILL, Warden,

Respondent.

Related Cases:

Sup. Crt. SCE171374

App. No. D085131

9th Cir. 24-497

PETITIONER'S EXCERPTS **[*110]** OF RECORDS IN SUPPORT OF MOTION TO TRANSFER CASE TO ANOTHER COUNTY

Lee Quillar D22639
480 Alta Road, D18-212
San Diego, CA 92179

In Propria Persona

Case No._____ ER 104

IN THE SUPREME COURT

FOR THE STATE OF CALIFORNIA

LEE QUILLAR,
Petitioner,
VS.
JAMES HILL, Warden,
Respondent.

Sup. Crt. No. SCE171374

PETITIONER'S EXCERPTS OF RECORDS IN SUPPORT OF MOTION TO TRANSFER CASE TO ANOTHER COUNTY

NO.:	DESCRIPTION	FILE DATE	PAGE:
1	Tentative Order Denying Request for Resentencing	August 03, 2022	1-2
2	Public Defender Accepting Appointment of Counsel	August 05, 2022	3
3	Information Summary	July 02, 1996	4-6
4	Bifurcated Trial on Prior	August 22, 1997	7-8
5	Probation/Sentence Report	October 9, 1997	9-10
6	Motion to Vacate Judgment/ Excess of Jurisdiction	May 15, 2023	11-15
7	Memo & Support Mo. to Vacate	May 15, 2023	16-20
8	Request for Judicial Notice	May 15, 2023	21-23
9	Motion for Reconsideration	Unfiled	24

EXCERPTS OF RECORDS CONT'

ER 105

NO.:	DESCRIPTION	FILE DATE	PAGE:
10	Memo & Supp. Reconsideration	September 5, 2024	25-30
11	Declaration of Lee Quillar	September 5, 2024	31-32
12	Request for Judicial Notice & Support of Reconsideration	September 5, 2024	33-40
	CALIFORNIA RACIAL JUSTICE ACT OF 2020 MOTIONS		
1	Request for Postconviction Discovery [PC §§ 745(d) 1054.9]	August 15, 2022	1-6
2	Request for Postconviction Discovery (Second Filing)	August 23, 2022	7-12
3	Petitioner's Letter re Motion to Vacate Judgment	January 28, 2023	13-14
4	Petitioner's Letter re Motion for Discovery (RJA)	January 31, 2023	15
5	Motion to Vacate Judgment & Request for Discovery (RJA)	January 24, 2023	16-21
6	Request for Judicail Notice & Support of RJA	January 24, 2023	22-23
7	Second Motion to Dismiss Counsel/Request Self-Rep.	March 30, 2023	24-25
8	Notice & Motion for Reconsideration	August 7, 2023	39-44
9	Declaration of Lee Quillar Re: Motion for Reconsideration	August 7, 2023	45-48
10	Request for Judicial Notice re 2nd Motion to Dismiss Counsel	January 12, 2024	49-50
11	Motion to Vacate Judgment Secure in Violation of RJA	May 09, 2024	51-52
12	AMENDED Motion to Vacate Judgment in Violation of RJA	May 30, 2024	53-60
13	Request for Judicail Notice & Support of Discovery Under RJA	May 30, 2024	61-71
14	Memo & Support of Request for Discovery Pursuant to RJA	May 30, 2024	72-74

No. 24-497

IN THE UNITED STATES COURT OF APPEALS FOR THE NINTH CIRCUIT

LEE QUILLAR, et al.,

Applicant,

v.

JAMES HILL, WARDEN, et al.,

Respondent.

RESPONSE REGARDING STATUS OF STATE COURT PROCEEDINGS

ROB BONTA

Attorney General of California

CHARLES C. RAGLAND

Senior Assistant Attorney General

DANIEL ROGERS

Supervising Deputy Attorney General

STATE OF CALIFORNIA

DEPARTMENT OF JUSTICE

600 West Broadway, Suite 1800

San Diego, CA 92101

P.O. Box 85266

San Diego, CA 92186-5266

Telephone: (619) 738-9127

Fax: (619) 645-2191

Daniel.Rogers@doj.ca.gov

Attorneys for Respondent

December 2, 2024

Pursuant to this Court's Order of September 19, 2024 (ECF No. 5.1), respondent files this update regarding the status of state court proceedings. San Diego Superior Court staff informed counsel for respondent that the records in this case are not available electronically and will require inspection of the physical court file in the clerk's office. However, counsel for respondent has reached out to the San Diego District Attorney's Office and their records indicate that, at a hearing on August 22, 2024, enhancements for prior prison terms (*Cal. Penal Code § 667.5(b)*), serious felony priors (**[*111]** *Cal. Penal Code § 667(a)(1)*), and weapon use (*Cal. Penal Code § 12022(b)*) were stricken and a new prison term of 25 years to life was imposed. Consequently, it would appear a new judgment was entered on August 22, 2024, and any new petition challenging that judgment would not be subject to the limitations of *28 U.S.C. section 2244(b)* on second or successive petitions. *See* *Magwood v. Patterson, 561 U.S. 320, 331, 130 S. Ct. 2788, 177 L. Ed. 2d 592 (2010)*.

Dated: December 2, 2024

Respectfully submitted,

/s/ Daniel Rogers

Rob Bonta

Attorney General of California

Charles C. Ragland

Senior Assistant Attorney General

DANIEL ROGERS

Supervising Deputy Attorney General

STATEMENT OF RELATED CASES

The State is not aware of any related cases, as defined by *Ninth Circuit Rule 28-2.6*, that are currently pending in this Court and are not already consolidated here.

UNITED STATES COURT OF APPEALS FOR THE NINTH CIRCUIT

Form 15. Certificate of Service for Electronic Filing

Instructions for this form: http://www.ca9.uscourts.gov/forms/form15instructions.pdf

9th Cir. Case Number(s) 24-497

I hereby certify that I electronically filed the foregoing/attached document(s) on this date with the Clerk of the Court for the United States Court of Appeals for the Ninth Circuit using the Appellate Electronic Filing system.

Service on Case Participants Who Are Registered for Electronic Filing:

[ ] I certify that I served the foregoing/attached **[*112]** document(s) via email to all registered case participants on this date because it is a sealed filing or is submitted as an original petition or other original proceeding and therefore cannot be served via the Appellate Electronic Filing system.

Service on Case Participants Who Are NOT Registered for Electronic Filing:

[x] I certify that I served the foregoing/attached document(s) on this date by hand delivery, mail, third party commercial carrier for delivery within 3 calendar days, or, having obtained prior consent, by email to the following unregistered case participants (*list each name and mailing/email address*):

Lee V. Quillar

CDCR No.: D-22639

Richard J. Donovan Correctional Facility

480 Alta Road

San Diego, CA 92179

Description of Document(s) (*required for all documents*):

RESPONSE REGARDING STATUS OF STATE COURT PROCEEDINGS

Signature /s/ Signature

Date 12/2/2025

CASE NO.: 24-497

UNITED STATES COURT OF APPEALS FOR THE NINTH CIRCUIT

LEE QUILLAR,

Petitioner,

VS.

JAMES HILL, Warden,

Respondent.

PETITIONER'S REPLY TO RESPONSE REGARDING STATUS OF STATE COURT PROCEEDINGS

Lee Quillar D22639

480 Alta Road,

San Diego, CA 92179

In Propria Persona

On December 5, 2024, petitioner received the respondent's status **[*113]** update of the State Court proceedings. On November 21, 2024, petitioner serve the above-entitled court a copy of his "motion for order to transfer case to another county (Los Angeles)," based on the claims that are pending before the court; and petitioner being deprived of having his fundamental claims undergo review within any court in San Diego County.

The respondent has now verified what petitioner has consistently argued in reference to the petitioner not having any of his actions recorded within the San Diego Superior Courts, when the issue addresses the fundamental violations. This is due to the fact that petitioner in no way qualified to be sentenced to a life term pursuant to the Three Strikes law.

Currently, it is completely impossible for petitioner to undergo a legitimate appeal, after being illegally resentenced on August 22, 2024, without the court: 1) creating a record which explains the new sentence components, which exceeds the court's jurisdiction under the alternative sentencing scheme, 2) petitioner was not aloud to be present at the resentencing hearing, in order to afford him the means to object to the unauthorized resentencing, and 3) petitioner had four judges **[*114]** and two courts resentence him within the same *Senate Bill 483/1172.75* hearings. (See Declaration of Lee Quillar in Support of Motion for Order to Transfer Case to Another County (Los Angeles).)

In light of the ongoing concealment tactics within the San Diego Superior Courts, which has now "yet again" led to the impossibility of petitioner undergoing a legitimate appeal that is based on the actual material facts; petitioner submit the accompanied motion for release pending appeal, and declaration which fully support his previously filed claims in case no. 03-56118, the claims in current case no. 24-497, and as essentially confirmed by the respondent is stating:

> "San Diego Court staff informed counsel for respondent that the records in this case are not available electronically and will require inspection of the physical court file in the clerk's office."

(See respondent's response regarding status of state court proceedings.)

As demonstrated further, a complete denial of the Constitutionally required records has been the unchanging theme in denying petitioner of all due process to be heard, since the very beginning in having been charged in this case (SCE171374).

Dated: December 12, 2024

Respectfully,

/s/ Lee Quillar

Lee Quillar **[*115]**

COURT OF APPEAL OF THE STATE OF CALIFORNIA
FOURTH APPELLATE DISTRICT
DIVISION ONE

ER 113

PEOPLE OF THE STATE OF CALIFORNIA
Plaintiff and Respondent.

v.

Lee Virt Quillar,
Defendant and Appellant.

Court of Appeal No.
D085131

Superior Ct. No.
SCE171374

MOTION FOR
APPOINTMENT OF
COUNSEL ON APPEAL

I request the Court of Appeal, Fourth Appellate District Division One, to appoint an attorney to represent me in this appeal. I do not have sufficient means to hire an attorney. My spouse and I have the following combined income and property.

Take-home pay from job (monthly): $ 0.00

Other income (monthly): $ 0.00

Money in bank at this time: $ 0.00

Do you own a home(check one)? ☐ Yes ☒ No

My trial attorney was:

- ☒ A public defender or court-appointed attorney.
- ☐ An attorney paid by myself.
- ☒ Other. Self-Representation due to Marsden hearing

I declare under penalty of perjury under the laws of California that the information I have provided on this form is true and correct.

December 30, 2024 — Lee Quillar

Date **Signature**

BACKGROUND INFORMATION FROM CLIENT

Name: Lee Quillar Court of Appeal No. D085131 ER 114

Address: 480 Alta Road, D18-212, San Diego, CA 92179

Phone: N/A

Trial Attorney: Shonte Hobson Address: 451 A St., Ste. 900, San Diego, CA 92101

Have you hired an attorney to represent you on appeal? Yes_____ No X.

