

ORIGINAL

No. 18-8899

FILED

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OFFICE OF THE CLERK
SUPREME COURT, U.S.

IN THE

SUPREME COURT OF THE UNITED STATES

Eric Richard; eleson[®], Secured Party,
Tertius Interveniens/Auth. Rep. ex rel., — PETITIONER
ERIC RICHARD ELESON[®], J-59564, Trust,

vs.

JOE A. LIZARRAGA, Warden,
EDMUND G. "JERRY" BROWN, JR., — RESPONDENT(S)
GOVERNOR - STATE OF CALIFORNIA,

ON PETITION FOR A WRIT OF CERTIORARI TO
district court of the United States
for the Eastern District of California

The words "district court of the united states" commonly describe constitutional courts under
Article III, Section 1.... U.S.C.A. Constitution of the United States, Note 114.

(NAME OF COURT THAT LAST RULED ON MERITS OF YOUR CASE)
D.C. No.: 1:17-cv-01193-DAD-JLT

United States Court of Appeals for the Ninth Circuit No.: 17-17507
(DENIED C.O.A.)

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QUESTION(S) PRESENTED

1. Does the U.S. Constitution's Supremacy Clause (Article VI, §2) require the Judge(s) (both State & Federal) within STATE OF CALIFORNIA (as well as any other State) to follow an established "legal definition" (within a Federal Statute 'made in pursuance thereof') where NO such "legal definition" of said 'term' exists in the State's Law?
2. Does CALIFORNIA PENAL CODE (CPC) §667.5(c) "legally 'define'" the term, "Violent Felony?" or, Is CPC §667.5(c) a "legal definition" of the term, "Violent Felony" (since, by its own words, "For the purpose of this section" it only applies to one Penal Code section)?
3. Are the State (and Federal) Judge(s) within STATE OF CALIFORNIA required to utilize an established Federal "definition" (or its opposite) when a new State Constitutional provision using an "undefined term" is created?
4. Do the Judge(s) (both State & Federal) within STATE OF CALIFORNIA violate Each's Oath of Office (& Canon #3), as well as Petitioner's Right to Due Process & Equal Protection of the Law, when Each FAILS & REFUSES to follow and abide by the U.S. Constitution's Supremacy Clause and the established Federal definition of "Violent Felony" (18 USC §924(e)(2)(B)), and now, the definition of "Crime of Violence" (18 USC §16 - See: Sessions v. Diyama, 2018 US LEXIS 2497), when they Fail & Refuse to acknowledge the, ipso facto, "Non-Violent" Statutory 'elements' of Petitioner's offenses which is within the purview of the 'newly created State Constitutional provision (Article I, §32, CA Constitution, "non-violent" felony offenses)? "Expressio/Inclusio unius est, exclusio alterius." = "The expression/inclusion of one, is the exclusion of the other."
5. Are the "Jurist(s)" who decided U.S. v. Sherbondy, 865 F.2d 996, 1010-1011 (9th Cir. Cal. 1988) and others who cited said case (ie: U.S. v. Parker, Taylor v. U.S., U.S. v. Chatman, Pazcoguin v. Radcliffe, Singh v. Ashcroft, U.S. v. Ladwig, U.S. v. Piccolo, U.S. v. Mi Kyung Byun, Delgado-Hernandez v. Holder, Shepherd v. U. S., In re Christopher H., Hicks v. Feilock, & In re Lance W., Supra.), "reasonable jurists who would find it debateable that the State Courts' Judge's refusal to follow the U.S. Constitution's Supremacy Clause, "only a State Law Issue?"
6. Does the inclusion of Statutory (Elements) "Non-Violent" offenses within an alleged "List" of alleged "Violent" offenses, violate Petitioner's Federal Constitutional Right to Due Process and Equal Protection of the Law in the light of the newly enacted State Constitutional provision?
7. Does the FAILURE & REFUSAL of the Judges in STATE OF CALIFORNIA (both State and Federal) to adjudicate the issue of "What is the 'Primary Term' in the case of a "Non-Violent" Third-Striker's 25 to Life Sentence" (as the 25 to Life Sentence is an "Alternative Sentence" for purposes of Article I, §32), (Is it the maximum Term authorized/annexed to the underlying offense, or the 25 year 'minimum' Term?), constitute ABDICATION OF JUDICIAL POWER as is outlined in Cohens v. Virginia, 19 US (6 Wheat) 264, 404 (1821).... 6a, & 9

