

No. _____

IN THE
SUPREME COURT OF THE UNITED STATES

Harvey E. Larson — PETITIONER
(Your Name)

vs.

Hon. Cynthia Bashant — RESPONDENT(S)

ON PETITION FOR A WRIT OF CERTIORARI TO

United States Court of Appeals for the Ninth Circuit
(NAME OF COURT THAT LAST RULED ON MERITS OF YOUR CASE)

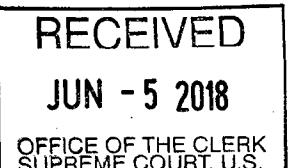
PETITION FOR WRIT OF CERTIORARI

Harvey E. Larson P-82258
(Your Name)

California Correctional Institution
(Address)

P.O. Box 1905, Tehachapi, CA 93581
(City, State, Zip Code)

(Phone Number)



QUESTION(S) PRESENTED

Did claim(s) state a cause of action?

LIST OF PARTIES

All parties appear in the caption of the case on the cover page.

All parties **do not** appear in the caption of the case on the cover page. A list of all parties to the proceeding in the court whose judgment is the subject of this petition is as follows:

Hon. Cynthia Bashant,
United States District Judge
United States District Court
Southern District of California
333 West Broadway, Suite 420
San Diego, CA 92101

Tashima, Circuit Judge
U.S. Courthouse
940 Front St.
San Diego, CA 92101

W. Fletcher, Circuit Judge
U.S. Courthouse
940 Front St.
San Diego, CA 92101

Tallman, Circuit Judge
U.S. Courthouse
940 Front St.
San Diego, CA 92101

TABLE OF CONTENTS

OPINIONS BELOW	1
JURISDICTION.....	
CONSTITUTIONAL AND STATUTORY PROVISIONS INVOLVED	
STATEMENT OF THE CASE	
REASONS FOR GRANTING THE WRIT	
CONCLUSION.....	

INDEX TO APPENDICES

APPENDIX A United States Court of Appeals for the Ninth Circuit, Order dismissing appeal case number 17-56429

APPENDIX B United States District Court for the Southern District of California, Order dismissing case number 3:17-cv-01635-BAS-JMA

APPENDIX C

APPENDIX D

APPENDIX E

APPENDIX F complaint case number 17-cv-01635-BAS-JMA; complaint attachment ncic record; primary case transmission specification and drawings; psychological examination pre-sentence evaluation; personal data; medical file; marsden hearing July 21, 1999; crime/incident report and common report narrative; affidavit, Miranda violation; preliminary hearing transcript; trial transcript; marsden hearing April 10, 2000 transcript; result of specific issue polygraph examination; effective communication determination for formal level cdcr-602 inmate/parolee appeal; select a case

TABLE OF AUTHORITIES CITED

CASES	PAGE NUMBER
Harper v. Young, 64 F.3d 563 (10th Cir. 1995)	1
Morrissey v. Brewer, 408 U.S. 471 (1972)	1
Calhoun v. New York State Div. of Parole Officers, 199 F.2d 647 (2d Cir. 1993)	1
People v. Pearl, (2009 4th Cir.) 172 Cal.App. 1280	1
Neal v. Shimoda, 131 F.3d 818 (th Cir. 1997)	1
Sandin v. Conner, 515 U.S. 472 (1985)	1
Kentucky Dep't of Corr. v. Thompson, 490 U.S. 454 (1989)	2
Cruz v. Gonter, 202 F.3d 597 (2d Cir. 2000)	2
Leslie v. Doyle, 125 F.3d 1132 (7th Cir. 1997)	2
Chambers v. Colorado Dep't of Corr., 205 F.3d 1237 (10th Cir. 2000)	2
Wolff v. McDonnell, 418 U.S. 539 (1974)	2, 11, 13
STATUTES AND RULES	
28 U.S.C. Section 1915(a)	5
28 U.S.C. Section 1915(g)	4, 5
28 U.S.C. Section 1915(e)(2)	6-13
Evidence Rules 702 and 403	19
OTHER	
California Penal Code 2010 Edition, West	
Part 4. Prevention of Crimes and Apprehension of Criminals.	
See additional pages.	

CASES	PAGE NUMBER
Dent v. Virginia, 129 U.S. 114 (1889)	2
Estelle v. Gamble, 429 U.S. 97 (1976)	2
Bazzette v. McGinnis, 286 F.3d 311 (6th Cir. 2002)	2
Mendoza v. Borden Inc., 195 F.3d 1238 (11th Cir. 1999)	2
U.S. v. Stevens, 192 F.3d 263 (2d Cir. 1999)	2
U.S. v. Cooper, 274 F.3d 230 (5th Cir. 2001)	2
Jeffers v. U.S. 137 (1977)	2
Ex parte Lange, 85 U.S. (18 Wall.) 176 (1873)	2
Benton v. Maryland, 395 U.S. 784 (1969)	3
Wood v. Rubenstein, 2013 U.S. DIST. LEXIS 141736 (2013)	3
M.L.B. v. S.L.J., 519 U.S. 102	3, 4
Mayor v. Chicago, 404 U.S. 189 (1971)	3
Shobe v. People, (C.A.9(Cal.)1996) 362 F.2d 545	3
Weller v. Dickerson, 314 F.2d 598 (9th Cir. 1963)	3
Boddie v. Connecticut, 401 U.S. 371 (1971)	4
United States v. Kras, 409 U.S. 434 (1973)	4
Ortwein v. Schwab, 410 U.S. 656 (1973)	4
Carson v. Johnson, (C.A.(Tex.)1997) 112 F.3d 818	4
Brown v. Plaut, 131 F.3d 163 (D.C. Cir. 1999)	4
Abdul-Akbar v. McKelvie, (C.A.3(Del.)2001) 239 F.3d 307	4, 5
Lyon v. Krol, (C.A.(Iowa)1997) 127 F.3d 763	4
Howlett v. Rose, 496 U.S. 356 (1990)	5
In re Green, 669 F.2d 779 (D.C. Cir. 1981)	5
Ayers v. Norris, 43 F.Supp.2d 1039 (1999)	5, 25
Wilson v. Yaklich, (C.A.6(Ohio)1998) 148 F.3d 596	5
McCarthy v. Madigan, 503 U.S. 140 (1992)	5
Rodriquez v. Cook, (C.A.9(Or.)1999) 169 F.3d 1176	5
Dolney v. Lahammer, DSD 35 (8th Cir. 1999)	6
Heck v. Humphrey, 512 U.S. 477 (1994)	6
Piggie v. McBride, 277 F.3d 922 (7th Cir. 2002)	7
Moorman v. Thalacker, 83 F.3d 970 (8th Cir. 1996)	7
Carver v. Lehman, 540 F.3d 1011 (9th Cir. 2008)	7

CASES	PAGE NUMBER
Edwards v. Balisok, 520 U.S. 641 (1997)	7
Santiago v. Garcia, 821 F.2d 829 (1st Cir. 1987)	7
Helling v. McKinney, 509 U.S. 25 (1993)	8
Hudson v. Palmer, 468 U.S. 517 (1984)	8, 12
Taylor v. Rodriguez, 238 F.3d 188 (2d Cir. 2001)	9
Colon v. Howard, 215 F.3d 227, (2d Cir. 2000)	9
Dominique v. Weld, 73 F.3d 1156 (1st Cir. 1996)	9
Davis v. Kelly, 160 F.3d 817 (2d Cir. 1998)	9
U.S. v. Gilcrist, 106 F.3d 297 (9th Cir. 1997)	9
Cruz v. Beto, 405 U.S. 319 (1972)	11
O Lone v. Estate of Shabazz, 482 U.S. 342 (1987)	11
Snider v. Melindez, 199 F.3d 108	13
Witherspoon v. Superior Court, (Cal.App. 2 Dist. 1982) 133 Cal.App.3d 24, 183 Cal.Rptr. 615	17
Young v. Northwest Airlines, (9th Cir. 2000) 2000 U.S. DIST. LEXIS	19
Daubert v. Merrel Dow Pharmaceuticals, Inc., 509 U.S. 579 (1993)	19
United States v. Cordoba, 194 F.3d 1053 (9th Cir. 1999)	19
People v. Reeder, (Cal.App. 3 Dist. 1976) 135 Cal.Rptr. 421	20, 22
People v. Minor, (1980) 104 C.A.3d 194	22
People v. Coleman, 9 C.A.4th 493	22
U.S. v. Galbreth, 980 F.Supp. 877 (D.N.M. 1995)	23
Lucas v. Department of Corr., 66 F.3d 245 (9th Cir. 1995)	24
Christiansen v. Clarke, 147 F.3d 655 (8th Cir. 2001)	24
Higgins v. Carpenter, 258 F.3d 797 (8th Cir. 2001)	24
Haney v. Htay, U.S. DIST. LEXIS 24109 (9th Cir. 2017)	24
Noll v. Carson, 809 F.2d 1446 (9th Cir. 1987)	24