If yes, please give name and address: _____

Are you a United States citizen? ☒
Birth Date: November 12, 1967

Have you ever had any other appeal, in this or another case? ☒
What is the decision you are appealing?

1) Trial Court Exceeded its jurisdiction in resentencing defendant under § 667(b)-(i); 2) Defendant is actually innocent of violating §1192.7(c)(11); (See Next Page)

Issues on appeal can deal only with matters shown in the transcripts. Facts outside the transcripts cannot be considered. The Court of Appeal can only review issues of law that arose during your trial court proceedings. What issues do you think should be raised on your appeal?

The defendant showed that this case is completely void, he never qualified to be sentenced to a life term, the FIRST SERIOUS FELONY PRIOR does not exist, Case no. CR75335 is unconstitutional as defendant was a juvenile (never went to prison) was accepted by youth authorities, no W&I 707(b) hearing was conducted to deem defendant an adult in case no. CR75335.

What do you want from your appeal?

Case no. SCE171374 is required to be completely reversed due to false evidence leading to an illegal conviction and sentence as now shown by the record in having this case reopened in 2022.

Questions or comments:

Because defendant was denied to have the hearing recorded, the excerpts of records mailed to the Court of Appeal entitled: "Petitioner's Excerpts of Records in Support of Motion to Transfer Case to Another County," are official reports filed within the resentencing hearing, and to be included within the official record.

Either Appellate Defenders, Inc., or an individual private attorney may be appointed to represent you on your appeal. If a private attorney is appointed, we will send that attorney a copy of this form and any letters or other materials you may have sent to us.

BACKGROUND INFORMATION FROM CLIENT CONT

3) Defendant was denied due process in not being allowed to be present in court for resentencing pursuant to PC *§ 977*, and without waiver;

4) Defendant suffered ineffective assistance of counsel in having the public defenders office refuse to assist with the unauthorized sentence;

5) Defendant was denied due process in the court's failure to address his marsden claims requiring the need to dismiss counsel;

6) the trial court denied defendant due process in refusing to address his racial justice act of 2020 motion, prior to resentencing as required pursuant to PC *§§ 745(c)(1)-(3)*, and *745(d)* (filed August 15, 2022, August 23, 2022, and May 30, 2024);

7) the trial court denied defendant's due process as a self-representented party, in failing to address his motion to vacate judgment in excess of the court's jurisdiction (filed May 15, 2023);

8) Defendant was denied due process in the court's failure to record the fundamental "critical stages" of the hearings, leading to the court granting defendant's "Third request to dismiss counsel"; and

9) Defendant has been denied due process and equal protection in the trial court's failure to record the hearings as guaranteed under the state **[*116]** and federal Constitution.

Dated: December 30, 2024

By, /s/ Lee Quillar

Lee Quillar

Defendant

Lee Quillar D22639

480 Alta Road, D18-212

San Diego, CA 92179

March 11, 2025

Jennifer Gambile

Attorney At Law

18022 Cowan, Ste. 280

Irvine, CA 92614

Re: Appeal No. D085131 Records

for Perfecting Appeal

Ms. Gambile,

In learning that you have been appointed, I wanted to immediately inform you that there are no resentencing transcripts for this appeal.

Based on my inability to get anyone form the Public Defenders Office to assist me with this case, which I am currently serving a completely illegal sentence, as I under no legal theory ever qualified to be sentenced to life under the California Three Strikes law.

After having been appointed and directed to file a brief on my behalf back on August 3, 2022; no brief was ever filed by the public defenders office, as it would clearly expose that there was no strike to dismiss in case no. CR75335; as the First Prison Prior charged does not exist. Also, after my third request to dismiss counsel, the request was granted and I was placed into "Self Representation status" which this action was not recorded either, and as Constitutionally required. However, I do have five **[*117]** (5) witnesses who were present in court and their declarations will be available if needed.

Enclosed, please find:

1. Notice to William Melcher (Appellate Defenders) re: motion to transfer case to another county;

2. Motion to transfer case to another county;

3. Petitioner's Excerpts of Records in Support of Motion to Transfer case to another county (table of contents only);

4. Defendant and Appellant Notice to Prepare Reporter's Transcripts;

5. Petition for Writ of Mandate, Prohibition, or Other Extraordinary Relief (Case No. D084918).

These documents thoroughly demonstrate that I suffered a complete deprivation of due process in undergoing a resentencing hearing, in a case in which I never qualified to be sentenced to a life term pursuant to PC *§ 667(b)-(i)*.

Respectfully, /s/ Lee Quillar

Lee Quillar/Appellant

Lee Quillar D22639

480 Alta Road, D18-212

San Diego, CA 92179

March 31, 2025

Jennifer A. Gambale

Attorney At Law

18022 Cowan, Ste. 280

Irvine, CA 92614

Re: Resentencing Transcripts/Motions

Ms. Gambale,

I received your March 18, 2025 letter about 8 days ago. I wanted to secure copies in which I am enclosing, of documents you mentioned within your letter. Enclosed, please find:

1. Declaration of Lee Quillar supporting **[*118]** motion to transfer case to another county;

2. Petitioner's "Third Request to Dismiss Counsel w/Exhibits" 1 - 14;

3. Judge Lisa Rodriguez's Order, erroneously reviewing initial racial justice act motion; (Rodriguez is the first of four judges that directly addressed the 1172.75 resentencing hearing motions, each making independent decisions);

4. El Cajon Superior Court assigned judge order (Daniel Lamborn), which is the fourth judge within the second court that made a decision in the resentencing hearing as for the motions that were pending long before being resentenced.

Please forward me a copy of the resentencing transcript so I can direct you to other issues that I have in my possession.

I have two adult probation reports it seems. Both reports contains information that stems from fraud and prosecutorial misconduct, which I have concrete proof of that as well.

Lastly, I was actually granted self-representation status and I am confident you do not have those transcripts. Enclosed, you will find a complete copy of my Amended Motion to Vacate Judgment secured in Violation of the *California Racial Justice Act of 2020*, filed May 30, 2024. This is the action that Judge Roderick converted to a habeas corpus, forwarded to Judge Lamborn, who then claimed that I never raised any CRJA claims.

Respectfully,

/s/ Lee Quillar

Lee Quillar/Appellant

COURT OF APPEAL - STATE OF CALIFORNIA

FOURTH APPELLATE DISTRICT

DIVISION ONE

THE PEOPLE,

Plaintiff and Respondent,

v.

LEE QUILLAR,

Defendant and **[*119]** Appellant.

D085131

San Diego County Super. Ct. No. SCE171374

THE COURT:

Counsel for appellant has filed a brief stating no arguable issues can be found. If counsel has not already done so, they are directed to send the record of this appeal and a copy of appellant's brief to appellant immediately.

The defendant personally is granted 30 days to file any supplemental brief deemed necessary. If no such supplemental brief is filed, the court may dismiss the appeal as abandoned. (*People v. Delgadillo (2022) 14 Cal.5th 216, 302 Cal. Rptr. 3d 153, 521 P.3d 360*.)

MCCONNELL

Presiding Justice

IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA FOUR APPELLATE DISTRICT DIVISION ONE

PEOPLE OF THE STATE OF CALIFORNIA,

Plaintiff and Respondent,

VS.

LEE QUILLAR,

Defendant and Appellant.

Appellate No. D085131

Superior Crt. SCE171374

APPEAL FROM THE SUPERIOR COURT OF THE COUNTY OF SAN DIEGO

The Honorable David Danielsen

MOTION TO AUGMENT AND CORRECT RECORD ON APPEAL AND SUPPORTING DECLARATION OF LEE QUILLAR

Lee Quillar D22639

480 Alta Road, D18-212

San Diego, CA 92179

In Pro Per.

Defendant and Appellant, hereby moves the court on motion for augmentation of the record, which does not include all of the necessary transcripts for purposes of accurately briefing the appeal.

On May 16, 2025, the court issued **[*120]** an Order giving Appellant 30 days to file a supplemental brief in having appointed counsel file a brief stating that there are no arguable issues.

Because there were FOUR different judges issuing decisions within the same *§1172.75* resentence hearing, the record in this appeal how lies filed within two different courts (Central and East Division) and within four different departments. Additionally, decisions that were made by one judge was over turned by another judge in addressing the same issue. To more clearly show this fact, Appellant need to augment the record. For these reasons, pursuant to *California Rules of Court, Rule 8.155(a)(1)(A)*, Appellant request records from the following:

1) The Honorable Lisa R. Rodriguez, Dept. 1502, Central Division;

2) The Honorable David Danielsen, Dept. 1604, Central Division;

3) The Honorable Roderick W. Shelton, Dept. 11 El Cajon (East County); and

4) The Honorable Daniel G. Lamborn, Dept. 14 El Cajon (East County).

Appellant requests the following records:

FIRST JUDGE: (Lisa R. Rodriguez)

1) All records filed that addresses Appellant's motions/petitions prior to being disqualified; 2) copies of all oral proceedings of the marsden hearings held, transcripts, and orders relevant to all marsden hearings; and 3) any and all reassignment orders showing the department **[*121]** of reassignment for purpose of locating transcripts.

SECOND JUDGE: (David Danielsen)

1) The filing date, title, and orders that were issued relevant to each of Appellant's motions that were pending before the Honorable David Danielsen; 2) the date of the order of transfer of Appellant's pending actions (to include the order), the reasons for transfer; 3) copies of all marsden hearings held before the Honorable David Danielsen; and 4) Appellant's waiver to be present for resentencing.

THIRD JUDGE (Roderick W. Shelton)

1) the name, title, and date of all motions/petitions received from the Honorable David Danielsen; 2) the transfer orders, reason for transfer, and reassignment date; 3) all orders addressing the Appellant's motions/petitions; and 4) the order of reassignment of action to the Honorable Daniel G. Lamborn.

FOURTH JUDGE: (Daniel G. Lamborn)

1) the name, title, and date of all motions/petitions received from the Honorable Roderick W. Shelton; 2) the transfer order/ reassignment of action; 3) the date each action was adjudicated; and 4) all orders which addresses the actions.

It is requested that the court extend the date for filing of Appellant's supplemental brief to 30 days from the receipt of the augmentation.

Dated: June 5, 2025

Submitted by,

/s/ Lee Quillar

Lee Quillar/Appellant

IN THE COURT **[*122]** OF APPEAL OF THE STATE OF CALIFORNIA FOURTH APPELLATE DISTRICT DIVISION ONE

PEOPLE OF THE STATE OF CALIFORNIA,

Plaintiff and Respondent,

VS.