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:

TABLE OF CONTENTS

QUESTIONS PRESENTED.	i
TABLE OF AUTHORITIES CITED.	v-viii
OPINIONS BELOW.....	1
JURISDICTION.....	2
CONSTITUTIONAL AND STATUTORY PROVISIONS INVOLVED	3
STATEMENT OF THE CASE	4
I. NEW CHANGE IN THE SENTENCING LAW, WHICH WAS ADDED TO CALIFORNIA CONSTITUTION AT ARTICLE I, §32, INTRODUCING A "NON-DEFINED TERM"; THE ILLEGAL INCLUSION OF CLASSIFICATION OF CRIME AS "VIOLENT FELONY" IN CPC §667.5(c) - §288(a), WHICH IS ONLY A "SERIOUS FELONY" @ CPC §119207; / AND, CPC §667.5(c) IS NOT A DEFINITION.	5
II. DENIAL OF DUE PROCESS; VIOLATION OF U.S. CONSTITUTION, ARTICLE VI, §2, "SUPREMACY CLAUSE"; VIOLATION OF SEPARATION OF POWERS, ART. III, §3, OF CALIFORNIA CONSTITUTION.	9
III. DERELICTION OF DUTY; MALFEASANCE IN OFFICE; VIOLATION OF STARE DECISIS; VIOLATION OF OATH OF OFFICE.	11
IV. VIOLATION(S) OF DUE PROCESS; VIOLATION(S) OF COURT RULES; VIOLATION(S) OF STARE DECISIS; VIOLATION(S) OF OATH(S) OF OFFICE; ABDICATION(S) OF THE JUDICIAL POWER; MALFEASANCE IN & OF OFFICE; EXTREME BIAS AGAINST THIS PETITIONER; FRAUD; VIOLATION(S) OF U.S. CONSTITUTION'S ARTICLE VI, §2, "SUPREMACY CLAUSE:" DERELICTION OF DUTY, Etc.	12
REASONS FOR GRANTING THE WRIT	17
CONCLUSION.....	18

INDEX TO APPENDICES

APPENDIX A = STATE SUPERIOR COURT DECISION, CRW-52500, COUNTY OF TUOLUMNE NOTICE OF VOID ORDER; VOID ORDER REFUSED FOR FRAUD, UCC 3-501
APPENDIX B = STATE APPELLATE COURT DECISION (Postcard Denial) F-075420) NOTICE OF VOID ORDER; VOID ORDER REFUSED FOR FRAUD, UCC 3-501
APPENDIX C = REQUEST FOR DECLARTORY RELIEF; CHALLENGE TO CONSTITUTIONALITY OF STATUTE (CCP §§1060 & 1061); FOR W. & I. Code §6601.1 SUPPLEMENTAL POINTS & AUTHORITIES IN SUPPORT
APPENDIX D = STATE SUPREME COURT DENIAL (S-242419); NOTICE OF VOID ORDER; VOID ORDER REFUSED FOR FRAUD, UCC 3-501

APPENDIX E = district court of the United States, for the Eastern District of California
1:17-CV-01193- The words "district court of the united states" commonly describe constitutional courts under
DAD-JLT Article III, Section 1.... U.S.C.A. Constitution of the United States, Note 114.

OBJECTIONS TO MAGISTRATE JUDGE'S FINDINGS & RECOMMENDATION

APPENDIX F = ORDER ADOPTING MAGISTRATE JUDGE'S FINDINGS & RECOMMENDATION
17-17507 NOTICE OF APPEAL - REQUEST FOR C.O.A.; NOTICE OF VOID ORDER;
VOID ORDER REFUSED FOR FRAUD; UCC 3-501; MEMORANDUM OF POINTS
& AUTHOTITIES IN SUPPORT OF C.O.A.; 2nd SUPPLEMENTAL POINTS &
AUTHORITIES IN SUPPORT; REQUEST FOR RECONSIDERATION.