OTHER	PAGE NUMBER
Title 1 Investigation And Control Of Crimes And Criminals	
Chapter 2 Control Of Crimes And Criminals. Article 3.5	
Interstate Compact For Adult Offender Supervision, Section	
11189 Interstate corrections compact; content Article II.	
Definition (c)"Receiving state"...	13
Section 11190 Western interstate corrections compact; form;	
contents. Article II Definitions (c)"Receiving state"	
means a state to this compact to which an inmate is sent	
for confinement...	14
Penal Code Section 3057 Confinement upon revocation of	
parole; parole period; extension or reduction (c)(3)...	15
Penal Code Section 2932 Denial of time credits; grounds;	
limitations; procedure; effect; review; criminal	
prosecution; notice to prisoner subdivision (a)...	15
California Evidence Code 402	17
California Evidence Code 402-406	18
California Code of Regulations Title 15	
Article 5 Inmate Discipline, Section 3312 Disciplinary	
Methods	6
Article 10 Classification, Section 3375.4 CDCR	
CDCR Reclassification Score Sheet, CDCR Form 840	6
Article 10 Classification, Section 3375 Classification	
process (f)(A)	6
Article 8, Appeals, Section 3084.7 Levels of appeal	
review and disposition (a)(2)...	6

JURISDICTION

For cases from **federal courts**:

The date on which the United States Court of Appeals decided my case was November 14, 2017.

No petition for rehearing was timely filed in my case.

A timely petition for rehearing was denied by the United States Court of Appeals on the following date: _____, and a copy of the order denying rehearing appears at Appendix _____.

An extension of time to file the petition for a writ of certiorari was granted to and including _____ (date) on _____ (date) in Application No. __A_____.

The jurisdiction of this Court is invoked under 28 U. S. C. § 1254(1).

For cases from **state courts**:

The date on which the highest state court decided my case was _____. A copy of that decision appears at Appendix _____.

A timely petition for rehearing was thereafter denied on the following date: _____, and a copy of the order denying rehearing appears at Appendix _____.

An extension of time to file the petition for a writ of certiorari was granted to and including _____ (date) on _____ (date) in Application No. __A_____.

The jurisdiction of this Court is invoked under 28 U. S. C. § 1257(a).

IN THE
SUPREME COURT OF THE UNITED STATES
PETITION FOR WRIT OF CERTIORARI

Petitioner respectfully prays that a writ of certiorari issue to review the judgment below.

OPINIONS BELOW

For cases from **federal courts**:

The opinion of the United States court of appeals appears at Appendix A to the petition and is

reported at _____; or,
 has been designated for publication but is not yet reported; or,
 is unpublished.

The opinion of the United States district court appears at Appendix B to the petition and is

reported at _____; or,
 has been designated for publication but is not yet reported; or,
 is unpublished.

For cases from **state courts**:

The opinion of the highest state court to review the merits appears at Appendix _____ to the petition and is

reported at _____; or,
 has been designated for publication but is not yet reported; or,
 is unpublished.

The opinion of the _____ court appears at Appendix _____ to the petition and is

reported at _____; or,
 has been designated for publication but is not yet reported; or,
 is unpublished.

CONSTITUTIONAL AND STATUTORY PROVISIONS INVOLVED

	PAGE NUMBER
14th Amendment Due Process Clause	1, 2
14th Amendment Constitutional Liberty Interess	1
14th Amendment Fundamental Liberty Interests	4
14th Amendment Fundamental Interests	4
5th Amendment Double Jeopardy Clause	2
8th Amendment against Cruel And Unusual Punishment	2
1st Amendment	4
United States Sentencing Guidelines Sections 4Al.1(a), 4Al.2(e)(1)	10, 11

STATEMENT OF THE CASE

I. CASE CRIMINAL OR QUASI CRIMINAL IN NATURE MAY NOT TURN ON THE ABILITY TO PAY FEES.

6 6 years 6 months on parole supervised release for burglary that carries 3 years
7 is in violation of Penal Code Section 3000(b)(1). Remained free from custody for
8 only 2 months. Parole revoked for being under the influence of methamphetamine
9 and a pocket knife blade $\frac{1}{4}$ inch over the limit rusted shut. Claim states a cause of
10 action see complaint pages - , Appendix F. The 14th Amendment Protected Liberty
11 Interest can be granted (1) by the Due Process Clause of Its own force. Inherent
12 Constitutional liberty interests arise when a prisoner has aquired substancial
13 freedom such that deprivation requires due process protection. Harper v. Young,
14 64 F.3d 563, 566 (10th Cir. 1995), aff'd. The Supreme Court has found several such
15 liberty interests. Remaining free from revocation of parole. Morrissey v. Brewer,
16 408 U.S. 471, 482 (1972). Liberty interest in release upon expiration of maximum
17 term of imprisonment. Calhoun v. New York State Div. of Parole Officers, 199 F.2d
18 647, 653 (2d Cir. 1993). The term "in custody" in Penal Code Section 3000(b)(5),
19 must mean "confinement" because a parolee is always deemed to be "in custody" until
20 the expiration of the parole period. People v. Pearl, (4th Cir. 2009) 172 Cal.App.
21 1280. See complaint page 5, footnote 6, Appendix F. Protected Liberty Interests can
22 be created (2) by a court order, (3) by treaty or (4) by states through statutes or
23 regulations. State statutes and regulations may confer liberty interests that
24 invoke due process protections. Neal v. Shimoda, 131 F.3d 818, 827 (9th Cir. 1997).
25 Such liberty interests are characterized as inherent in the Constitution. Sandin v.
26 Conner, 515 U.S. 472, 484 (1995). Petitioner has stated a claim of due process both

1 of protected liberty interest and lack of requisite process before being deprived
2 of that interest. Kentucky Dep't of Corr. v. Thompson, 490 U.S. 454, 460 (1989);
3 e.g., Cruz v. Gomez, 202 F.3d 597 (2d Cir. 2000). Petitioner was also denied
4 representation by counsel at revocation hearing. Petitioner retains right to be
5 free of arbitrary and purposeless use of authority. Leslie v. Doyle, 125 F.3d 1132,
6 1135 (7th Cir. 1997). Due Process protections apply when a prisoner is deprived of
7 life, liberty, or property. Chambers v. Colorado Dep't of Corr., 205 F.3d 1237,
8 1242 (10th Cir. 2000). United States Constitution Amendments V, XIV. The Due Process
9 Clauses are designed to protect the individual against arbitrary government action.
10 Wolff v. McDonnell, 418 U.S. 539, 558 (1974) citing Dent v. West Virginia, 129 U.S.
11 114, 123 (1889). Detention beyond the termination of the sentence constitutes cruel
12 and unusual punishment when it results from "deliberate indifference" to
13 petitioner's interest in liberty. Estelle v. Gamble, 429 U.S. 97, 50 L.Ed.2d 251,
14 97 S.Ct. 285 (1976). The 8th Amendment protects an accused from a disappropriate
15 sentence. Bazzette v. McGinnis, 286 F.3d 311 (6th Cir. 2002). Purpose of Title VII
16 is to strike at disparate treatment of women and men. Mendoza v. Borden Inc., 195
17 F.3d 1238 (11th Cir. 1999). Resentencing is necessary if the supervised release
18 term impermissibly falls outside the statutory range. U.S. v. Stevens, 192 F.3d
19 263, 268 (2d Cir. 1999). Error under Apprendi requires reversal when sentence
20 exceeds the statutory maximum. U.S. v. Cooper, 274 F.3d 230 (5th Cir. 2001). The
21 5th Amendment prohibition of double jeopardy applies not only to "life or limb,"
22 but to prison sentences and criminal fines as well. See Jeffers v. U.S. 137, 155
23 (1977)(plurality opinion). The Double Jeopardy Clause prohibits courts from
24 punishing defendants twice for the same offense. Ex parte Lange, 85 U.S. (18 Wall.)
25 176 (1873). Petitioner served almost twice the supervised release sentence imposed
26 The 14th Amendment Due Process Clause extends to the Double Jeopardy Clause

1 protections. *Benton v. Maryland*, 395 U.S. 784, 794 (1969). Purpose and requirements
2 of Section 1983 is criminal punishment for anyone who under the color of any law,
3 statute, ordinance, regulation, or custom, willfully subjects any person in any
4 State, Territory, Commonwealth, Possession, or District to the deprivation of any
5 rights, privileges, or immunities secured or protected by the Constitution or laws
6 of the United States." *Wood v. Rubenstein*, 2013 U.S. DIST. LEXIS 141736 (2013).