LEE QUILLAR,

Defendant and Appellant.

Appellate No. D085131

Superior Crt. SCE171374

APPEAL FROM THE SUPERIOR COURT OF THE COUNTY OF SAN DIEGO

The Honorable David Danielsen

DECLARATION OF LEE QUILLAR IN SUPPORT OF MOTION TO AUGMENT AND CORRECT RECORD ON APPEAL

Lee Quillar D22639

480 Alta Road, D18-212

San Diego, CA 92179

In Pro Per.

Declaration of Lee Quillar

I, Lee Quillar, declare:

I am over the age of 18 years and am a party to this action, having full knowledge of the statements that follow.

1. In or about July 2022, the California Department of Corrections and Rehabilitation informed the San Diego Superior Court that Declarant qualified for resentencing under penal code *§1172.75*,

2. From July 2022 until October 30, 2024, Declarant had four different judges, within two separate judicial assignment courts, make independent decisions as to how Declarant would be resentenced, by exercising authority over the documents that were submitted before the original judge, as well as the second judge (David Danielsen).

3. Declarant filed multiple actions that were addressed by the first judge (Lisa R. Rodriguez), but the records are not included within the clerks transcripts.

4. Declarant filed multiple actions that were addressed by the second judge (David Danielsen), but the records are not included within the clerks transcripts.

5. Declarant had multiple actions transferred to the third judge, Roderick W. Shelton, assigned to Department 11, in the East County Division of San Diego. Decisions were made relevant to multiple motions; but the records are not included within the clerks transcripts.

6. Declarant had his Racial Justice Act motions, which were partially addressed by the first judge, then, transferred to the third judge, who transferred the RJA, and possibly the other remaining motions to the fourth judge. There are numerous motions that were addressed, and others were not.

7. Because the clerks transcripts are void of the transfer orders, **[*123]** no decisions have been rendered in possibly most of the motions, and Declarant have no way of knowing which judge were last responsible for issuing a decision of the actions that were all filed long before being resentenced; it is impossible as a self represented party at sentencing to properly argue the violations in this appeal.

8. Moreover, there were two marsden hearing held (possibly three) whereby, none of those records are included within the clerks transcripts.

I declare under the penalty of perjury that the foregoing is true and correct except matters that may be stated on information and belief, and as to those matters, I believe them to be true.

Executed on June 5, 2025, at San Diego, California.

Submitted by,

/s/ Lee Quillar

Lee Quillar/Declarant

IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA FOURTH APPELLATE DISTRICT DIVISION ONE

PEOPLE OF THE STATE OF CALIFORNIA,

Plaintiff and Respondent,

VS.

LEE QUILLAR,

Defendant and Appellant.

Appellate No. D085131

Superior Crt. SCE171374

APPEAL FROM THE SUPERIOR COURT OF THE COUNTY OF SAN DIEGO

The Honorable David Danielsen

EXCERPTS OF RECORDS IN SUPPORT OF MOTION TO AUGMENT AND CORRECT RECORD ON APPEAL AND SUPPORTING DECLARATION OF LEE QUILLAR

PAGES 1 THROUGH **[*124]** 27

Lee Quillar D22639

480 Alta Road, D18-212

San Diego, CA 92179

In pro Per.

EXCERPTS OF MISSING RECORDS

	Document:	Date:	Response:	Page:
1.	Ex Parte Order re Postconviction Discovery.	08/24/2022	To be heard	1
2.	Motion to Vacate Judgment and Request for Discovery (*§§745*/*1054.9*)	01/24/2023	To be heard	2-3
3.	Motion to Vacate Judgment Secured in Excess of the Court's Jurisdiction.	05/15/2023	Heard	4-6
4.	Ex Parte Order to Hear Motion to Vacate Judgment in Excess of the Court's Jurisdiction.	06/02/2023	Heard	7
5.	Ex Parte Application for Relief from Denial of Due Process and Equal Protection.	06/29/2023	Heard	8-9
6.	Declaration of Lee Quillar in Support of Notice of Motion for Reconsideration.	08/07/2023	To be Heard	10
7.	Request for Judicial Notice in Support of Second Motion to Dismiss Counsel and Request Self Representation.	01/12/2024	To be heard	11-12
8.	Declaration of Lee Quillar re Actual Innocence and **Marsden Motion for Self-Representation**.	02/12/2024	Heard	13-16
9	Amended Motion to Vacate Judgment Secured in Violation of California Racial Justice Act of 2020.	05/30/2024	To be heard	17-21
10.	Motion for Reconsideration of Order Causing unauthorized Sentence.	09/05/2024	Heard	22-27

PROOF OF SERVICE

I, Lee Quillar Declare: I am over the age of 18 years and I am not a party to this action.

On June **[*125]** 5, 2025, I served the following document(s):

MOTION TO AUGMENT AND CORRECT RECORD ON APPEAL; DECLARATION OF LEE QUILLAR IN SUPPORT OF AUGMENTATION: EXCERPTS OF RECORDS PAGES 1 THROUGH 27

The following parties were served:

California Court of Appeal

Fourth Appellate District

Division One

750 B. Street, #300

San Diego, CA 92101

San Diego Superior Court

1100 Union Street

San Diego, CA 92101

I declare under the penalty of perjury that the foregoing is true and correct and that this declaration was executed on June 5, 2024, at San Diego, California.

By,

Lee Quillar/Appellant

COURT OF APPEAL - STATE OF CALIFORNIA FOURTH APPELLATE DISTRICT DIVISION ONE

THE PEOPLE,

Plaintiff and Respondent,

v.

LEE QUILLAR,

Defendant and Appellant.

D085131

San Diego County Super. Ct. No. SCE171374

THE COURT:

After a review of the record, appellant's appointed counsel filed a brief stating counsel did not identify any arguable issues. On May 16, 2025, the court advised appellant that appellant could personally submit any supplemental brief deemed necessary. Appellant was also advised that the appeal may be dismissed as abandoned in the absence of a supplemental

brief. Appellant did not submit a supplemental brief. Accordingly, the appeal filed October **[*126]** 23, 2024 is dismissed. *People v. Delgadillo (2022) 14 Cal.5th 216, 302 Cal. Rptr. 3d 153, 521 P.3d 360*; *People v. Cole (2020) 52 Cal.App.5th 1023, 1039-1040, 267 Cal. Rptr. 3d 113*; *People v. Serrano (2012) 211 Cal.App.4th 496, 503-504, 149 Cal. Rptr. 3d 706*.)

MCCONNELL

Presiding Justice

S293988

IN THE SUPREME COURT OF CALIFORNIA

En Banc

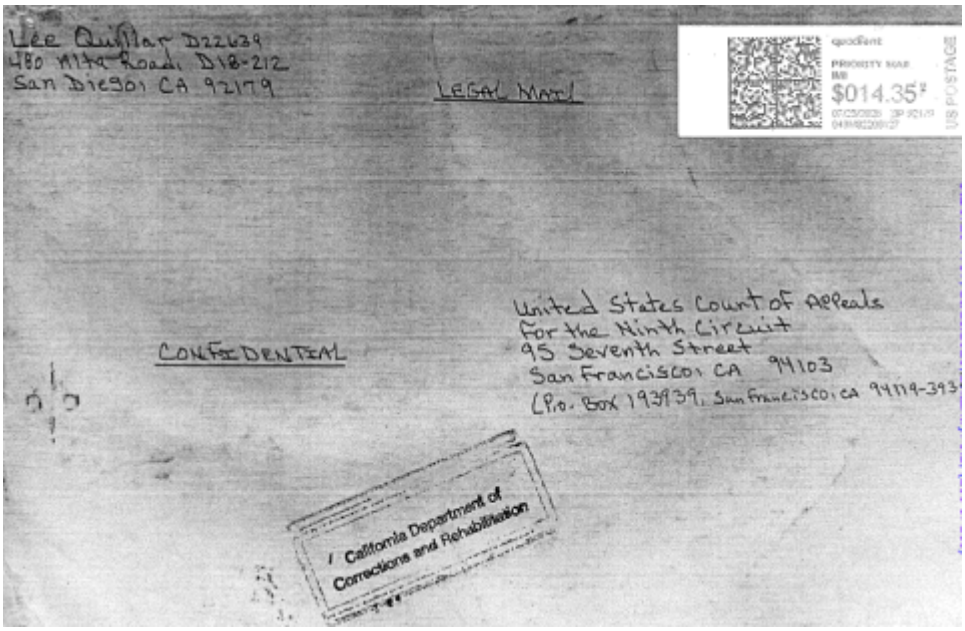
LEE VIRT QUILLAR, Petitioner,

v.

COURT OF APPEAL, FOURTH APPELLATE DISTRICT, DIVISION ONE, Respondent;

THE PEOPLE, Real Party in Interest.

The petition for writ of mandate is denied.



Case No.: 26-4787

Lee Quillar

480 Alta Road

San Diego, CA 92179

In Pro Se.

UNITED STATES COURT OF APPEALS FOR THE NINTH CIRCUIT

LEE QUILLAR,

Petitioner,

Vs.

M. RAMIREZ, WARDEN (A),

Respondent.

USDC No.: 25CV00253-BTM(LR)

PETITIONER'S SECOND MOTION FOR RELEASE FROM CUSTODY PENDING DISPOSITION OF HABEAS PROCEEDINGS

I. INTRODUCTION

Petitioner, Lee Quillar, respectfully moves under *18 U.S.C §3141*, *Federal Rule of Appellate Procedure 23(c)*, and the Court's inherent authority to grant appropriate habeas relief, for an order releasing Petitioner from custody, or alternatively granting appropriate temporary relief pending disposition of Petitioner's habeas and related proceedings.

Petitioner requests an expedited ruling because he has been incarcerated under a life sentence imposed under California Three Strikes law since 1996, and because state and federal courts have not provided meaningful judicial review of his fundamental claims since that time. More than four years ago, Petitioner **[*127]** informed the United States Court of Appeals for the Ninth Circuit that he was serving an entirely unauthorized sentence; that the state courts had consistently refused to provide him with any meaningful review; that counsel was repeatedly appointed despite refusing to provide effective assistance; and that he was being completely deprived of due process. To date, Petitioner remains in the same position, despite having sought to reopen his case in both state and federal court for more than four years.

II. RELIEF REQUESTED

Petitioner has been incarcerated since 1996 under a life sentence imposed pursuant to California's Three Strikes law. Petitioner contends that the sentence is unauthorized because it was imposed and maintained through fundamental constitutional and procedural violations, including prosecutorial misconduct, fabrication or alteration of records, the use of factually false allegations, denial of a meaningful opportunity to be heard, ineffective legal representation, and the refusal of state courts to properly file, docket, preserve, or adjudicate his claims.