APPENDIX G = PETITION FOR WRIT OF MANDATE TO (SACTO) SUPERIOR COURT
34-2017-80002713

TABLE OF AUTHORITIES CITED

CASES

PAGE NUMBER

American Banana Co. v. United Fruit Co., 213 US 347, 357, 53 L. Ed. 826, 29 S. Ct. 511 (1909).	7
Bowen v. United States, 442 US 916, 920, 45 L. Ed. 2d 641, 95 S. Ct. 2569 (1975).	10
Brookfield Constr. Co. v. Stewart, 234 F. Supp. 94, 99 (1964)	A-2
Brown v. Louisiana, 447 US 323, 65 L. Ed. 2d 159, 166, 100 S. Ct. 2214.	10
Brown v. Superior Court, 63 Cal. 4th 335, 351-360 (2016).	13, C-2, 3, F-20
Calder v. Bull, 3 US (3 Dall.) 386, 390, 1 L. Ed. 648 (1798).	C-3
City of Cleburne, Texas v. Cleburne Living Center, 473 US 432, 439, 87 L. Ed. 2d 313, 105 S. Ct. 3249 (1985).	9
Cohens v. Virginia, 19 US (6 Wheat) 264, 404 (1821).	12, 13, D-2
Coulter v. Pool, 187 Cal. 181, Hn. 3 (1921).	9, A-3
Delgado-Hernandez v. Holder, 697 F.3d 1125, 1127 (9th Cir. 2012).	C-7
Glenn v. Chavez, 2012 US Dist. LEXIS 144075.	9
Harris v. Reynolds, 13 Cal. 514, 518 (1859).	C-2, 13
Hernandez v. Walker, 2015 US Dist. LEXIS 16068.	F-11
Hicks v. Feiock, 485 US 624, 629-630, 99 L. Ed. 2d 721, 108 S. Ct. 1423 (1995).	C-6, F-11
In re Christopher H., 227 Cal. App. 3d 1567, 1576 (1991).	C-6
In re Lance W., 37 Cal. 3d 873, 882 (1985).	C-6
In re Edwards, B-288086, (2018) 2nd Apl. Dist.	8
In re Smith, 7 Cal. 3d 362, 364-366 (1972).	C-4
In re Vaught, G-054657, 4th Dist. Ct. Apl. Div. 3.	F-18, 21
Jackson v. Ylst, 921 F.2d 882 (9th Cir. 1990).	E-1
Johnson v. Arizona, 462 F.2d 1352, 1354 (9th Cir. 1972).	10
Johnson v. United States, 576 US 192 L. Ed. 2d 569, 574-578, 135 S. Ct. 2251.	6, 7, C-2, F-17, 20