7 California Criminal Defense Practice, Query "519 US 102" M.L.B. v. S.L.J., Matches
8 1, Title Supreme Court Reports, Lawyers' Edition 2nd Series, Vols. 134 to Present.
9 Classified to U.S. Supreme Court Digest Lawyers' Edition, Headnote 11. With respect
10 to due process and equal protection of the Federal Constitution 14th Amendment,
11 access to judicial processes in cases criminal or quasi criminal in nature may not
12 turn on the ability to pay fees, <pg.477> 519 U.S. 124 at [11][12] But our cases
13 solidly establish two exceptions to the general rule. The parties right to
14 participate in political processes as voters and candidates cannot be limited to
15 those who can pay for a license¹⁴ Nor may judicial processes in cases criminal or
16 "quasi criminal in nature," Mayor U.S. at 196, 30 U.Ed.2d 372, 92 S.Ct. 410 ,
17 (citation and <*pg.493> internal marks omitted), turn on the ability to pay...
18 Title 28 U.S.C. §1915(g) prevents access to the courts with respect to a criminal
19 matter. *Shobe v. People*, (C.A.9(Cal.)1996) 362 F.2d 545 at [3]. There is
20 'exceptional circumstances' (*Weller v. Dickerson*, 314 F.2d 598, 600 (9th Cir. 1963))
21 with respect to the matter of damages that would dictate immediate litigation at
22 the expense of others. *Shobe*, *supra* at [4]. Include fraud and false imprisonment
23 statutes. Claim does not lack arguable basis in law. 28 U.S.C. §1915(e)(2).
24
25 II. GRANT LEAVE TO PROCEED IN FORMA PAUPERIS. IT IS SUFFICIENTLY PLAUSIBLE
26 THAT CLAIM STATES A CAUSE OF ACTION OR FUNDAMENTAL INTEREST FOR "BODDIE"
PURPOSES. SECTION 1915(g). THERE ISN'T ANY OTHER FORUM TO VINDICATE A
CONSTITUTIONAL RIGHT.

1 In the civil context, the test is whether the litigant has a "fundamental
2 interest at stake." M.L.B. v. S.L.J., 519 U.S. 102, ___, 117 S.Ct. 555, 562, 136
3 L.Ed.2d 473 (1996). If petitioner does, the courts must waive filing fees when he
4 is unable to pay. Examples of proceedings that implicate fundamental interests are
5 divorce actions, see Boddie v. Connecticut, 401 U.S. 371, 376, 91 S.Ct. 780, 785,
6 28 L.Ed.2d 113 (1971), and termination of parental rights, see M.L.B. at ___, 117
7 S.Ct. at 568. Examples of interests that do not rise to this level are bankruptcy
8 filings, see United States v. Kras, 409 U.S. 434, 444-45, 93 S.Ct. 631, 637-38, 34
9 L.Ed.2d 626 (1973), and welfare benefit determinations, see Ortwein v. Schwab, 410
10 U.S. 656, 659, 93 S.Ct. 1172, 1174, 35 L.Ed.2d 572 (1973)(per curiam). Carson v.
11 Johnson (C.A.(Tex.)1997) 112 F.3d 818 at [7]. If Carson could of proven he had a
12 fundamental liberty interest in avoiding disciplinary segregation and was denied due
13 process see Brown v. Plaut, 131 F.3d 163, 169 (D.C. Cir. 1999) a fundamental ...
14 interest would also be shown and waiver of filing fees. Compare current claim of
15 unwarranted parole revocation and expiration of parole term a fundamental liberty
16 plus a fundamental interest is shown for "Boddie" purposes and waiver of filing
17 fees. Section 1915(g) runs counter to the protections assured by the 8th Amendment.
18 Therefore, filing fees must be waived as a matter of law. Other underlying rights
19 not at issue in Boddie that represent a fundamental interest are the right to be
20 free from serious physical injury, including the 1st Amendment right to free
21 exercise of religion.¹ An underlying Constitutional entitlement of access to the
22 courts rises to the level of Boddie fundamental interests only when the government
23 blocks the sole means for safeguarding that entitlement. Abdul-Akbar v. McKelvie,
24 (C.A.3(Del.)2001) 239 F.3d 307 at (FN2.). Like the parties in Boddie, petitioner

25 ¹ Lyon v. Krol, (C.A.(Iowa)1997) 127 F.3d 763, *767 Hon. O. Newman, Pro Se
26 Prisoner Litigant: Looking for Needles in Haystacks, 62 Brook. L.Rev. 519-21
(1966)(citing important victories won by prisoners through judicial claims regarding
prison conditions.

1 is precluded from filing his Section 1983 Complaint in another court system that
2 has a "three strikes" provision. State courts have current jurisdiction over
3 Section 1983 cases. *Howlett v. Rose*, 496 U.S. 356, 358, 110 S.Ct. 2430, 110 L.Ed.2d
4 332 (1990). *Abdul-Akbar*, *supra* at [23][24]. Vexatious litigant statutes prevent
5 filing claims. Prisoners have the right to file lawsuits *in forma pauperis*. Title
6 28 U.S.C. Section 1915(a). Particular ones that might involve constitutional
7 rights. Leading case *In re Green*, 669 F.2d 779 (D.C. Cir. 1981) in part, pages
8 1- , Appendix . Construing limitation of "claims alleging actual or threatened
9 physical harm" to be an "unconstitutional denial of access" statutory bar of
10 Section 1915(g). *Abdul-Akbar v. McKelvie*, 239 F.3d 307 (C.A.3(Del.)2001) dissent
11 (FN2.), *bot*, Appendix . California Criminal Defense Practice, Query "Vindicating
12 Basic Fundamental Rights", "1915(g)" Matches 1, Title U.S. District Court 8th
13 (Prior to 2005), Hit List UNITED STATES DISTRICT COURT OF THE EIGHTH CIRCUIT 1999
14 43 F.SUPP.2D 1039 AYERS V. NORRIS MARCH 31, 1999 OPINION, *bot*:
15 ...The Court concludes that section 1915(g) is not narrowly tailored to...
16 ...Court therefore holds that section 1915(g) is unconstitutional under equal...
17 *Wilson v. Yaklich*, (C.A.6(Ohio)1998) 148 F.3d 596, CONCLUSION-We have recognized...
18 that the right of access to the courts is fundamental. To the extent any provision
19 of 28 U.S.C. Section 1915(g) that restrict the right to have arguably meritorious
20 claims reviewed, those provisions could be deemed unconstitutional. *Abdul-Akbar v.*
21 *McKelvie*, (C.A.3(Del.)2001 at *327...What is important for equal protection
22 purposes is that the right of access is fundamental, at least when underlying
23 fundamental rights are involved. See *McCarthy v. Madigan*, 503 U.S. 140, 153, 112
24 S.Ct. 1081, 117 L.Ed. 291 (1992). Because Section 1915(g) is purely procedural rule
25 which does not control the ultimate decision of claims...*Rodriguez v. Cook*, (C.A.9
26 (Or.)1999) 169 F.3d 1176 at [7] page 7, column 1, paragraph 2 *bot*.

1 See Dolney v. Lahammer, DSD 35 (8th Cir. 1999) at C Spencer v. Kemna (Pl3)...These
2 opinions reveal that five Justices are of the view that the Heck rule does not does
3 not apply to a §1983 plaintiff who is no longer in custody, and therefore unable
4 as a matter of law, to bring a habeas petition and challenge his conviction or
5 sentence. Id. Heck v. Humphrey, 512 U.S. 477, 486 (1994). Immediate claim does not
6 lack arguable basis in law. 28 U.S.C. Section 1915(e)(2).