More than four years ago, and before Petitioner was resentenced in August of 2024, Petitioner notified the Ninth Circuit **[*128]** that he was being denied meaningful judicial review, because the courts had refused to file or place his claims in the record. Petitioner also submitted declarations concerning obstruction of state-court review and inadequate legal review for purposes of exhaustion.

Although Petitioner was resentenced in August 2024, that resentencing did not resolve his claims concerning the legality of the original proceedings, the factual basis for the life sentence, the alleged misconduct, the accuracy of the court record, or the denial of access to judicial review.

Petitioner's federal proceedings have proceeded as follows:

1. December 17, 2024: Petitioner filed his original motion for release from custody in case no: 24-497. A copy of that motion is included at ER 1-14.

2. January 28, 2025: The court issued an order directing the motions to be addressed by the United States District Court.

3. March 25, 2025: The District Court issued a briefing schedule requiring Respondent to respond to Petitioner's motions. (ER 15)

4. April 17, 2025: Rather than substantively addressing Petitioner's claims and more than twenty years of newly presented discovery, Respondent filed a motion to dismiss. The discovery presented **[*129]** by Petitioner demonstrate prosecutorial misconduct, fabrication or alteration of records, and tangible evidence that prior District Court orders were obtained or maintained through materially false information.

Respondent's principal position was that "the federal courts have already reviewed Petitioner's conviction and found it free of constitutional error." (ER 16-28) Petitioner contends that this argument did not address the newly presented evidence, the factual inaccuracies underlying the life sentence, or the defects in the state-and federal-court records.

5. July 28, 2025: Petitioner filed a motion for temporary restraining order and preliminary injunction, accompanied by a declaration seeking relief based, in part, on the failure to provide Petitioner with an accurate appellate record in his direct appeal, Case No.: D085131. (See ER 29-37)

6. September 04, 2025: The District Court issued an order denying relief. Petitioner contends that the order relied on materially false or inaccurate evidence and failed to address the central allegations concerning the validity of the life sentence, the fabrication of records, and the denial of meaningful judicial review (ER 38-46)

7. September **[*130]** 12, 2025: Petitioner filed an interlocutory appeal from the denial of his motion for a temporary restraining order and preliminary injunction. That appeal was assigned Case No.: 26-5829, but was dismissed without resolution of the underlying factual constitutional issues. (ER 47-49)

8. March 11, 2026: Petitioner filed a motion for relief from Order pursuant to *Federal Rule of Civil Procedure, Rule 60(b)*. The motion again identified evidence that Petitioner contends demonstrates the compilation or use of false evidence and the resulting entry of erroneous federal orders (ER 50-57).

9. April 20, 2026: Petitioner filed a reply to Respondent's opposition or response to the *Rule 60(b)* motion. Petitioner explained that Respondent had again failed to provide a substantive response to the specific allegations and evidence presented. (ER 57-62)

Since 2022, Petitioner has also filed motions seeking transfer of the matter to another county, declarations concerning obstruction of state-court review, notices regarding the absence of state-court responses, and other requests for relief intended to obtain review of the constitutional and factual issues underlying his custody. To Petitioner's knowledge, no court has issued a reasoned decision addressing his central **[*131]** claim that the allegations used to impose or maintain his life sentence were factually false information, and that Petitioner never legally qualified for a Three Strike sentence.

Petitioner maintains that the repeated dismissal or denial of his filings (on procedural grounds) has not constituted meaningful judicial review. Since 1997, no response has substantively addressed the allegations that the record contains fabricate or inaccurate evidence, that prior orders were based on materially false information, that Petitioner was denied an accurate appellate record (in the original appeal and after resentencing), or that Petitioner did not qualify for the life sentence imposed under California law. Instead, Petitioner contends that Respondent and the courts have continued to rely on prior rulings without confronting the newly presented evidence or explaining why Petitioner's claims are legally or factually incorrect.

The unresolved nature of these claims are particularly significant because Petitioner contends, and consistently has alleged, that the state-court record is incorrect due to prosecutorial misconduct, judicial abuse, fabrications, and or alterations.

Petitioner has diligently **[*132]** pursued available remedies through declarations, writ proceedings, notices, request for injunctive relief, an interlocutory appeal, a *Rule 60(b)* motion, and reply addressing Respondent's failure to provide a substantive response. Additionally, Petitioner has been made to file yet another *§ 2254* habeas petition without any state records responding to his claims. (See Case No.: 26-4787)

III. CONCLUSION

Accordingly, Petitioner requests that the court address the legality of his continued confinement and grant release pending disposition of the underlying habeas proceedings.

Alternatively, Petitioner requests release subject to reasonable conditions or remand to the District Court for an evidentiary hearing concerning the validity of his life sentence, the factual basis for that sentence, the alleged misconduct and fabrication of records, the accuracy and completeness of the state-court records, the alleged obstruction of judicial review, and whether continued custody violates due process.

Lastly, after twenty-five straight years of dealing with the now well defined, and thoroughly demonstrated evasive responses, having been resentenced twice, and having undergone numerous appeals within the state courts; **[*133]** again, the above-entitled court will not find "one Order" that addresses Petitioner's claims.

There are multiple ameliorated statutes that Petitioner perfectly qualify for, but due to never qualifying for the current sentence, no laws, procedures, statute, or ameliorated processes are being granted to Petitioner. Even the Senate Bill 483 procedures were never applied to Petitioner automatically. Petitioner had to file numerous actions to be recognized under SB 483, and then, deprived of a full resentence as mandated by the statute.

Date: September 9, 2026

Respectfully,

/s/ Lee Quillar

Lee Quillar/Petitioner

PROOF OF SERVICE

I. Lee Quillar, Declare: I am over the age of 18 years and I am/am not a party to this action.

On September 09, 2026, I served the following document(s):

Petitioner's Second Motion for Release from Custody

Pending Disposition of Habeas Proceedings w/Excerpts of Records Page 1-63

The following parties were served:

United States Court of Appeals for the Ninth Circuit

95 Seventh Street

San Francisco, CA 92103

Vincent P. Lapietra

California Attorney Gen.

600 West Broadway, #1800

San Diego, CA 92101

United States District Court

Southern District of California

333 West Broadway

San Diego, CA 92101

I declare **[*134]** under the penalty of perjury that the foregoing is true and correct and that this declaration was executed on September 09, 2024, at San Diego, California.

Respectfully

/s/ Lee Quillar

Lee Quillar/Appellant

Case No.: 26-4787

Lee Quillar

480 Alta Road

San Diego, CA 92179

UNITED STATES COURT OF APPEALS FOR THE NINTH CIRCUIT

LEE QUILLAR,

Petitioner,

Vs.

M. RAMIREZ, WARDEN (A),

Respondent.

USDC No.: 25CV00253-BTM(LR)

EXCERPTS OF RECORDS IN SUPPORT OF MOTION FOR RELEASE FROM CUSTODY PENDING DISPOSITION OF HABEAS PROCEEDINGS

No.:	Document:	Date:	Page:
1	Motion for Release from Custody	12/17/2024	1-5
2	Memorandum of Points and Authorities in Support of Motion for Release from Custody	12/17/2024	6-11
3	Declaration of Lee Quillar in Support of Motion for Release from Custody	12/17/2024	12-14
4	Order Setting Briefing Schedule on Petitioner's Motions	03/25/2025	15
5	Notice of Motion and Motion to Dismiss Petition for Writ of Habeas Corpus	04/17/2025	16-28
6	Motion for Temporary Restraining Order and Preliminary Injunction	07/28/2025	29-32
7	Declaration of Lee Quillar in Support of Restraining Order and Preliminary Injunction	07/28/2025	33-37
8	United States District Court Order	09/04/2025	38-46
9	Notice of Interlocutory Appeal from Denial of Preliminary Injunction	09/12/2025 **[* 135]**	47-49
10	Notice of Motion and Motion for Relief from Order Pursuant to *Rule 60(b)*	03/11/2026	50-57
11	Petitioner's Reply to Respondent's Response to Motion for Relief from Judgment	04/20/2026	58-63

CASE NO. 24-497

UNITED STATES COURT OF APPEALS FOR THE NINTH CIRCUIT

LEE QUILLAR,

Petitioner,

VS.

JAMES HILL, Warden,

Respondent.

MOTION FOR RELEASE FROM CUSTODY

Lee Quillar D22639

480 Alta Road, D18-212

San Diego, CA 92179

In Propria Persona

4. Petitioner has been incarcerated under the current unauthorized sentence since October 18, 1997; and between July 2022, until August 22, 2024, the San Diego Superior Court had every opportunity to correct the violations, but chose not to. In failing to create a record, this has abridged petitioner's ability to argue material facts that will irrefutably show petitioner never qualified to be sentenced to life term.

5. Petitioner would have been released long ago by the California Board of Parole Hearings, as he: a) had his violent determination removed, b) petitioner has not received any disciplinary actions in over "fifteen (15) years," c) in 2021, petitioner had his points reduced to zero ("0") and was transferred to a Camp Institution (Jamestown) and returned to Donovan in order **[*136]** to complete his major, d) petitioner has a 4.0 grade point average, and has been given the opportunity to attend UC Irvine.

6. Because petitioner staunchly refuses to admit that he "stabbed someone" in case no. CR75335, the BPH continue to find reasons to deny him all while refusing to submit the mandatory investigation report to the governor under the clemency request.

7. As shown, the court in case no. 37-2023-00037444-CU-WM-CTL, has: 1) completely denied petitioner the right to attend his hearings, 2) refuses to submit the statement of decision, abusing its discretion, and then, 3) refused to mail petitioner his final judgment until more than 180 days had elapsed.

Each of the above, leans towards granting this motion, which will provide a remedy which was legally required in the original appeal filed in 1997. However, petitioner suffered the same process that he is currently suffering, i.e. evidence was kept out of record.

PROOF OF SERVICE

I, Lee Quillar Declare: I am over the age of 18 years and I am/am not a party to this action.

On December 12, 2024, I served the following document(s): PETITIONER'S REPLY TO RESPONSE REGARDING STATE COURT PROCEEDINGS; MOTION FOR RELEASE FROM CUSTODY; **[*137]** DECLARATION OF LEE QUILLAR IN SUPPORT OF MOTION FOR RELEASE FROM CUSTODY; MEMO OF P&A'S IN SUPPORT OF MOTION FOR RELEASE FROM CUSTODY; EXHIBIT A IN SUPPORT

The following parties were served:

United States Court of Appeals

for the Ninth Circuit

95 Seventh Street

P.O. Box 193939

San Francisco, CA 94119

Attorney General's Office

Charles Ragland

600 West Broadway, Ste. 1800

San Diego, CA 92101

I declare under the penalty of perjury that the foregoing is true and correct and that this declaration was executed on December 12, 2024, at San Diego, California.