Mulkey v. Reitman, 64 Cal. 2d 529, 536-537 (1999).	E-3
Myers v. Ylst, 897 F.2d 417, 421-423 (9th Cir. 1990).	9, 10
Pazcoguin v. Radcliffe, 292 F.3d 1209, 1215 (9th Cir. 2001).	C-7
People v. Chambless, 74 Cal. App. 4th 773, 783-784 (1999).	C-4
People v. Chavez, 26 Cal. 3d 334, 352 (1980).	A-2
People v. Lopez, 251 Cal. App. 2d 918, 922 (1967).	10
People v. Martinez, 11 Cal. 4th 434, 444-445 (1995).	C-4
People v. Superior Court (Johannes), 70 Cal. App. 4th 558, 569 (1999).	C-3
People v. Superior Court (Romero), 44 Cal. App. 4th 1073, 1086/ 13 Cal. 4th 497, 508-509 (1995).	9, 12
People v. Tenorio, 3 Cal. 3d 89, 91 (1970).	9, A-3
Perry v. Brown, 671 F.3d 1052, 1064-1076 (9th Cir. 2012).	C-1
Plyler v. Doe, 457 US 202, 205-211, 72 L. Ed. 2d 786, 791-798, 102 S. Ct. 2382 (1982).	10
Schmuck v. United States, 489 US 705, 716, & 720, 103 L. Ed. 2d 734, 109 S. Ct. 1443 (1999).	F-12
Sessions v. Diyama, 2018 U.S. LEXIS 2497 (4/18/18 DJDAR, Pg. 3331).	3, 6, & F-25
Russo v. Johnson, 129 F. Supp. 2d 1012, 1024 (2001).	F-25
Shepherd v. United States, 544 US 13, 19, 161 L. Ed. 2d 205, 125 S. Ct. 1254 (2005).	C-7
Singh v. Ashcroft, 386 F.3d 1228, 1231-1232 (9th Cir. 2004).	C-7
Slack v. McDaniel, 529 US 473, 484, 146 L. Ed. 2d 542, 120 S. Ct. 1595.	F-1, 3
State v. Superior Court of Orange County, 12 Cal. 3d 237, 251-252 (1974).	C-1
Taylor v. United States, 495 US 575, 602, 109 L. Ed. 2d 607, 608-610, 110 S. Ct. 2143 (1990).	C-7, E-3
United States v. Chatman, 869 F.2d 525, 529, (9th Cir. (1989).	C-7
United States v. Gaines, 2015 U.S. Dist. LEXIS 57324 @ fn. 2.	10
United States v. Ladwig, 432 F.3d 1001, 1003, (9th Cir. 2005).	C-7
United States v. Mi Kyung Byun, 539 F.3d 982, 991-992 (9th Cir.).	C-7

United States v. Parker, 5 F.3d 1322, 1324 (9th Cir. 1993).	C-7, E-3
United States v. Piccolo, 441 F.3d 1084, 1087 (9th Cir. 2005).	C-7
United States v. Ramirez, 21 M.J. 353, ___ (1986).	C-4
United States v. Sherbondy, 865 F.2d 996, 1010-1011 & fn. 18, (9th Cir. Cal. 1988), Cited all throughout Petition & Attachments. 6, 8, 13, etc.	
United States v. Stogner, 539 US 607 (2003).	C-3
United States v. Throckmorton, 98 US 61, 64, 25 L. Ed. 93 (1798).	E-2
Welch v. United States, 577 US ___, 194 L. Ed. 2d 387, 136 S. Ct. 1257 (2016).	3, 6, C-2, F-25
Witter v. Baker, 2014 U.S. Dist. LEXIS 111321.	10

STATUTES AND RULES

California Civil Code §13.	8, C-2
Code of Civil Procedure (CCP) §16, §§1060 & 1061.	8, C-2
California Government Code §11342.2.	G-1
California Penal Code §667.5(c).	Throughout Petition & Attachments
§1192.7 ("Serious, NOT Violent).	5
§1170.126.	F-19
§1385.	9, 12, A-3
§288(a), etc.	Throughout Petition & Attachments!
Welfare & Institutions Code §6601.1 & §6600(b).	C-6; 8
California Rules of Court (CRC) Rule 4.551(c)(1) & (g).	12
Stats. 1965, Ch. 299, §2 = Judicial Notice	C-1, 2, 6, D-1, E-1, F-1
Federal Rules of Evidence, Rule 201(d).	E-1, F-1
18 USC §924(e)(2)(B).	3, 5, All Throughout, A-1, C-7, 8, D-2, E-3,...
18 USC §16(b).	4, 6, F-25
28 USC §530B (McDade Act).	4, 11
28 USC §2253(c)(2) & (3).	F-2
28 USC §2254(d)(1) & (2).	4, 12
15 CCR §§3490/3491.	G-1-3
UCC 3-501.	A-1, 4, D-1, 4
1979 Stats., Ch. 944, §6.5, Pg. 3254 (Legislative separation-out).	4, 6, 7..