7 Court order filed 8/28/17 allegedly shows claims that count as strikes, Appendix
8 B:

9 Larson v. Schwarzeneggar, et al., No. 2:06-cv-0940-GEB-GGH Statement of claim
10 -:Tobacco ban.. Filed same claim see Larson v. Runnels, No. 2:06-cv-1413-ALA Summary
11 judgment dismissal should not count as a strike in either case.

12

13

14 Larson v. Patton, et al., No. 2:07-cv-1043-FCD-JFM Statement of claim - Counselor
15 Patton fired petitioner from his work assignment as porter without any reprimands
16 for insufficient work performance from C/O or hearing nor chrono explaining the
17 reasons for firing petitioner. In violation of California Code of Regulations Title
18 15, Article 5 Inmate Discipline, Section 3312 Disciplinary Methods (a)(3) Rules
19 Violations Report. When misconduct is believed to be a violation of law or not
20 minor in nature, it shall be reported on a CDC Form 115 (Rev. 7/38), Rules
21 Violation Report. Fired from work assignment prevented petitioner from earning a
22 lower classification score. Section 3375.4 CDCR Reclassification Score Sheet, CDCR
23 Form 840 Calculation (a)(2)...For each six month...no serious disciplinaries two
24 points.... and (a)(3) average performance in work two points subtracted from
25 classification score. Section 3375 Classification Process (c), (d) and (e). Non
26 -violent alleged three strike offender were not awarded credits earned that affected

1 the duration of sentence until the passage of Proposition 57 new credit rules on
2 5/1/17 (good conduct credit) for non-violent felony offenders are now awarded
3 33.3% means a prisoner gets credit for two days actually served and thus serves
4 about 66.7% of the actual time imposed. Which was 34 years to life. Must mean that
5 the new credit law is retroactive and applies when the prison sentence begins.
6 Liberty interest in prisoner's good time credits. *Piggie v. McBride*, 277 F.3d 922,
7 924 (7th Cir. 2002). Prisoners have a liberty interest in good time credits in state
8 created mandatory scheme that inevitably affects duration of sentence. *Moorman v.*
9 *Thalacker*, 83 F.3d 970, 973 (8th Cir. 1996). See *Carver v. Lehman*, 540 F.3d 1011
10 (9th Cir. 2008). Prisoner entitled to recover at least nominal damages under Section
11 1983 if proves hearing resulting in deprivation of good-time credits was in
12 violation of procedural due process, even if prisoner cannot prove that deprivation
13 of good-time credits was wrong. See *Edwards v. Balisok*, 520 U.S. 641, 645 (1997).
14 Inmate entitled to nominal damages for constitutional injury although unable to
15 prove actual damages for emotional distress. *Santiago v. Garcia*, 821 F.2d 829 (1st
16 Cir. 1987). Case dismissed without prejudice see list attached to complaint.
17 Appendix F. Claim does not lack arguable basis in law. 28 U.S.C. Section 1915(e)(2).
18 Case criminal or quasi criminal in nature may not turn on the ability to pay fees.
19 See Claim I page 3,1-23.
20 *Larson v. Runnels, et al.*, No. 2:07-cv-0806-FCD-DAD statement of claim - Recall of
21 Commitment Recommendation based on invention entitled "Primary Case Transmission"
22 a positive asset to the community. Revealed the invention to prison guards and
23 petitioner's exceptional behavior. California Code of Regulations, Title 15, Section
24 3076(a)(1) pursuant to Penal Code Section 1170(d). Primary Case Transmission
25 specification and drawings pages - , Appendix F. Claim does not lack arguable
26 basis in law. 28 U.S.C. Section 1915(e)(2). Cases criminal or quasi criminal in

1 nature may not turn on the ability to pay fees. See Claim I page 3,1-23.

2 Larson v. Runnels, et al., No. 2:08-cv-00348-MCE-KJM statement of claim - Denied.

3 tobacco cessation in violation of California Code of Regulations, Title 15 Section

4 3189 Inmate Violations and Cessation Assistance. After tobacco was banned, snuff

5 should of been provided or a nicotine free substance "Nicoban." Petitioner was

6 prejudiced. Helling v. McKinney, 509 U.S. 25 (1993). Medical claim does not lack

7 arguable basis in law. 28 U.S.C. Section 1915(e)(2). Case criminal or quasi criminal

8 in nature may not turn on the ability to pay fees. See Claim I page 3,1-23.

9 Larson v. McDonald, et al., No. 2:07-cv-01512-FCD-GGH statement of claim - Prison

10 officials stold package of 4th quarter 2006. Had letters from home showing that

11 petitioner's Mother mailed the package. 602 grievance was denied. Caselaw Hudson

12 applies when official conduct is unauthorized. Hudson v. Palmer, 468 U.S. 517 at

13 532 & n.13. Case dismissed without prejudice. Claim does not lack arguable basis in

14 law. 28 U.S.C. Section 1915(e)(2). Case criminal or quasi criminal in nature may

15 not turn on the ability to pay fees. See Claim I page 3,1-23.

16 Larson v. McDonald, et al., No. 2:07-cv-01955-HDM-RAM statement of claim

17 - Transfer from High Desert State Prison level IV, B yard (270) to California

18 Correctional Institution IV, A4 yard (180) because of a program change of making

19 B yard (270) a protective custody yard. Involuntary transfer to a higher security

20 level 180 yard at CCI from a security level 270 yard at HDSP is not consistant with

21 petitioner's placement score is in violation of California Code of Regulations

22 Title 15 Section 3375 Classification Process (f)(A). At CCI level IV, yard A4 (180)

23 the shift commander falsely charged petitioner with being a suspect in the attempted

24 murder of a peace officer on 04/08/08, cleared of the charge on 06/23/08/and was

25 not released from segregation because the classification commity falsely accused

26 "petitioner continued to be a threat to the safety and security of the institution."

1 Then months later the classification commity informed petitioner that there was a
2 planned assault out for petitioner a CCI level IV (180). Petitioner was put in the
3 "HAT" by the "WOODCAR" and transferred to Corcoran State Prison level IV (270) SNY
4 on 03/09/09. While in segregation at CCI petitioner was denied access to yard, law
5 library, sparce meals, no quarterly packages nor canteen, television and radio were
6 not allowed...ect. Privileges were lost without being found guilty. Prisoner's
7 sworn declaration of atypical hardship can form basis for protected liberty
8 interest. Taylor v. Rodriguez, 238 F.3d 188, 195 (2d Cir. 2001). Confined in
9 segregation from 04/08/08-03/09/09 is 347 days. Confinement for 305 days in
10 administrative segregation conditions is atypical and significant hardship. Colon
11 v. Howard, 215 F.3d 227, 231-32 (2d Cir. 2000). Transfer to CCI level IV, yard A4
12 (180) did subject petitioner to different conditions than those experienced. See
13 Dominique v. Weld, 73 F.3d 1156, 1160 (1st Cir. 1996). Holding premature a district
14 court's dismissal of a Section 1983 claim for allegedly retaliatory transfer. Davis
15 v. Kelly, 160 F.3d 817, 920 (2d Cir. 1998). Petitioner had filed 17 civil suits
16 against High Desert State Prison and Gonzales, warden at California Correctional
17 Institution. Select A Case pages - , Appendix F. Claim does not lack arguable
18 basis in law. 28 U.S.C. Section 1915(e)(2). Case criminal or quasi criminal in
19 nature may not turn on the ability to pay fees. See Claim I page 3,1-23.
20 Larson v. Williams, et al., No. 2:07-cv-00631-MCE-GGH statement of claim - Denied
21 access to law library, except twice a year, often denied accesss to law library for
22 over a year from 2000-2007. Submitted inmate request two or three times a month
23 and grievance explaining that access was required for researching caselaw shown in
24 court orders with leave to amend that would cure deficiencies in civil suits filed
25 since year 2000. Case dismissed without prejudice and Larson v. Hinzhoff, et al.,
26 No. CIVS-04-2521-LKK-GGH-P statement of claim - Denied access to law library

1 prevented researching claims for supplemental brief on appeal and grounds for writ
2 of habeas corpus, forms, copies ect. Explained in civil suit that petitioner didn't
3 know if there was time limitations for filing habeas petitions and was unaware of
4 the Antiterrorism and Effective Death Penalty Act of 1996 (AEDPA). Writ of habeas
5 corpus, Supreme Court of California case number S164455. Denied untimely filed. Case
✓ 6 was dismissed without prejudice. Claim does not lack arguable basis in law. 28 U.S.C.
7 Section 1915(e)(2). Case criminal or quasi criminal in nature may not turn on the
8 ability of pay fees. See Claim I page 3,1-23.