By, /s/ Lee Quillar

Lee Quillar

ARGUMENT

A. PETITIONER IS ACTUALLY INNOCENT OF THE ALLEGATION USED TO SENTENCE HIM TO AN INDETERMINATE TERM

As consistently argued, under no legal theory did petitioner qualify to be sentenced to a life term pursuant to the habitual criminal statute. False evidence was attached to case no. CR75335, in alleging that petitioner had a weapon and stabbed someone in the leg at age seventeen. The allegations in case no. CR75335, was secured in violation of the United States Constitution in petitioner being prosecuted at age seventeen as an adult in the Superior Court without undergoing a *Welfare and Institution 707(b)* hearing.

Exacerbating the violations, **[*138]** a "fabricated probation report" was submitted falsely accusing petitioner of stabbing the store clerk in the leg without a police report, preliminary report, or medical report to substantiate the allegations; when coercing petitioner to enter the illegal plea deal.

Petitioner was directed into entering a plea alleging "assault 'likely' to produce great bodily injury," when no such assault occured; nor did petitioner posses a box-cutter which fell from the store clerk pocket. In California, assault likely to produce great bodily injury is not a strikeable offense under the Three Strikes Scheme; unless a deadly weapon was actually used by the defendant or an accomplice. (See *People v. Haykel, (2002) 96 Cal.App. 4th 146, at 149, 116 Cal. Rptr. 2d 667 (HN 6)*; *People v. Aguayo, (2022) 13 Cal. 5th 974, at 987, 297 Cal. Rptr. 3d 327, 515 P.3d 63*).)("Proposition 21, as enacted by the voters, did not designate 'force likely assault' as a serious felony conviction.")

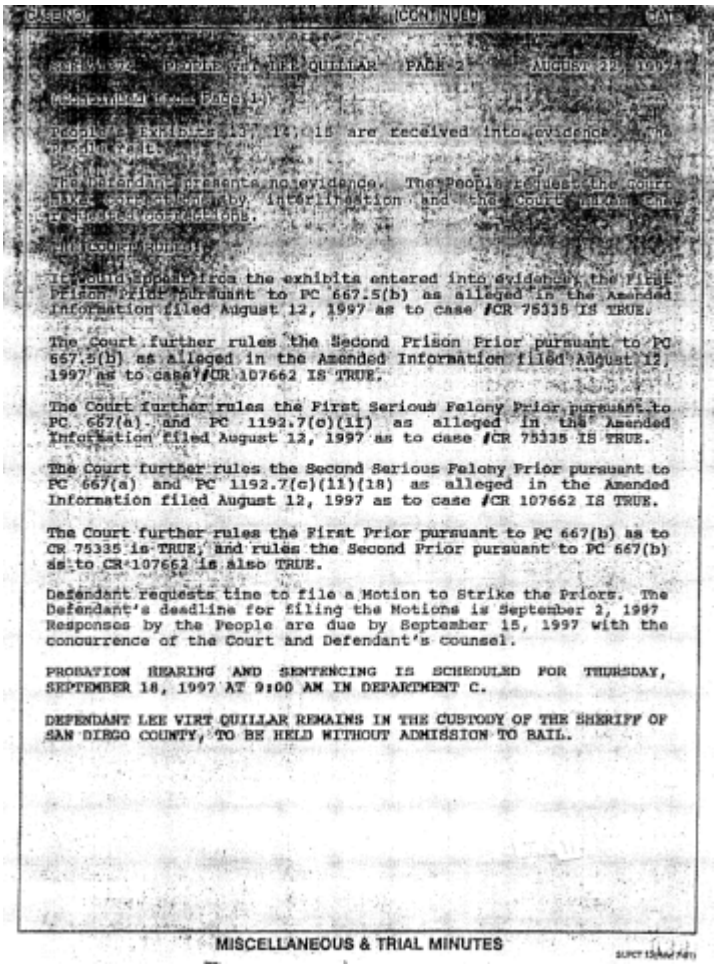
his Racial Justice Act of 2020 motions completely demonstrates; but are disposed of in the same manner as his entire case within the state courts. That is, a total deprivation of his rights to be heard,

Dated: December 12, 2024

Respectfully,

/s/ Lee Quillar

Lee Quillar



CASE NO. (CONTINUED) DATE

SCR 1997 PEOPLE VS LEE QUILLAR PAGE 2 AUGUST 22, 1997

(Continued from Page 1)

People's Exhibits 13, 14, 15 are received into evidence. The People rest.

The Defendant presents no evidence. The People request the Court make correction by interlineation and the Court makes the requested corrections.

The Court Rules:

It would appear from the exhibits entered into evidence, the First Prison Prior pursuant to PC 667.5(b) as alleged in the Amended Information filed August 12, 1997 as to case #CR 75335 IS TRUE.

The Court further rules the Second Prison Prior pursuant to PC 667.5(b) as alleged in the Amended Information filed August 12, 1997 as to case #CR 107662 IS TRUE.

The Court further rules the First Serious Felony Prior pursuant to PC 667(a) and PC 1192.7(c)(11) as alleged in the Amended Information filed August 12, 1997 as to case #CR 75335 IS TRUE.

The Court further rules the Second Serious Felony Prior pursuant to PC 667(a) and PC 1192.7(c)(11)(18) as alleged in the Amended Information filed August 12, 1997 as to case #CR 107662 IS TRUE.

The Court further rules the First Prior pursuant to PC 667(b) as to CR 75335 is TRUE, and rules the Second Prior pursuant to PC 667(b) as to CR 107662 is also TRUE.

Defendant requests time to file a Motion to Strike the Priors. The Defendant's deadline for filing the Motions is September 2, 1997 Responses by the People are due by September 15, 1997 with the concurrence of the Court and Defendant's counsel.

PROBATION HEARING AND SENTENCING IS SCHEDULED FOR THURSDAY, SEPTEMBER 18, 1997 AT 9:00 AM IN DEPARTMENT C.

DEFENDANT LEE VIRT QUILLAR REMAINS IN THE CUSTODY OF THE SHERIFF OF SAN DIEGO COUNTY, TO BE HELD WITHOUT ADMISSION TO BAIL.

MISCELLANEOUS & TRIAL MINUTES

DECLARATION OF LEE QUILLAR IN SUPPORT OF MOTION FOR RELIEF FROM CUSTODY

I, Lee Quillar, declare:

1. On October 18, 1997, declarant was sentenced to a life term under the allegation **[*139]** that he committed great bodily injury on a peace officer.

2. Since that time, declarant has been relentlessly pursuing correction of his sentence, as there is no history whatsoever to substantiate the allegations leading to his life sentence.

3. The San Diego Courts has completely deprived declarant at every opportunity to so much as record his claims within the record as often as possible, denying declarant of the means to have his actions filed or, when they are filed, adjudicated or, when they are adjudicated the arguments are distorted to mean something other than what declarant has contended or, whenever declarant actually secure his claims within the court records, he is completely stripped of due process by not being afforded to appear at his own hearings as the plaintiff/petitioner.

4. On November 21, 2024, declarant served the above-entitled court a copy of his declaration entitled: "Declaration of Lee Quillar in Support of Motion to Transfer Case to Another County."

5. As explained in the declaration, judgments are not being provided to declarant, forcing him to default on his right to appeal.

6. In filing for clemency, the Governor directed that the California Department of Corrections **[*140]** & Rehabilitation investigate, requiring the CDCR to comply with *Penal Code section 4812*.[1]

UNITED STATES DISTRICT COURT SOUTHERN DISTRICT OF CALIFORNIA

LEE QUILLAR,

Petitioner,

v.

JAMES HILL, Warden,

Respondent.

Case No.: 25cv253-BTM (LR)

ORDER SETTING BRIEFING SCHEDULE ON PETITIONER'S MOTIONS

Petitioner is proceeding with a Petition for a Writ of Habeas Corpus pursuant to *28 U.S.C. § 2254*. (ECF No. 1.) Petitioner has also filed a Motion to transfer and a Motion for release from custody. (ECF Nos. 2, 3.)

Respondent must file a response to the motions no later than **April 28, 2025**. A hearing date is not required for the motions. Petitioner must file his opposition, if any, to Respondent's responses no later than **May 28, 2025**. Unless the Court orders otherwise, Respondent need not file a reply to Petitioner's responses.

IT IS SO ORDERED.

Dated: March 25, 2025

/s/ Lupe Rodriguez, Jr.

Honorable Lupe Rodriguez, Jr.

United States Magistrate Judge

ROB BONTA

Attorney General of California

Daniel Rogers

Supervising Deputy Attorney General

Vincent P. LaPietra

Deputy Attorney General

State Bar No. 255985

600 West Broadway, Suite 1800

San Diego, CA 92101

1 Upon request of the Governor, the Board of Parole Hearings shall investigate and reoprt on all applications for reprieves, pardons, and commutations...

Telephone: (619) 738-9049

Fax: (619)645-2044

E-mail: Vincent.LaPietra@doj.ca.gov

Attorneys for Respondent

IN THE UNITED STATES DISTRICT COURT FOR THE SOUTHERN DISTRICT **[*141]** OF CALIFORNIA

LEE QUILLAR,

Petitioner,

v.

JAMES HILL, Warden,

Respondent.

3:25-cv-00253-BTM-LR

NOTICE OF MOTION AND MOTION TO DISMISS PETITION FOR WRIT OF HABEAS CORPUS

The Honorable Lupe Rodriguez, Jr.

TO PETITIONER LEE QUILLAR:

PLEASE TAKE NOTICE that Respondent hereby moves the Court for an order dismissing the Petition for Writ of Habeas Corpus because the judgment is not final; your appeal from resentencing is pending in the California Court of Appeal. Respondent bases the Motion on this Notice of Motion and Motion, the accompanying Memorandum of Points and Authorities, and on the other pleadings filed or documents lodged in this action.

CERTIFICATE OF SERVICE

I hereby certify that on April 17, 2025, I electronically filed the following documents with the Clerk of the Court by using the CM/ECF system:

> **NOTICE OF MOTION AND MOTION TO DISMISS PETITION FOR WRIT OF HABEAS CORPUS AND MEMORANDUM OF POINTS AND AUTHORITIES IN SUPPORT OF MOTION TO DISMISS PETITION FOR WRIT OF HABEAS CORPUS AND OPPOSITION TO PENDING MOTIONS**

Participants in the case who are registered CM/ECF users will be served by the CM/ECF system.