OTHER

California Constitution, Article I, §7, & §32.	3, 4, 5, 11, 12, 14, A-2, E-2, Etc.
California Constitution, Article III., §3 - Separation of Powers.	9
California Constitution, Article XX, §3, - Oath of Office.	6, 10, 12, 13, C-3, 8
Legal Maxim: "Expressio/Inclusio unius est, exclusio alterius." = "The expression/ inclusion of one, is the exclusion of another." 11 Coke 58, 8 Mont.312	7, 9, A-2, C-2, E-2
"Lex non cogit ad impossibilia." = "The Law does not permit impossibilities." (Broom's Max 242).	C-2, E-2
"Lex senper dabit remedium." = "The Law will always give a remedy." (Broom's Max 193).	E-3
Judicial Canons:	13, A-1, 6
United States Constitution, Article VI, §2 - Supremacy Clause.	Throughout All
United States Constitution, Amendment(s) V, & XIV, Due Process & Equal Protection of the Law.	4, 6, 8, 9, 10, 12, 13, 17, & Attachments

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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 ~~Denial~~ of the United States court of appeals appears at Appendix F-14 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 F-4 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 D 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 SUPERIOR COURT OF CALIFORNIA (TUOLUMNE) court 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.

JURISDICTION

☒ For cases from federal courts:

The date on which the United States Court of Appeals decided my case was May 31, 2018 (F:14).

☐ 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: July 12, 2018, and a copy of the order denying rehearing appears at Appendix F:27.

☐ 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 August 9th, 2017, c.e.. A copy of that decision appears at Appendix D.

☒ A timely NOTICE OF VOID ORDER was thereafter ignored on the following date: August 20th, 2017, c.e., and a copy of the **NOTICE OF VOID ORDER** appears at Appendix D.

☐ 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).

* Petitioner also states that Jurisdiction is conferred by the United States Constitution itself. Further, the First Amendment to the Constitution acknowledges that Petitioner has a Right to Redress Grievances. Petitioner is agrieved that Judges refuse to follow the Supremacy Clause and Rule according to Truth. Refusal to adjudicate creates the appearance that the Justices ignore with impunity the Contract which provides employment!

CONSTITUTIONAL AND STATUTORY PROVISIONS INVOLVED

1. Article VI, §2 - Supremacy Clause:

"This Constitution, and the Laws made in pursuance thereof, and all Treaties made, are the Supreme Law of the Land. Anything in the Constitution and Laws of the State to the contrary, notwithstanding." used throughout!

2. Amendment V & XIV - Due Process & Equal Protection of the Law:

Section 1: ".... nor shall any State deprive any person of life, liberty, or property, without due process of law; nor deny to any person within its jurisdiction the equal protection of the laws."

3. 18 USC §924(e)(2)(B) - Definition of "Violent Felony"

"The term "violent felony" means any crime punishable by imprisonment for a term exceeding one year, or any act of juvenile delinquency involving the use or carrying of a firearm, knife, or destructive device that would be punishable by imprisonment for such term if committed by an adult, that:

- (i) has as an element the use, attempted use, or threatened use of physical force against the person of another; or,
- (ii) is burglary, arson, or extortion, involving the use of explosives, [or otherwise involves conduct that presents a serious potential risk of physical injury to another."] NOTE ** below. used throughout!

4. 18 USC §16 - "Crime of Violence": The term "crime of violence" means:

- (a) an offense that has as an element the use, attempted use, or threatened use of physical force against the person or property of another, or
- (b) any other offense that is a felony and that, [by its nature involves a substantial risk that physical force against the person or property of another may be used in the course of committing the offense.](98 Stat. 2136).
NOTE ** below.

** NOTE: In Johnson (Samuel James) v. United States, 576 US ___, 192 L.Ed.2d 569, 574-577, 135 S. Ct. 2551 ; 2015 U.S LEXIS 4251: "the Court VOIDED the residual clause as unconstitutionall vague." This was made retroactive by Welch v. United States, 577 US ___, 194 L.Ed.2d 387, 136 S. Ct. 1257; and 18 USC §16 was recently "amended for the same reasons," in Sessions v. Diyama, 2018 US LEXIS 2497, (4/18/18 DJDAR Pg. 3331).