9 Larson v. Rhodes, No. 1:09-cv-00342-OWN-YNP-SMS statement of claim - (Omitted,
10 until obtain file stored in receiving and release, can't recall subject matter.)

11 Larson v. Judge Hanoian, et al., No. 3:13-cv-01654-GPC-NLS statement of claim
12 - (Omitted until obtain file stored in receiving and release, can't recall subject
13 matter.)

14 Larson v. Governor Gerald Brown, et al., No. 3:16-cv-01188-AJB-RBB statement of
15 claim - NOTICE OF CLAIM OF UNCONSTITUTIONALITY OF STATE LAW. Plaintiff challenges
16 a state court's application of three strikes sentencing laws, that a serious/violent
17 felony conviction may be used as a strike regardless of how long ago it occurred.
18 Penal Code Section 1170.12(a)(3) in violation of caselaw U.S. v. Gilcrist, 106 F.3d
19 297 (9th Cir. 1997). OUTCOME: The court vacated defendant's sentence, and remanded
20 the case for resentencing. On remand the trial court was not to consider the
21 convictions for which the defendant had been released from incarceration on parole
22 to serve another sentence more than 15 years before his current offense. 1. THE
23 PRIOR CONVICTIONS, A. Background-The district court found it permissible to include
24 all four of Gilcrist's prior convictions (106 F.3d 299) in calculating his criminal
25 history category under U.S.S.G. §4A1.1(a) & §4A1.2(e)(1), of these four convictions,
26 Gilcrist contends that two of these convictions robbery in 1972 and for possession

1 of a weapon in 1974, were improperly considered. As relevant here, §4A1.2(e)(1)
2 provides that, to be counted under §4A1(a), a prior sentence of imprisonment must
3 have been imposed within 15 years of the defendant's commencement of the instant
4 offense...Also count any prior sentence of imprisonment exceeding one year and one
5 month, whenever imposed, that resulted in the defendant being incarcerated during
6 any part of such 15 year period. Prosecution's alleged criminal history of other
7 crimes during the 15 year period does not affect the dismissal of petitioner's
8 priors that are 15 years old. Case dismissed without prejudice. Claim does not lack
9 arguable basis in law. 28 U.S.C. Section 1915(e)(2). Case criminal or quasi criminal
10 in nature may not turn on the ability to pay fees. See Claim I page 3,1-23.

11 Select A Case pages ___ - ___ Appendix F.

12 Larson v. Gonzales, et al., No. 1:08-cv-00685-OWW-WMW statement of claim - Would
13 not let petitioner attend Church Services. Prison officials must afford prisoners
14 opportunities to exercise their religious freedom. See Cruz v. Beto, 405 U.S. 319,
15 322 & n.2 (1972)(per curiam). Ad-Seg. inmates may attend Church Services in holding
16 cages. See O Lone v. Estate of Shabazz, 482 U.S. 342, 351-53 (1987). Case dismissed
17 without prejudice. Case criminal or quasi criminal in nature may not turn on the
18 ability to pay fees. See Claim I page 3,1-23.

19 Larson v. Gonzales, et al., No. 1:08-cv-00740-AWI-WMW statement of claim - Denied
20 utility cage access for outdoor exercise when confined in ad-seg. Wolff v. McDonnell
21 , 418 U.S. 539, ___ (1974). Case dismissed without prejudice. Claim does not lack
22 arguable basis in law. 28 U.S.C. Section 1915(e)(2). Case criminal or quasi criminal
23 may not turn on the ability to pay fees. See Claim I page 3,1-23.

24 Larson v. Gonzales, et al., No. 1:08-cv-00871-LJO-WMW statement of claim - Same
25 as above.

26 Larson v. Gonzales, et al., No. 1:08-cv-00916-LJO-SMS statement of claim - Seminal.

1 fluid in food. Case dismissed without prejudice. Claim does not lack arguable basis
2 in law. 28 U.S.C. Section 1915(e)(2). Case criminal or quasi criminal in nature
3 may not turn on the ability to pay fees. See Claim I page 3,1-23.

4 Larson v. Doe, et al., No. 1:08-cv-00998-DLB statement of claim - Prison
5 conditions 13 claims. (Omitted until obtain file stored in receiving and relaese,
6 can't recall subject matter.) Claim does not lack arguable basis in law. 28 U.S.C.
7 Section 1915(e)(2). Case criminal or quasi criminal in nature may not turn on the
8 ability to pay fees. See Claim I page 3,1-23.

9 Larson v. Schwarzeneggar, et al., No. 1:04-cv-02738-GEB-CMK statement of claim
10 - Tobacco ban. Filed same claim in civil suit Larson v. Runnels, et al., No. 2:06-
11 -cv-1413-ALA summary judgment dismissal should not count as a strike in either
12 case.

13

14 Larson v. Runnels, et al., No. 2:06-cv-01794-GEB-DAD statement of claim - Prison
15 officials stold package for 4th quarter 2006. Had letters from home showing that
16 petitioner's Mother mailed the package. 602 grievance was denied. Caselaw Hudson
17 applies when official conduct is unauthorized. Hudson v. Palmer, 468 U.S. 517 at
18 532 & n.13. Case dismissed without prejudice. Claim does not lack arguable basis(2).
19 in law. 28 U.S.C. Section 1915(e)(2). Case criminal or quasi criminal in nature
20 may not turn on the ability to pay fees. See Claim I page 3,1-23.

21 Larson v. Runnels, et al., No. 2:06-cv-01934-FCD-GGH statement of claim -
22 - (Omitted until obtain file stored in receiving and release, can't recall subject
23 matter.)

24 Larson v. Runnels, et al., No. 2:06-cv-01985-LKK-KJM statement of claim - Guards
25 and mailroom employees prevented the lawyers of FORT BRAGG from being informed of
26 invention entitled "Primary Case Transmission" by tampering with petitioner's mail

1 and refused to notify the President of the United States thereby committing treason
2 602 grievance denied. Case dismissed without prejudice. Primary Case Transmission
3 specification and drawings pages - , Appendix F. Claim does not lack arguable
4 basis in law. 28 U.S.C. Section 1915(e)(2). Case criminal or quasi criminal in
5 nature may not turn on the ability to pay fees. See Claim I page 3,1-23.

6 Larson v. Runnels, et al., No. 2:06-cv-02094 statement of claim - Denied access
7 to yard 6 years out of 7 from 2000-2007 during prison lockdowns. Wolff v. McDonnell,
8 418 U.S. 539, ___ (1974). Submitted 602 appeal for second level review, first level.
9 is waived when a procedure is implemented suspending access to yard by warden (2)
10 Runnels: Section 3084.7 Levels of Appeal Review and Disposition (a)(2) of California
11 Code of Regulations Title 15. 602 appeal returned 4½ later with instructions to
12 complete informal level response. Resubmitted appeal on lined paper. Could not make
13 copy, denied access to law library. Defendants failed to respond. Cancelled trial
14 that was set for ___/___/___ at 9:30AM in courtroom 2, Judge Damrell, presiding.
15 Contemporaneous designation of failure to exhaust administrative remedies as failure
16 to state a claim counting as a "strike" is impermissible. See 28 U.S.C. Section
17 1915A, e.g., Snider v. Melindez, 199 F.3d 108, 115. Case dismissed without prejudice.
18 Claim does not lack arguable basis in law. 28 U.S.C. Section 1915(e)(2). Cases
19 criminal or quasi criminal in nature may not turn on the ability to pay fees. See
20 Claim I page 3,1-23.

21 Larson v. Runnels, et al., No. 2:06-cv-02178-LKK-GGH statement of claim - Transfer
22 to Illinois. Prisoner exchange, overcrowding or hardship. Penal Code Sections 5058
23 Transfer of Prisoners, 11189 Interstate corrections compact; form; contents, Article
24 II Definitions (c) "Receiving state" means a state party to this compact to which an
25 inmate is sent for confinement other than that in which conviction or court
26 commitment was had. Western Interstate corrections compact; form; contents and

1 11191 Commitment or transfer to institution within or without state; right to counsel;
2 consent of inmate; revocation of consent (a) Any court or other agency or officer of
3 this state having power to commit or transfer an inmate (as defined in Article II(d)
4 of the Interstate Compact or of the Western Interstate Compact... & (b)-(c).