I am employed in the Office of the Attorney General, which is the office of a member of **[*142]** the California State Bar at which member's direction this service is made. I am 18 years of age or older and not a party to this matter. I am familiar with the business practice at the Office of the Attorney General for collection and processing of correspondence for mailing with the United States Postal Service. In accordance with that practice, correspondence placed in the internal mail collection system at the Office of the Attorney General is deposited with the United States Postal Service with postage thereon fully prepaid that same day in the ordinary course of business.

I further certify that some of the participants in the case are not registered CM/ECF users. On April 17, 2025, I have caused to be mailed in the Office of the Attorney General's internal mail system, the foregoing document(s) by First-

Class Mail, postage prepaid, or have dispatched it to a third party commercial carrier for delivery within three (3) calendar days to the following non-CM/ECF participants:

Lee V. Quillar

CDC# D-22639

Richard J. Donovan Correctional Facility

480 Alta Road

San Diego, CA 92179

I declare under penalty of perjury under the laws of the State of California and the United States of America the **[*143]** foregoing is true and correct and that this declaration was executed on April 17, 2025, at San Diego, California.

B. Romero

Declarant

/s/ B. Romero

Signature

ROB BONTA

Attorney General of California

Daniel Rogers

Supervising Deputy Attorney General

Vincent P. LaPietra

Deputy Attorney General

State Bar No. 255985

600 West Broadway, Suite 1800

San Diego, C A 92101

Telephone: (619)738-9049

Fax: (619)645-2044

E-mail: Vincent.LaPietra@doj.ca.gov

Attorneys for Respondent

IN THE UNITED STATES DISTRICT COURT FOR THE SOUTHERN DISTRICT OF CALIFORNIA

LEE QUILLAR,

Petitioner,

v.

JAMES HILL, Warden,

Respondent.

3:25-cv-00253-BTM-LR

MEMORANDUM OF POINTS AND AUTHORITIES IN SUPPORT OF MOTION TO DISMISS PETITION FOR WRIT OF HABEAS CORPUS AND OPPOSITION TO PENDING MOTIONS

The Honorable Lupe Rodriguez, Jr.

Petitioner Lee Quillar is serving an indeterminate term of twenty-five years to life in state prison following his conviction by jury for causing a fire of an inhabited structure, arson of another's property, and assault with a deadly weapon or force likely to cause great bodily injury. Asserting trial and sentencing error, he seeks federal habeas relief.

The Petition is before this court following a transfer from the Ninth Circuit. Quillar **[*144]** sought permission to file a second or successive petition. The circuit court found the request unnecessary because Quillar was recently resentenced, and his new sentence constitutes a new judgment. Quillar has appealed from resentencing *Henderson v. Johnson, 710 F.3d 872, 874 (9th Cir. 2013)* ("*Sherwood* stands for the proposition that a district court may not adjudicate a federal habeas petition while a petition's direct state appeal is pending.").

Phillips v. Vasquez, 56 F.3d 1030 (9th Cir. 1995) is inapt. In that case, the California Supreme Court reversed Philips's death sentence and remanded. Again sentenced to death, Philips sought to challenge his conviction in federal court while his appeal from resentencing was pending in the state supreme court; by this time fifteen years had passed since the jury's original verdict. The district court dismissed Philips' petition, and the Ninth Circuit reversed. In so doing, the circuit court declined to extent *Sherwood to* the situation before it. *Id. at 1037*. But as the circuit court later explained, the holding in *Phillips* turns on its unique procedural history—for Philips, the state capital appeals process resulted in an "unreasonably long delay." *Edelbacher v. Calderon, 160 F.3d 582, 585-86 (9th Cir. 1998)*. Absent unusual circumstances, it is the "general rule that a petitioner must await the outcome of the state proceedings **[*145]** before commencing his federal habeas action." *Id. at 583*.

In this case, the general rule is applicable. Unlike *Phillips*, the appeals process has not resulted in an unreasonably long delay for federal habeas review. Indeed, the federal courts have already reviewed Quillar's conviction.

Equally distinguishable is *Duke v. Gastelo, 64 F.4th 1088 (9th Cir. 2023)*. In that case, Duke had a request for resentencing pending in the superior court when he filed his federal habeas petition. The superior court denied resentencing, Duke appealed, and the matter was remanded. As this was happening, the district court denied Duke's request for a stay and dismissed the petition pursuant to *Younger v. Harris, 401 U.S. 37, 91 S. Ct. 746, 27 L. Ed. 2d 669 (1971)*. The circuit court reversed and remanded. It found that a pending petition for resentencing is insufficient to warrant abstention and that the district court incorrectly determined it lacked authority to grant a stay. that the habeas petition has a high probability of success and that special circumstances justify his release." *Centofanti v. Neven, 820 F.App'x 555, 556 (9th Cir 2020)*; *United States v. Dade, 959 F.3d 1136, 1138 (9th Cir. 2020)*. "Special circumstances include 'a serious deterioration of health while incarcerated, and unusual delay in the appeal process.' " *United States v. Mett, 41 F.3d 1281, 1282 n.4 (9th Cir. 1994)*.

Here, there are no special circumstances warranting release. The federal courts have already reviewed Quillar's conviction **[*146]** and found it free of constitutional error. The state granted resentencing pursuant to a change in law. Because such resentencing constitutes a new judgment, Quillar may return to federal court. But there is no reason that he should be released pending the outcome of this Petition.

CONCLUSION

Respondent requests this Court dismiss the Petition and pending motions without prejudice.

Dated: April 17, 2025

Respectfully submitted,

Rob Bonta

Attorney General of California

Daniel Rogers

Supervising Deputy Attorney General

/s/ Vincent P. LaPietra

Vincent P. LaPietra

Deputy Attorney General

Attorneys for Respondent



ATTACHMENT "B"

Lae Quillar D22639

480 Alta Road, D18-212L

San Diego, CA 92179

UNITED STATES DISTRICT COURT FOR THE SOUTHERN DISTRICT OF CALIFORNIA

LEE QUILLAR,

Petitioner,

VS.

JAMES HILL, Warden,

Respondent.

No. 25-CV-000253-BTM-LR

MOTION FOR TEMPORARY RESTRAINING ORDER AND PRELIMINARY INJUNCTION [*Fed. R. Civ. P. 65(a)*]

RELIEF SOUGHT

Petitioner moves this court, pursuant to *Rule 65 of the Federal Rules of Civil Procedures*:

1. To issue a temporary restraining order suspending and restraining the operation, enforcement, or execution of the court order "denying petitioner an accurate, complete, and materially factual," copy of the proceedings of his resentencing hearing; held between August 22, 2022 **[*147]** through October 30, 2024, within the San Diego Superior Court, "Central" and "East" divisions. The July 14, 2025 order, attached as Exhibit H, to the Declaration in support of this motion, and any and all further actions are to be included within this request pending the hearing and determination of petitioner's request for preliminary injunction.

2. To issue a preliminary injunction suspending, restraining the operation, enforcement, or execution of the July 14, 2025 order, issued by Presiding Justice McConriell, assigned to the California

> MEMORANDUM OF POINTS AND AUTHORITIES IN SUPPORT OF MOTION FOR TEMPORARY RESTRAINING ORDER AND PRELIMINARY INJUNCTION

To obtain a preliminary injunction, the court considers four factors: (l) whether the moving party has demonstrated that it is likely to succeed on the merits; (2) whether the moving party will suffer irreparable injury if relief is denied; (3) whether the balance of hardship favor the moving party; and (4) whether the public interest favor granting relief.

Petitioner satisfies each of the elements, in that, he has been made to purposely suffer in being accused for crimes that he did not commit; petitioner is currently being deprived **[*148]** of all access to State Court judicial remedies, as an ongoing effort to obstruct his federal claim for purpose of exhaustion; the Ninth Circuit has already acknowledge that petition may have been successful with his claims, but not for the AEDPA's strict limitations; the balance of hardship is solely against petitioner, as the State courts are "commanded to follow the federal constitution"; and, "it is always in the interest of the public to follow the State and Federal Constitution."

PETITIONER HAS NO AVAILABLE REMEDIES:

Currently, there are no available remedies for petitioner to obtain redress of his ongoing claims, as argued well over a year ago within the Ninth Circuit; leading the Appellate Court to order the respondent to address the issue. The

respondent conceded versus arguing the facts. Now, petitioner is being "completely blocked" of his ability to have an accurate appellate record provided, again, showing the need to have this case transferred to another county.

Lee Quillar D22639

480 Alta Road, D18-212L

San Diego, CA 92179

UNITED STATES DISTRICT COURT FOR THE SOUTHERN DISTRICT OF CALIFORNIA

LEE QUILLAR,

Petitioner,

VS.

JAMES HILL, Warden,

Respondent.

No. 25-CV-00253-BTM-LR

DECLARATION **[*149]** OF LEE QUILLAR IN SUPPORT OF MOTION FOR TEMPORARY RESTRAINING ORDER AND PRELIMINARY INJUNCTION [*Fed. R. Civ. P. 65(a)*]

I, Lee Quillar, declare:

1. I am over 18 years of age, and I am a party to this action and if called as a witness, I can testify in open court as to the truth of the following statements.

2. While this case was pending in the Ninth Circuit Court of Appeals, a declaration was filed in support of application to file second habeas corpus; obstruction of state court review, by this Declarant. It was explained to the court that "all of declarant's state court actions are being chilled due to the gravity of the violations leading to his conviction"; and, declarant had to file a state bar complaint in his attempt to have the public defender assist him with his unauthorized sentence. (See Exhibit A, attached hereto @ para. 2 & 6.) Thereafter, still, no assistance was rendered.

3. On October 28, 2024, declarant filed an additional declaration in the Ninth Circuit, in support of claims of denial of adequate legal missing numerous records, as declarant represented himself.[1]

8. Based on the court order directing supplemental filing in having appellate **[*150]** counsel refuse to aid declarant, and having a false appellate record; declarant filed a motion to augment record, declaration in support thereof, with excerpts of records showing the numerous actions that were pending. Some heard, but the orders are not included within the appellate records; some not heard, but were required to be heard before the resentencing was to occur; and declarant is oblivious as to who were responsible to address the matters as the court failed to provide any transfer of action orders on file in conjunction with not allowing declarant to attend in person his own resentencing. (See Exhibit E through G.)

9. None of the augmentation motions were placed in the Appellate Court's record, declarant was not provided back the requested copies in sending a self addressed stamped envelope, and the court entered in its docket: "Pro per request to augment." (See Case no. D085131, 4th App. Dist. Crt. Div. 1.)

---

1 At no time was declarant allowed to appear in person as a self represented party in having four different judges within two different jurisdiction each partake in resentencing declarant by exercising authority of motions presented before the first of four judges. (See Exhibit E, attached.)