STATEMENT OF THE CASE

On November 8th, 2016, c.e., the PEOPLE enacted (Prop-57) Article I, §32 of the California Constitution; which contained an undefined term, "Nonviolent felony," and itemized benefits thereto.

Petitioner then did some research and discovered that in 1979, the California Legislature "separated-out" all "crimes of violence" (18 USC §16, & 18 USC §924(e) (2)(B)'s "definition" of "Violent Felony") and created a separate designation/subsection for those crimes/offenses which were done "with force, violence, menace, or fear.....,etc." but failed to remove the "non-violent" ones from CPC §667.5(c). (See: List on Pg. 16, Post).

Petitioner's offenses are not Statutorily (by the elements) designated as a "Violent felony," so he requested to be taken to the BPH, and was denied, resulting in his filing the Petition for a Writ of Habeas Corpus. All three (3) Levels (Superior, Appellate, and Supreme) of State Courts & two (2) Levels (District & 9th Circuit Court of Appeals) of Federal Courts have ILLEGALLY DENIED the Petitions, necessitating this Certiorari; using as "authority" a "non-definitional" Statute (CPC §667.5(c)), and "IGNORING" the exceptions of 28 USC §2254(d)(1) & (2).

From the beginning, Petitioner has asserted and argued a denial of a Constitutional Right ("Due Process & Equal Protection of the Law," "Honest Services," and violation(s) of the U.S. Constitution's "Supremacy Clause"); which has, each time, resulted in a decision "contrary to the evidence presented in the State Courts," (28 USC §2254(d)(2)), and, a decision "contrary to an established U.S. Supreme Court decision." (§2254(d)(1)).

This blatant disregard for the "Rule of Law, and Stare Decisis, as well as the U.S. Constitution itself, REQUIRES the Supervisory Powers of this Court to guide the Judiciary back to Truth & Justice. (See: Reasons for Granting Writ).

(13/17)

I. A NEW CHANGE IN THE SENTENCING LAW (PROP-57) WHICH WAS ADDED TO CALIFORNIA CONSTITUTION AT ARTICLE I, §32 INTRODUCING A "NON-DEFINED TERM"; THE ILLEGAL INCLUSION OF CLASSIFICATION OF CRIME AS "VIOLENT FELONY" (INCLUDED IN (ALLEGED) CPC §667.5(c)(6) - §288(a), WHICH IS ONLY A "SERIOUS FELONY" PER CPC §1192.7(c) & CPC § 667.5(c) IS NOT A DEFINITION.

On November 8th, 2016, c.e., the PEOPLE and VOTERS/TAXPAYERS of STATE OF CALIFORNIA passed proposition - 57 (Public Safety & Sentencing Reform Act of 2016) which took effect on November 9th, 2016, c.e., & was added to the CALIFORNIA CONSTITUTION at Article I, §32. In enacting Section (2) of said Act at (a)(1), it states: "... Any person convicted of a non-violent felony offense (an undefined term), and sentenced to state prison shall be eligible for parole consideration after completing the full term for his primary offense.

(A) For purposes of this section only, the full term for the primary offense means the longest term of imprisonment imposed by the Court for any offense, excluding the imposition of an enhancement, consecutive sentence, or alternative sentence." (CA Const. Art. I, §32).

Since the term "Alternative Sentence" is applicable to 3-Strikes, one is directed to the maximum sentence authorized by Statute that is annexed to the crime. In this instant case, 8 years would be the maximum "full term" for the primary offense.

Since the term "Consecutive Sentence" is applicable to 3-Strikes, one would preclude that any such imposed consecutive sentence (including any enhancements) would be stricken.

Since the term "Enhancement" [CPC §667(a)(1) & §667.5) is applicable to 3-Strikes, one would preclude that any such imposed 1, 3, or 5 year enhancements would be stricken.