5 Protected liberty interests can be created (1) by the Due Process Clause of its own
6 force, (2) by a court order, (3) by a treaty or (4) by states through statutes or
7 regulations. Case dismissed without prejudice. Claim does not lack arguable basis
8 in law. 28 U.S.C. Section 1915(e)(2). Case criminal or quasi criminal in nature
9 may not turn on the ability to pay fees. See Claim I page 3,1-23.

10 Larson v. Runnels, et al., No. 2:07-cv-00664-LKK-KJM statement of claim - Transfer
11 to CMC East State Mental Hospital. "It would be appropriate to place him at Donovan
12 or CMC East...SUMMARY & RECOMMENDATIONS by Gregg A. Michael, Ph.D, D.A.B.F.E.,

13 Diplomate of the American Board of Forensic Examiners, Psychological Examination
14 Pre-Sentence Evaluation and personal data pages. - , Appendix F. The court had
15 previously sentenced petitioner 2 years confinement at CMC East State Mental

16 Hospital in August of 1992 for evading. Penal Code Section 2800.5 Deputy Public
17 Defender pled guilty for petitioner that had been diagnosed as suffering from
18 organic brain defect, second to methamphetamine abuse. Collecting SSI assigned
19 payee.¹ Haven't obtained SSI Records pages ___, Appendix F. Transported from the
20 courtroom to CMC East, not Donovan State Prison and then referred to CMC for . . .

21 Category "J" evaluation. Petitioner wasn't diagnosed by Donovan Mental Health
22 Doctors. It is SSI's Diagnostic Impression Axis I: Organic mental disorder (defect).

23 NOS, possibly secondary to amphetamine abuse, GAF 49. Medical File pages 1-9,

24 Appendix F. Petitioner was not confined at Donovan State Prison at that time. CMC

25 East Mental Health Doctor's Diagnostic Impression Axis I: Organic Mental Disorder

26 Secondary To Methamphetamine Abuse, GAF 48, Category "J". Medical File pages 10-20,

¹ Collected SSI from 1992-1996. Drug addicts and alcoholics were cut. The old law
was inacted. Did not reapply.

1 Appendix F. (Request to submit entire file.) Hospitalized for 1½-2 years, released
2 / / . Reported to parole agent under the influence of methamphetamine. Confined
3 at Donovan State Prison thrice, 9 months violations for under the influence of
4 methamphetamine, years 1994-1996. Mental Health Doctor's Diagnostic Axis I:
5 Paranoid Schizophrenia and recommended transfer to CMC East for Category "J"
6 designation, GAF 30. Wasn't told of the pending transfer, not made. Medical File
7 pages 23-31 and 40, Appendix F. Released from Donovan State Prison and reported to
8 parole agent on / / under the influence of methamphetamine. Confined at
9 California State Prison-Solano for 9 months. Mental Health Doctor's Diagnostic
10 Impression Axis I: Schizophrenia Paranoid Type, chronic (prov.) Medical File page
11 69, Appendix F. Department of Mental Health (DMH) Psychiatric Program-Vacaville
12 Acute Program Referral Form (Cat 101). Medical File page 95. Wasn't transferred.
13 Released from California State Prison and reported to parole agent on / / under
14 the influence of methamphetamine. Confined at Donovan State Prison for 9 months.
15 Not recorded in Medical File, Appendix F. Released from Donovan State Prison and
16 reported to parole agent on / / . Knife blade $\frac{1}{4}$ inch over the limit was rusted
17 shut. Confined at Donovan State Prison 5½ months. Parole revoked for 8 more months
18 because of a serious disciplinary report - use of force or violence against another
19 person, mutual combat, no injuries in violation of Penal Code Section 3057(c)(3)
20 "not more than 30 days for an act defined as a serious disciplinary offense pursuant
21 to subdivision (a) of Section 2932. Not recorded in Medical File, Appendix F.
22 Released from Donovan State Prison and reported to parole agent on / / . Handed
23 parole agent mandatory discharge parole papers and told him petitioner is off
24 parole. Parole agent said no your not. Asked whats the reason. Replied because I
25 said so. Parole was revoked soon after for being under the influence of metham-
26 phetamine for 9 months, twice more. Not recorded in Medical File, Appendix F.

1 Parole terminated in June of 1998. False arrested for current charge on 02/19/99,
2 trial 04/13/00 and sentenced 34 years - life on 06/15/00. Confined at Donovan State
3 Prison on 06/20/00. Mental Health Doctor's evaluation: V. DSM IV ICD-9CM (Diagnosis
4 ...) Axis I: #298.9 Psychotic Disorder NOS, Axis IV. GAF 13. Medical File page 168,
5 Appendix F. Evidence of lobotomy. Medical File page 177, Appendix F. Progress notes:
6 Prior to arrest i/m on SSI For "organic brain disorder", (defect) Axis I: Psychosis
7 NOS, II. defer III...IV. Legal Sever, V. 45. Medical File page 187, Appendix F.
8 iv. dsm iv icd-9CM Diagnosis...) Axis I: #298.9 Psychosis NOS R/S Org Issu , 296.4
9 Bipolar usually hypomanic, ma i , 304.80 Polysubstance Dependence in
10 Remission, Axis II: PD NOS, Axis III: Headaches, Axis V: GAF=57 V. Problem/Symptom
11 List #1 Grandios beliefs, VII...Concedes EOP today and in the Future even though he
12 does not want to go there. Told Doctor Blanthorn petitioner did not want to transfer
13 to CMC East for two weeks until a \$100.00 dept was paid for wine. Medical File pages
14 851-852, Appendix F. Petitioner told doctor that previously he'd been
15 organic brain Syndrome (defect) secondary to methamphetamine abuse. Medical File
16 page 911, Appendix F. PSYCHOLOGICAL EVALUATION FORM, III. Mental Health History:
17 Mental Health Hx & Physical Problems 8 Hospitalized in Wisconsin, 1975 - 9 months,
18 State Hospital. Medical File page 51, Appendix F. Current level of care eop/cccms
19 does not qualify a prisoner for purposes of PLRA's 3 strikes provision. See
20 Kolocotronics v. Morgan, 247 F.3d 726, 728 (8th Cir. 2001). Case dismissed without
21 prejudice. Claim does not lack arguable basis in law. 28 U.S.C. Section 1915(e)(2).
22 Case criminal or quasi criminal in nature may not turn on the ability to pay fees.
23 See Claim I page 3,1-23.
24 Larson v. Gonzales, et al., No. 2:08-cv-00938-FCD-JFM statement of claim
25 - (Omitted until obtain file stored in receiving and release, can't recall subject
26 matter.)

1 Larson v. Gonzales, et al., 2:08-cv-00960-JAM-KJM statement of claim - (Omitted
2 until obtain file stored in receiving and release, can't recall subject matter.)
3 Additional cases.
4 Larson v. Wallace, et al., No. 3:17-cv-01135-JAH-JLB statement of claim - Actual
5 innocence is based on a request for a stipulated lie detector test scheduled by Fred
6 Small, Deputy Public Defender. Petitioner agreed to sign papers. Fred Small, Deputy
7 Public Defender was not there during the examination. Question #1: "Is your name //
8 Harvey Eugene Larson?" Replied yes. Question #2: "Did you point a screwdriver at
9 Officer Mark Baber?" Replied no.¹ Examiner showed petitioner how to read the test
10 score and mentioned a 10 point range, then a 6 point range left "truthful," middle
11 6 point range "inconclusive" and 6 point range right "not telling the truth."
12 Examiner stated, "that the score showed in the inconclusive range last point toward
13 truth range, needed one more point and would have to check the results at her office.
14 Test score "inconclusive 22" at bot right hand corner of half or full sheet of paper.
15 Requested a second stipulated lie detector test. Defendant Fred Small, Deputy Public
16 Defender stated, "what you want the whole court to know it." Marsden Hearing on July
17 21, 1999 transcript page 3,17, Appendix F. Petitioner did not make any spontaneous
18 statements written in Crime/Incident and Common Report Narrative pages - ,
19 Appendix F. Affidavit pages - , Appendix F. Evidentiary Hearing should of been
20 held on the results of the lie detector examination "if" non-stipulated.
21
22 Witherspoon v. Superior Court, (Cal.App. 2 Dist. 1982) 133 Cal.App.3d 24, 183 Cal.
23 Rptr. 615 at [133 Cal.App.3d 261] page 2, column 1, paragraph 1:
24 Code section 402, he requested a pretrial
25 ¹ Petitioner told the examiner that he had been drawing all night and can barely
26 stay awake. Fell asleep for half a second when asked if petitioner pointed the
screwdriver at Barber, woke startled recalling the question replied no. It didn't
seem to matter to the examiner except her fingers were covered with ink.