10. On July 14, 2025, the appellate court entered an Order denying declarant motion to augment, which completely deprives him of an appeal based on the material facts of what actually occured in the trial court; confining declarant to a manufactured appellate record.[2]

[*151] 11. In responding to the respondent's motion to dismiss, declarant has shown the motion is based on false evidence. Declarant has shown that his original appeal is based on false evidence. In advance, upon exhaustion, this case (D085131) will be shown to be based on the

PROOF OF SERVICE BY MAIL

I, Lee Quillar, declare: I am over the age of 18 years and I am/am not a party to this action.

On July 24th, 2025, I served the following document(s): Motion for Temporary Restraining Order; Declaration in Support of Motion for Temporary Restraining Order.

The following parties were served:

United States District Court

333 West Broadway

San Diego, CA 92101

California Court of Appeal

Fourth Appellate District

750 B. Street, #300

San Diego, CA 92101

California Supreme Court

350-McAllister Street

San Francisco, CA 94102-4797

Vincent P. LaPietra

California-Attorney Gen.

600 West Broadway, Ste. 1800

San Diego, CA 92101

I declare under the penalty of perjury that the foregoing is true and correct and that this declaration was executed on July 24th, 2025, at San Diego, California.

Submitted by,

/s/ Lee Quillar

Lee Quillar/Petitioner

Respondent has filed a Motion to Dismiss the Petition. ECF No. 10. Respondent contends the Petition is premature because Petitioner's **[*152]** appeal of his new judgment is still pending in state court and the judgment is not yet

2 [ILLEGIBLE FOOTNOTE]

final, rendering any claims arising from his resentencing proceedings unexhausted. ECF No. 10-1 at 1-4. Respondent argues that the motions accompanying the Petition should be denied because Petitioner has not shown special circumstances allowing for his release from custody prior to the resolution of the

Petition, and the motion to transfer the resentencing proceeding to another county is moot since it is no longer pending in the San Diego County Superior Court. *Id.* at 4-5. Petitioner has filed an Opposition arguing it is not necessary to wait for his appeal to resolve because he is taking advantage of the new judgment to re-adjudicate old claims for which he has already exhausted state court remedies, and alternately that any failure to exhaust can be excused. ECF No. 11 at 1-9. He has also filed a Request for Judicial Notice of state court documents, ECF No. 12, a Request for Judicial Notice of his own declaration along with the declaration, ECF Nos. 13-14, two identical Motions seeking a temporary restraining order and a preliminary injunction, ECF Nos. 15-16, and a supplemental Motion seeking **[*153]** a temporary restraining order and preliminary injunction, ECF No. 17.

FACTUAL AND PROCEDURAL BACKGROUND

In 1997, a jury convicted Petitioner of causing a fire in an inhabited structure, arson of the property of another, assault with a deadly weapon or by force likely to produce great bodily injury, and false imprisonment by violence involving the personal use of a deadly weapon, a knife. *People v. Quillar, 2022 Cal. App. Unpub. LEXIS 3760, 2022 WL 2185824, at *1 (Cal. App. Ct. June 17, 2022)*. The trial court found Petitioner had prior convictions for grand theft and assault with a deadly weapon in case number CR75335, and voluntary manslaughter and residential burglary in case number CR107662. *Id.* Petitioner was sentenced to thirty-six years to life in state prison, consisting of a base term of twenty-five years to life on the assault with a deadly weapon count, a one-year enhancement for use of a knife, and two five-year enhancements for his prior convictions, with the sentences on the remaining counts and enhancements either concurrent or stayed. *Id.* The state appellate court affirmed the

On February 4, 2025, the Ninth Circuit transferred the Petition to this Court because Petitioner was now challenging a new judgment of conviction and no longer needed permission to file a second or successive **[*154]** petition. ECF No. 1; *see also Magwood v. Patterson, 561 U.S. 320, 341-42, 130 S. Ct. 2788, 177 L. Ed. 2d 592 (2010)* (a federal petition is not second or successive if there has been a "new judgment intervening between the two habeas petitions.") On May 16, 2025, Petitioner's appointed counsel filed an opening brief in the state appellate court stating there were no arguable issues. *See* D085131, https://supreme.courts.ca.gov/case-information/docket-search (last visited August 15, 2025). On July 14, 2025, Petitioner's motion to represent himself on appeal was denied and the time for him to file a pro se supplemental appellate brief was extended 30 days. *Id.*

ANALYSIS

Respondent seeks dismissal of the Petition on the basis that the judgment challenged is not yet final because Petitioner's appeal of his new judgment remains pending in state court. ECF No. 10-1 at 2-3. Petitioner opposes the motion, arguing that his claims have already been raised and denied in state court and are therefore fully exhausted, and that the entry of a new state court judgment "allows him to reach back and adjudicate matters that were completely incapable of being adequately developed as the claims were not ripe." ECF No. 11 at 1-9. He alternately argues that any failure to exhaust can be excused **[*155]** through gateway mechanisms or the state court's history of denying him due process. *Id.* at 1-2.

Petitioner claims in his federal Petition here that: (1) trial counsel Elizabeth Barranco rendered ineffective assistance by failing to interview or call any of Petitioner's defense witnesses at trial and using Petitioner's case to embezzle funds, and was later disbarred for similar fraudulent activities; (2) he was illegally sentenced to a term of life imprisonment under the three strikes law based on a prior conviction in CR75335 of battery on a peace officer causing great bodily injury because the state court record, which he only discovered during his appeal of his earlier resentencing proceedings, shows he is actually innocent of that prior conviction; (3) he was fraudulently stripped of his right to trial counsel when (a) the trial court dismissed appointed attorney Tarantino and forced Petitioner into

self-Irrespective of whether Petitioner has presented the claims raised in the instant federal Petition to the state courts, the Ninth Circuit has stated that when "an appeal of a state criminal conviction is pending, a would-be habeas corpus petitioner must await the outcome of his appeal **[*156]** before his state remedies are exhausted, *even where the issue to be challenged in the writ of habeas corpus has been finally settled in the state courts*." Sherwood v. Tomkins, 716 F.2d 632, 634 (9th Cir. 1983) (emphasis added); *see also* Henderson v. Johnson, 710 F.3d 872, 874 (9th Cir. 2013) (*"Sherwood* stands for the proposition that a district court may not adjudicate a federal habeas petition while a petitioner's direct state appeal is pending.") Thus, even if Petitioner has already exhausted his state court remedies as to the claims raised in his federal Petition, he must await the outcome of the state appellate proceedings arising from his new state criminal judgment before this Court can adjudicate his federal claims.

That does not, however, mean the instant Petition must be dismissed at this stage of the proceedings. A federal district court has discretion to stay habeas proceedings pending resolution of an appeal of state resentencing proceedings. *See Duke v. Gastelo, 64 F.4th 1088, 1098 (9th Cir. 2023)* (first citing Rhines v. Weber, 544 U.S. 269, 278, 125 S. Ct. 1528, 161 L. Ed. 2d 440 (2005); and then *Kelly v. Small, 315 F.3d 1063, 1070 (9th Cir. 2003)*); *see also* Henderson, 710 F.3d at 874 ("Sherwood does not undermine the important precedent requiring district courts . . . to consider a petitioner's eligibility for a stay under Rhines [and *Kelly*].")

In determining whether to issue a *RhineslKelly* stay the Court looks to whether Petitioner has been diligently proceeding in state court, which he apparently **[*157]** has, and whether he would risk losing the ability to raise his federal claims. *See Duke, 64 F.4th 1099* (citing *Kelly, 315 F.3d at 1070*) ("[T]here is a growing consensus that a stay is required when dismissal could jeopardize the petitioner's ability to obtain federal review.") The *Duke* court found that the lack of controlling authority as to whether the federal one-year statute of limitations is tolled during a state appeal of resentencing proceedings made it uncertain whether the petitioner risked the loss of the federal claims not raised in that appeal, counseling in favor of a stay. *Id.* In this case, which has been pending about seven County Superior Court. ECF No. 10-1 at 4. Petitioner argues that he is being denied due process by the state appellate court as well, which is also located in San Diego County, and that his claims of wrongful imprisonment would be recognized as legitimate in any other county. *See* ECF No. 15-1 at 3-4; ECF No. 16-1 at 3-4. In two related motions, which are identical copies, and a supplemental motion, Petitioner seeks a preliminary injunction and a temporary restraining order suspending, until a ruling on his motion to transfer the case to another county, the operation of the July 14, 2025, appellate **[*158]** court order which denied his request for self-representation on appeal on the basis that there is no right to self-representation on appeal. ECF No. 15 at 1-2; ECF No. 15-2 at 29; ECF No. 16 at 1-2; ECF No. 16-2 at 29; ECF No. 17 at 1-2. Petitioner argues that he is being denied access to trial transcripts in his criminal case which would show he was not present at the three pretrial hearings which the trial court minutes fraudulently state he attended, and apparently contends that he would be in a position to obtain those records if he could proceed pro se on appeal or if his state proceedings were transferred to another county. ECF No. 15 at 3-4; ECF No. 15-1 at 3-4; ECF No. 16 at 3-4; ECF No. 16-1 at 3-4; ECF No. 17 at 2. Petitioner unsuccessfully sought copies of those records in the state court in 2006 and 2007, in a procedurally improper manner. *See* Quillar v. Nielsen, 2009 Cal. App. Unpub. LEXIS 2286, 2009 WL 726322. He unsuccessfully sought copies of those records in this Court in 2009 in a habeas petition which was dismissed as second or successive. *See* Order filed 9/25/09 at 1-2 [ECF No. 7], Quillar v. Evans, No. 09cv 1649, 2009 U.S. Dist. LEXIS 96358, 2009 WL 3381816 (S.D. Cal. Oct. 16, 2009).

The standard for issuing a temporary restraining order is the same as the standard for issuing a preliminary injunction. Stuhlbarg Int'l Sales Co., Inc. v. John D. Brush & Co., Inc., 240 F.3d 832, 839 n.7 (9th Cir. 2001) (noting that a TRO and preliminary **[*159]** injunction involve "substantially identical" analyses). Petitioner "must establish that he is likely to succeed on the merits, that he is likely to suffer irreparable harm in the absence of preliminary relief, that the balance of equities tips in his favor, and that an injunction is in the public interest." Winter v. Nat. Res. Def. Council, Inc., 555 U.S. 7, 20, 129 S. Ct. 365, 172 L. Ed. 2d 249 (2008).

IN THE UNITED STATES DISTRICT COURT FOR THE SOUTHERN DISTRICT OF CALIFORNIA

LEE QUILLAR,

Petitioner,

VS

JAMES HILL,

Respondent.