Since "Non-Violent" " felony is not defined in California, and CPC §667.5(c) IS NOT A DEFINITION of "Violent" felony, one must look elsewhere. The definition of "Violent Felony" is located in Title 18 USC §924(e)(2)(B), which states:

the term "Violent Felony" means any crime punishable by imprisonment for a term exceeding one year, or any act of juvenile delinquency involving the use or carrying of a firearm, knife, or destructive device that would be punishable by imprisonment for such term if committed by an adult, that:

- (i) has as an element the use, attempted use, or threatened use of physical force against the person of another; or
- (ii) is burglary, arson, or extortion, involving the use of explosives, [or otherwise involves conduct that presents a serious potential risk of physical injury to another."] [NOTE at *] and,

18 USC §16 states: The ter "Crime of Violence" means:

- (a) an offense that has as an element the use, attempted use, or threatened use of physical force against the person or property of another, or
- (b) any other offense that is a felony and that [by its nature involves a substantial risk that physical force against the person or property of another may be used in the course of committing the offense. (98 Stat. 2136)

[NOTE*] In Johnson (Samuel James) v. United States, 576 US ___, 192 L. Ed. 2d 569, 574-577; 135 S. Ct. 2551; 2015 U.S. LEXIS 4251 "the Court voided the residual clause as unconstitutionally vague." This was made retroactive by Welch v. United States, 577 US ___, 194 L. Ed. 2d 387, 136 S. Ct. 1257; and by Sessions v. Diyama, 2018 U.S. LEXIS 2497 for 18 USC §16; and "Federal Law is determinative." U.S. v. Sherbondy, 865 F.2d 996, 1010-1011 (1988 CA9 Cal.), and Mattschei v. U.S., 600 F.2d 205, 211 @fn-5 (1979).

STATE OF CALIFORNIA has (allegedly) created a Statute of "Violent Felonies" which are "listed" in (alleged) CPC §667.5(c) (See: Exhibit "A").

Since 1979, when the California Legislature "separated-out" subsection (b) of alleged §288, (1979 Stats, Ch. 944, §6.5, Pg. 3254) and subsequently placed the specific (b) subsection in §667.5(c), it (and each Assemblymen & Senator & Jusde) was required by their Oath of Office and Article I, §7 of the California Constitution, to remove/delete any reference to subsection (a) as a "violent felony," as it is no longer a "violent felony."

In U.S. v. Sherbondy, 865 F. 2d 996 (1988) at fn. 18, "...determining what constitutes a 'violent felony' (so as to trigger a mandatory minumum 15 year sentence)[or a 'full term Enhancement' under §667.5, 667.6, etc or more] is a definitional question." (underline & bracket phrase added). Because the legal "definitional question" issue of Sherbondy, id @ 1004, was specifically raised by Petitioner, the Judge's refusal to acknowledge (and follow) Sherbondy, supra., as well as the "Supremacy Clause" (U.S. Constitution, Art. VI, §2) and rule/grant relief to Petitioner, he violated said Supremacy Clause and the "Legal Definition."

According to the Legal Maxim, "Expressio/Inclusio unius est, exclusio alterius" = "The Expression/Inclusion of one is the exclusion of another." 11 Coke 58, 8 Mont. 312. Therefore, Ipso Facto, the Express/Inclusion of "force or violence" (against the will....) in alleged CPC §288(b) & 289(b) etc. specifically EXCLUDES "force or violence" from the specific subsections of (alleged) CPC §§288(a), 288a(c)(1), 288.5, 289(j), 423.1(d), etc. and CANNOT, by its own terms & the above Federal Statutes and Maxim, be included in the "List" of 'Violent Felonies.' (and therefore, CANNOT be classified as a "Violent Felony" for the purposes of those Statutes of which violent felonies are punished more harshly). [ie CPC §§136.1(c), 243.4(a), 273.5, 245, 220, etc.]. This "concept" is evident in the following Statutes which identify the "(b)," "use of force or violence." Alleged CPC §667.5 (c)(6) is the ONLY statute which includes the "Non-Violent" subsection (a) of §288 as "violent." This unlawful inclusion of the, ipso facto, NON-violent crime in said "List," violates Petitioner's RIGHT to Due Process and Equal Protection of the Law, as required by Article I, §7 of the CALIFORNIA CONSTITUTION & Amendment XIV of the U.S. CONSTITUTION.