1 determination of the admissibility of a confession
2 alleged to have been made by him. In connection
3 with that motion he sought an evidentiary hearing at
4 which he proposed to prove the validity and hence the
admissibility of a polygraph examination
administered to him on the issues of the voluntariness
of the confession and his innocence of the charge.

5 The trial court denied the motion and refused to
6 hold an evidentiary hearing on the grounds that the
7 results of the polygraph examination would be
inadmissible regardless of what evidence the
defendant might offer concerning such examination.

8

9 The trial court's decision was understandably the
10 result of an unbroken line of appellate decisions in
California restating a blanket exclusion of such
evidence, absent a stipulation by the parties to permit
11 its introduction. In short, the trial court's ruling was
not an exercise of discretion but was simply a
12 statement that lacked any discretion in the matter.

13 Defendant petitioned this Court for a writ of
14 mandate to compel the trial court to consider the
evidentiary hearing. We denied the petition. The
15 Supreme Court, however, granted a hearing and
transferred the matter to our calendar.

16 [1][2] After extensive review of the statute and case
17 law along with defendant's offer of proof, we have
concluded that the writ should issue to compel the
holding of an evidentiary hearing. Of course the
18 holding of an evidentiary hearing would be an idle act
if the heretofore arbitrary and blanket exclusion of
19 such evidence is to continue. Thus we have further
concluded that upon a proper showing pursuant to the
20 procedure [133 Cal.App.3d 27] outlined in Evidence
Code section *617 402 through 406 (FN1) and
21 consistant with the trial court's valid exercise of
discretion, as provided for by Evidence Code Section
22 352 (FN2), no legal reason exists for continuing to
apply the judicially developed exclusion of such
23 evidence.

24 [2] Criminal Law Key 388.5(1)

110----

110XVII Evidence

110XVII(I) Competency in General

110k388 Experiments and Tests; Scientific and

1 Survey Evidence

110k388.5 In General.

(Formerly 110k388)

Upon proper showing pursuant to procedure outlined in Evidence Code section and consistent with trial court's valid exercise of discretion, results of polygraph examination are admissible in criminal trial. West's Ann.Evid.Code §§352, 401-406

Young v. Northwest Airlines, (9th Cir. 2000) 2000 U.S. DIST. LEXIS

DISCUSSION

Exhibit is a report of a polygraph examination administered to Plaintiff regarding this case. The polygraph examiner, Michael Orian, did not file an accompanying affidavit. After the Supreme Court's Ruling in Daubert v. Merrel Dow Pharmaceuticals, Inc., 509 U.S. 579, 125 L.Ed.2d 459, 113 S.Ct. 2786 (1993). The Ninth Circuit determined that the former "bright line rule" which excluded non-stipulated polygraph evidence offered in civil or criminal trials had been eradicated, United States v. Cordoba, 194 F.3d 1053, 1056 (9th Cir. 1999). Instead, a court must make a "factual inquiry into the scientific validity of the proffered polygraph evidence under Rule 702 as well as weigh the probative value of the evidence against its prejudicial effect under Rule 403." Id

Cordoba, *supra* at 1056, page 4, column 1, paragraph 2:

On appeal, we reversed, holding that Daubert, 509 U.S. 579, 113 S.Ct. 2786, overruled the "bright line rule" excluding all unstipulated polygraph evidence offered in civil or criminal trials." United States v. Cordoba, 104 F.3d 225, 227 (9th Cir. 1996) ("Cordoba I"). We found that, under Daubert, a district court was required to make a particularized factual inquiry into the scientific validity of the proffered polygraph evidence under Rule 702 as well as weigh the probative value of the evidence against its prejudicial effect under Rule 403. *Id.* at 227-28. We remanded with instructions to the district court to "conduct individualized inquiries under Rules 702 and 403 to determine whether Cordoba's unstipulated polygraph evidence is admissible." *Id.* at 230. We provided that "[i]f the district court conclude[d] that the unstipulated polygraph evidence [was] inadmissible under Rule 702 or 403, the district court [could] reinstate the judgment of conviction." *Id.*

Upon remand, the district court held a two day evidentiary hearing, received extensive briefing, and reviewed numerous affidavits and reports supplied by

1 the parties.

2

3 People v. Reeder, (Cal.App. 3 Dist. 1976) 135 Cal.Rptr. 421, 65 Cal.App.3d 235

4 [1][2][3][4] It has long been established that
5 submission to a polygraph test by a qualified
6 examiner and admission in evidence of the results are
7 proper subjects for stipulation (Robinson v. Wilson
8 (1974) 44 Cal.App.3d *423 92, 103, 118 Cal.Rptr.
9 569...
10

11 [1] Criminal Law Key 388.5(4)

12 110----

13 110XVII Evidence

14 110XVII(I) Competency in General

15 110k388 Experiments and Tests; Scientific and
Survey Evidence

16 110k388.5 Lie Detector or Polygraph Tests and
Procedures

17 110k388.5(2) Stipulations or Agreements

18 110k388.5(4) Necessity and Effect

19 (Formerly 363k3)

20 Submission to polygraph test by qualified examiner
and admission in evidence of the results are proper
subjects for stipulation.

21 Request for a second stipulated lie detector examination was made again to Judge
22 Hanoian. Judge stated, "it is not admissible sir what is the point." Marsden Hearing
23 on April 10, 2000 (trial the 11th) transcript pages 5,18-6,1, Appendix F. Barbara
24 J. Wallace, Polygraph Examiner is registered with the court that often employed her
25 services. Expert testimony had been received by the court.

26 Reeder, *supra*

27 Defendant was convicted in Superior Court, Placer
28 County, William A. Newson, J., of oral sex
29 perversion and forcible rape and he appealed. The
30 Court of Appeal, Puglia, P.J., held that record would
31 not support claim of incompetence of counsel in
32 stipulating to admissibility of results of polygraph
33 test where there was no showing that defendant did
34 not accede to the stipulation freely and intelligently;
35 and that failure to instruct on the weight and effect

1 of expert testimony was prejudicial error, it appearing
2 that the polygraph testimony materially influenced the
3 jury and it was reasonably probable that a result more
favorable to defendant would have occurred had the
instruction been given.

4 Reversed.

5 [8][9] The instruction called for by Penal Code
section 1127b must be given sua sponte where expert
6 testimony has been received. (People v. Bowens
(1964) 229 Cal.App.2d 590, 600, 40 Cal.Rptr. 435,
7 ...

8 [8] Criminal Law Key 824(5)

110----

110XX Trial

110XX(H) Instructions: Requests

110k824 Necessity in General

110k824(5) Instructions as to Evidence in

General.

13 Instruction on weight and effect of expert testimony
must be given sponte where expert testimony has
14 been received. West's Ann. Pen. Code, §1127b

15 [6] Criminal Law Key 641.13(6)

110----

110XX Trial

110XX(B) Course and Conduct of Trial in
General

110k641 Counsel for Accused

110k641.13 Adequacy of Representation

110k641.13(2) Particular Case and Problems

110k641.13(6) Evidence; Procurement
Presentation and Objections.

21 Record on appeal from conviction would not
support claim of incompetence of counsel in
22 stipulating to admissibility of results of polygraph
tests where there was no showing that defendant did
23 not accede to the stipulation freely and intelligently.

25 Idea to submit to polygraph test originated with the defendant. [65 Cal.App.3d 240]

26 Vista County Jail guards stold the copy of the lie detector test that showed a

1 score "inconclusive 22" at bot right corner of paper or half sheet of paper. Deputy
2 Public Defenders Fred Small and Stan Jones would not give petitioner another copy.
3 The court should of removed Fred Small and Stan Jones from the case. Grounds
4 sufficient to require reversal include the following: •Failure to investigate
5 adequately, People v. Minor, (1980) 104 C.A.3d 194, 200 and •Defendant's credibility
6 undermined by trial error (People v. Coleman, 9 C.A.4th 493. Copy of the original
7 stipulated lie detector test could not be obtained.