Case No. 25-CV-00253-BTM-LR

NOTICE OF INTERLOCUTORY APPEAL FROM DENIAL OF PRELIMINARY INJUNCTION [*28 U.S.C. 1292(A)(1)*]

To the Clerk of the Court:

Please take notice that, Lee Quillar, the Appellant in the above-referenced case, hereby appeals to the Ninth Circuit Court of Appeals, from the order entered on September 04, 2025, which denied Appellant's request for temporary restraining order and preliminary injunction. This appeal is taken pursuant to Rule 3-3, of the Federal Rules of Appellate Procedures, and *28 U.S.C. 1292(a)(1)*; and is based on the following grounds:

Ground for Appeal #1

The district Court abused its discretion in failing to address the actual "material facts" in denying petitioner's motion for temporary restraining order and preliminary injunction, in not addressing the clear deprivation of due process, completely abridging his right to **[*160]** perfect his appeal due to concealment;

Ground for Appeal #2

CERTIFICATE OF SERVICE

I certify that, on September 12, 2025, I placed a true and correct copy of the attached:

NOTICE OF INTERLOCUTORY APPEAL FROM DENIAL OF PRELIMINARY INJUNCTION

I placed same in the United States mail, in properly-addressed envelopes with first class postage duly paid and affixed to the envelopes, and with the envelopes address to:

United States Court of Appeals

For the Ninth Circuit

95 Seventh Street

San Francisco, CA 94103-1526

Vincent Paul Lapietra

Office of the Attorney General

600 West Broadway, Ste. 1800

San Diego, CA 92101

United States District Court

For the Southern District of California

333 West Broadway

San Diego, CA 92101

I declare underpinning of perjury that all of the statements made in this certificate of are true and correct. This certificate was executed on September 12, 2025, at San Diego, California.

Submitted by,

/s/ [Signature]

Lee Quillar D22639

480 Alta Road, D18-212

San Diego, CA 92179

In Pro Se.

UNITED STATES DISTRICT COURT SOUTHERN DISTRICT OF CALIFORNIA

LEE QUILLAR,

Petitioner,

vs.

JAMES HILL, Warden,

Respondent.

No. 25-CV-00253-BTM-LR

USCA No. 25-5829

NOTICE OF MOTION AND MOTION FOR RELIEF FROM ORDER (Pursuant **[*161]** to *Fed.R.Civ.P. 60(b)(3)* and *60(b)(6)*)

I. INTRODUCTION

Petitioner moves for relief from the Court's September 04, 2025 Order pursuant to *Federal Rules of Civil Procedure 60(b)(3)* and *60(b)(6)*. The Order rests on materially inaccurate factual premises concerning (1) alleged self-representation on direct appeal, (2) the nature of transcript request, and (3) the status of state proceedings.

Because those inaccuracies materially affected the Court's stay and injunctive analysis; in conjunction with denying Petitioner's motion to transfer case to another county and motion for release from custody., reopening is warranted.

II. LEGAL STANDARD

Rule 60(b)(3):

Relief is appropriate where a judgment was obtained through fraud, misrepresentation, or misconduct that prevented the moving

* He was compelled to proceed without meaningful access to records;

* His filings were dispersed among four different judges in two courts.

The Appellate Court's July 14, 2025 Order concerned a procedural matter within the resentencing appeal-not retroactive request to self-representation on direct appeal from the 2024 judgment.

There is no record-none-showingthat Petitioner ever invoked his Faretta rights, nor requested to represent himself on direct appeal.

The federal court reliance on this inaccurate characterization **[*162]** constitutes reliance on fabricated or materially distorted information. The error is not harmless. It:

1. Mischaracterized the nature of Petitioner's appellate proceedings;

2. Distracted from his motions to augment the record;

3. Reinforced a false procedural narrative advanced in state court;

4. Undermined his due process argument regarding denial of transcript access to his 2024 resentencing.

B. The Court relied on false information regarding transcripts sought.

The Order suggest Petitioner was attempting to obtain transcripts from proceedings held "more than 25 years ago."That is incorrect. Petitioner was seeking records from the August 22, 2024 resentencing hearing-a proceeding directly tied to the new judgment entered in 2024.

This distinction is critical:

(I) The 2024 resentencing hearing created a new judgment; (II) the requested transcripts relate to the validity and integrity of that new judgment; (III) the denial of relief was partially grounded on has been attempting for two years now to-change venue.

Where state corrective processes are rendered ineffective to protect federal rights, exhaustion is excused. (*28 U.S.C. § 2254(b) (1)(B)*.) The Order did not meaningfully address this statutory exception as the **[*163]** claims were not evalauted under the reality of the events within this case.

Instead, it mechanically applied Sherwood without evaluating whether the state process is functioning constitutionally. That omission constitutes extraordinary circumstances under *Rule 60(b)(6)*.

Because:

1. The Order rests on fabricated or materially false factual premise;

2. The federal court's analysis has been indirectly influenced by systemic record manipulation in state court;

3. The stay effectively insulated ongoing due process violations from review, causing unnecessary delays; and

4. The denial of each of petitioner's motions for relief was predicated on a mischaracterized procedural history.

A judgment grounded on demonstrably false information cannot stand consistent with due process.

V.

RELIEF REQUESTED

Petitioner respectfully requests that the court:

1. Vacate the September 04, 2025 Order pursuant to *Rule 60(b)(3)* and *(6)*;

2. Reconsider the denial of Petitioner's motion for release by verifying that Petitioner has never been arrested, charged, convicted, or accused of committing great bodily injury on a peace

PROOF OF SERVICE

I, Lee Quillar Declare: I am over the age of 18 years and I am/am not a party to this action.

On March 5th, 2026, **[*164]** I served the following document(s):

Notice of Motion and Motion for Relief from Order Pursuant to *Rule 60(b)(3)* and *Rule 60(b)(6)*

The following parties were served:

United states Court of Appeal

for the Ninth Circuit

95 Seventh Street

San Francisco, CA 94103

Vincent P. Lapietra

California Attorney General

600 West Broadway, Ste. 1800

San Diego, CA 92101

United States District Court

Southern District of California

333 West Broadway

San Diego, CA 92101

California Supreme Court

350 McAllister Street

San Francisco, CA 94102

I declare under the penalty of perjury that the foregoing is true and correct and that this declaration was executed on March 5th, 2026, at San Diego, California.

Respectfully submitted

/s/ Lee Quillar

Lee Quillar/Petitioner

Lee Quillar D22639

480 Alta Road, D18-212

San Diego, CA 92179

In Pro Se.

UNITED STATES DISTRICT COURT SOUTHERN DISTRICT OF CALIFORNIA

LEE QUILLAR

Petitioner,

vs.

JAMES HILL, WARDEN,

Respondent.[1]

No. 25-CV-00253-BTH-LR

PETITIONER'S REPLY TO RESPONDENT'S RESPONSE TO MOTION FOR RELIEF FROM JUDGMENT

(*Rule 60(b)(3)* and *(6)*)

I. Respondent's Non-Opposition Does Not Moot *Rule 60(b)* Relief

Respondent's primary position - that *Rule 60(b)* relief is "unnecessary" because there is no opposition to lifting the stay - is legally flawed. A motion under *Federal Rules of Civil Procedure 60(b)(3)* and *(6)* is not limited **[*165]** to whether a stay remains in place.

It challenges the integrity of the prior judgment itself. Under *Gonzalez v. Crosby, 545 U.S. 524, 125 S. Ct. 2641, 162 L. Ed. 2d 480 (2005)*, a *Rule 60(b)* motion is proper where it attacks a defect in the federal habeas proceedings, not merely the outcome.

Here, Petitioner has demonstrated that the September 04, 2025 order was: based on materially false factual premises influenced by fabricated or distorted state records, applied incorrect legal standards due to the inaccuracies.

supported by the records - relief is required.

III. Respondent Misapplies Standard for Release (Federal Law Violations)

Respondent relies on *In re Roe, 257 F.3d 1077. (9th Cir. 2001)* to argue that Petitioner has not shown "special circumstances" or a "high probability of success." That reliance is misplaced for two reasons:

A. The "high probability" standard is satisfied where a Petitioner shows that a judgment was based on fabricated evidence or materially false premises. Courts recognize that this undermines confidence in the outcome itself. Under *Napue v. Illinois, 360 U.S. 264, 79 S. Ct. 1173, 3 L. Ed. 2d 1217 (1959)* and *Mooney v. Holohan, 294 U.S. 103, 55 S. Ct. 340, 79 L. Ed. 791 (1935)*, the use of false evidence violates due process, regardless of whether the prosecution acted in good faith. Here, Petitioner has shown: The judgment rests on false factual predicates; the record itself is internally inconsistent and manipulated; the **[*166]** state proceedings are structurally unreliable.

1 Respondent has moved twice to substitute Rafael Acevedo as Warden and the proper Respondent, however, Mario Hernandez is the current acting Warden.

This satisfy not only "probability of success," but raises constitutional invalidity of the judgment.

B. "Special circumstances" exist as a matter of law. "Special circumstances" includes: actual innocence claims (*Schlup v. Delo, 513 U.S. 298, 115 S. Ct. 851, 130 L. Ed. 2d 808 (1995)*(fundamental miscarriage of justice/structural due process violations). Petitioner has alleged: factual innocence of the qualifying offense under California law; improper sentencing under the Three Strikes law; conviction as a minor without compliance with *Welfare & Institution Code §707*; fabrication of court records across multiple courts and judges. These are not routine claims - they constitutes extraordinary constitutional violations, satisfying *Rule 60(b)(6)* and the "special circumstances" requirement simultaneously.

V. Respondent's Response Fails As a Matter of Law

Respondent's filings suffers from three fatal defects:

(1) Failure to address *Rule 60(b)(3)* fraud claims;

(2) Misapplication of controlling federal law (Roe/Shinn);

(3) Failure to rebut statutory - exceptions under *§ 2254(b)(1)(B)*.

Instead of engaging the merits, Respondent offers:

* Procedural avoidance ("motion is unnecessary")

* Conclusory assertions ("no high probability of success")

* Misstated legal standard.

This does not meet the burden **[*167]** of opposing a *Rule 60(b)* motion where fraud, due process violations, and record fabrication are specifically alleged.

VI. Conclusion

The September 04, 2025 Order is factually and legally compromised. Respondent has failed to rebut the core allegations and federal law requires relief where judicial integrity is undermined.

Under Gonzalez, Liljeberg, Napue, *§§2254(b)(1)(B)*, and *2254(e)(2)*; the court is obligated to vacate the prior order, permit factual development, reevaluate custody and constitutional claims on a clean and accurate record.

Date: April 15, 2026

Respectfully,

/s/ Lee Quillar

Lee Quillar/Petitioner

End of Document