8 Claim of actual innocence is based on ~~actual~~ fake copy Ref: Results of Specificity Issue
9 Polygraph Examination obtained January 26, 2017, Appendix F showed a false score of
10 "inconclusive +3 and -4" to questions #33, #35 and #37 that were not asked. If the
11 Court believes that those questions were asked, then results negate any showing of
12 criminal intent and the 34 year - life sentence that petitioner is serving. Question
13 #33: "On February 19, 1999, did you intend to use the screwdriver as a weapon
14 against the officer?" Question #35: "Did you intend to strike the officer with the
15 screwdriver on February 19, 1999?" Question #37: "Did you use the screwdriver to
16 threaten the officer on February 19, 1999?" "The examinee responded "No" to all
17 relevant questions. Test Results: The score for Questions #33 and #35 were combined
18 because they focus on the same issue. The final score for those questions was "+3"
19 which falls into the Inconclusive Zone but is only four points from being in the
20 Truthful Scoring Range. The final score for Question #37, which focuses on a
21 separate issue, was "-4" which fell into the Inconclusive Zone but leans toward the
22 Deceptive Scoring Range.

23 People v. Reeder, (Cal.App. 3 Dist. 1976) 135 Cal.Rptr. 421, 65 Cal.App.3d 235 at
24 Headnote:

25 [7] Criminal Law Key 824(6)

26 110----

110XX Trial

1 110XX(H) Instructions: Requests
2 110k824 Necessity in General
3 110k824(6) Instructions as to Presumptions and
Burden of Proof.

4 Where neither polygraph examiner who testified in
5 criminal trial claimed evidentiary significance for
6 polygraph tests beyond the limits that defendant
7 would impose by his suggested instruction that
polygraph evidence was not to be considered upon the
elements of the charged offenses, court had no duty so
to instruct sua sponte.

8 Respondents Barbara J. Wallace, Polygraph Examiner and Bethany M. Ulch, Deputy
9 Public Defender falsified the scoring method number value of three charts of the
10 Result of Specific Polygraph Examination "inconclusive zone +6 to -12." A +6 shows
11 that an examinee is telling the truth. See U.S. v. Galbreth, 980 F.Supp. 877 (D.N.M.
12 1995) page 14, column 1, paragraph 5. Examiner had explained to petitioner that the
13 truth range, inconclusive range and not telling the truth range each had 6 points.
14 DEMAND FOR DECLARATORY JUDGMENT AND INJUNCTIVE RELIEF. Release from prison. An
15 evidentiary hearing must be held on the stipulated or non-stipulated lie detector
16 or polygraph examination and request for a second stipulated test be granted if
17 required, also on the facts presented in this motion with an attorney present.
18 An independent review of the record, Federal Rules of Civil Procedure 15 and
19 intervention, Federal Rules of Civil Procedure 24.

20
21 III. DENIED ACCESS TO LAW LIBRARY PREVENTED AMENDING COMPLAINTS.
22 NOR NOTICE OF DISMISSAL, THAT A VOLUNTARY DISMISSAL OF THE
23 CASE WILL NOT BE COUNTED AS A STRIKE. 28 U.S.C. SECTION
1915(g) AND 42 U.S.C. SECTION 1997e(c)

24 The court granted leave to amend on its own motion. Prison authorities denied
25 access to law library that prevented reading caselaw shown in court orders to cure
26 deficiency in complaints listed herein. Court erred in dismissing pro se complaints

1 when the court knew that access to law library was denied. See Larson v. Williams,
2 et al., No. 2:07-cv-00631-RLH-VPC previous page 9,20-25 and Larson v. Hinzhuff, et
3 al., No. CIVS-2521-LKK-GGH previous pages 9,25-10,8. The court must give specific
4 notice of complaints deficiency and opportunity to amend. Lucas v. Department of
5 Corr., 66 F.3d 245, 248-49 (9th Cir. 1995). Now that petitioner has access to a law
6 library, he should be given a chance to amend complaints filed in years 2001-2007
7 and given notice of voluntary dismissal to avoid incurring a "strike" under Section
8 1915(g). Therefore, indigent inmates control whether the 3 strikes provision will
9 ever be applied to them. Cf. Christiansen v. Clarke, 147 F.3d 655, 658 (8th Cir.
10 _____), Higgins v. Carpenter, 258 F.3d 797 (8th Cir. 2001). California Criminal
11 Defense Practice. Query "Notice", "Strikes", "1915(g)" Matches 548, Title U.S.
12 District Court - 9th Circuit (2014 to Present), Hit List UNITED STATES DISTRICT
13 COURT OF THE NINTH CIRCUIT 2017 U.S. DIST. LEXIS 24109::Haney v. Htay::February 17,
14 2017 OPINION

15 Three lines down-

16 ...matters properly subject to judicial notice, or allegations that are merely...
17 ...must give defendant fair notice of what the...claim...
18 ...in this order or a notice of voluntary dismissal; and...

19

20 C.B. ZINGER - THE CITE BOOK

21 PRO SE COMPLAINTS

22 NOLL V. CARSON, 809 F.2d 1446 (9th Cir. 1987)
23 Pro se litigant bringing civil rights suit in forma pauperis is entitled to
24 five procedural protections:
25 1) Process issued and served.
2) Notice of any motion thereafter made by defendant or the court to
26 dismiss the complaint and grounds therefore.
3) An opportunity to at least submit a written memorandum in opposition to
such motion.
4) In the event of dismissal.

1 a statement of the grounds
2 therefore.

3 5) An opportunity to amend the
4 complaint to overcome any
5 deficiency unless it clearly
appears from the complaint
that the deficiency cannot
be overcome by amendment.

6 IV. SECTION 1915(g) IS UNCONSTITUTIONAL UNDER EQUAL PROTECTION

7 California Criminal Defense Practice, Query "Vindicating Basic Fundamental Rights"
8 "1915(g)" Matches 1, Title U.S. District Court - 8th Circuit (Prior to 2005), Hit
9 List, UNITED STATES DISTRICT COURT OF THE EIGHTH CIRCUIT 1999 43 F.SUPP.2D 1039
10 AYERS V. NORRIS MARCH 31, 1999 OPINION, bot
11 ...The Court concludes that Section 1915(g) is not narrowly tailored to...
12 ...Court therefore holds that Section 1915(g) is unconstitutional under equal...
13

14 V. 40 CIVIL SUITS WERE NOT FILED

15 28 civil suits.

16 VI. MENTAL ILLNESS MAY OF PREVENTED MAINTAINING LAWSUITS

17 See civil suit Larson v. Runnels, et al., No. 2:07-cv-00664-LKK-KJM filed 04/06-
18 /07 previous pages 14,10-16,23
19

20 VII. READING GRADE POINT LEVEL .07 OR .7?

21 Effective Communication For Determination For Formal Level CDCR Inmate/Appeal
22 page , Appendix F.

23 VIII. STATUTE OF LIMITATIONS

24
25 Statute of limitations defense should be raised by defendants..Argument to
26

1 statute of limitations defense, see civil rights lawsuit, Appendix B.

2

3 WHEREFORE, grant relief.

4

Sincerely,

5 Date: 5/22/18

Harvey E. Larson

6

Declaration

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

8 Date: 5/22/18

Signature of petitioner

Harvey E. Larson

9

10

11

12

13

14

15

16

17

18

19

20

21

22

23

24

25

26

REASONS FOR GRANTING THE PETITION

The United States Court of Appeals for the Ninth Circuit has entered a decision that claims raised excessive term of supervised release, denied treatment for methamphetamine abuse, organic brain defect and denied counsel are so insubstantial as to not warrant further review and has so far departed from the accepted and unusual course of judicial proceedings. Rule 10(a). The importance of the case not only to petitioner but to others similarly situated and that adequate relief cannot be obtained in any other form or any other court. Rule 20.1. Vacate conviction for prior burglary case numbers ECR1658 and ECR1972. See complaint Appendix F. The priors are strikes. See trial on priors transcript, Appendix F.

CONCLUSION

The petition for a writ of certiorari should be granted.

Respectfully submitted,

Harvey E. Larson

Date: May 22, 2018