Since 1979, when the CA Legislature separated out the "with force or violence" into subsection (b) of §288 (and others) any ruling, "...as 'defined' in §288 could only attach to the "(b)" crimes/offenses, as the (a) crime was specifically "excluded," not only by the Legal Maxim but by the "legal Definition" that is now located in 18 USC §924(e)(2)(B) (as amended by Johnson). Judge(s) are required to follow the "elements" of a crime/offense, not some erroneous inclusion in someones "List" In American Banana Co. v. United Fruit Co., 213 US 347, 357, 53 L. Ed. 826, 29 S. Ct. 511 (1909), Justice Oliver Wendell Holmes of the U.S. Supreme Court said,

"Words having universal scope, such as 'every person who shall monopolize,' etc., will be taken, as a matter of course, to mean only everyone subject to such legislation, not all that the legislator subsequently may be able to catch."

Therefore, "Violent Felony" can only attach to crimes/offenses that comport with the 'established Federal definition.' (Sherbondy, supra, and Mattschei supra.).

STATE OF CALIFORNIA does not define "violent felony" (only lists examples) but would, nonetheless, be required to follow the Federal definition via the "Supremacy Clause" of the U.S. Constitution.

Petitioner asserts that he was convicted and sentenced to a NON-VIOLENT offense, and comes under the purview of Proposition - 57, notwithstanding the illegal and erroneous "inclusion" of said crime in CPC §667.5(c)(6). Petitioner has also served over 24 years, which is 15 more years than the "maximum" authorized by Law (annexed to the crime), and should therefore be considered for discharge.

[NOTE] The Court should be aware that CDC&R is now required to consider "Non-violent 3--Strikers for Parole pursuant to the recently decided case of People v. Edwards, No. B-288086, Court of Appeal, Second Appellate District, Div. 5.

In Brown v. Supreme Court, 63 Cal. 4th 335, 351 (6/2016), "It is a venerable principle that when a word or phrase appearing in a Statute [Constitutional provision] 'has a well-established legal meaning,' it will be given that meaning in construing the Statute. This has long been the law of California: 'The rule of construction of Statutes is plain. Where they make use of words and phrases of a well-known and definite sense in the law, ["Violent Felony"] they are to be received and expounded in the same sense in the Statute.'" (Harris v. Reynolds, 13 Cal. 514 518 (1859) (& Civil Code §13; & CCP §16)[also "Non-violent"]

As stated earlier, STATE OF CALIFORNIA DOES NOT DEFINE the terms "Violent Felony" & "Non-Violent Felony," so the "well-established definition from the Federal Criminal Code (18 USC §924(e)(2)(B)) must be used! [via the "Supremacy Clause of the U.S. Constitution].

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II. DENIAL OF DUE PROCESS; VIOLATION OF U.S. CONSTITUTION, ARTICLE VI, §2, SUPREMACY CLAUSE; VIOLATION OF SEPARATION OF POWERS, ART. III, §3 - CA CONSTITUTION.

When Petitioner received a DENIAL of his Petition, he again stated that the Petition stated facts that, if TRUE, entitled him to relief (that his alleged crime/offense is "NON-Violent" by definition, Statutory elements, and Legal Maxim, and that he be provided the benefits of Prop-57). The illegal DENIAL by the Judge, "fallaciously parroting the very Issue (illegal inclusion in the Code) challenged in the Petition," violated Petitioner's RIGHT to Due Process and the "Supremacy Clause" of the U.S. Constitution.

Since the evidence presented a "prima-facie" case for relief, the Judge, at minimum, should have Ordered an OSC. Petitioner also Claimed that the Judge knew, or should have known, that the possibility existed that the new Article I, §32 provision is/was unconstitutional as a violation of the Separation of Powers Doctrine (Art. III, §3) as NO Constitutional provision can be "passed" by the PEOPLE (or the Legislature) that denies or prevents the Court from exercising ITS AUTHORITY to "modify a Sentence." The "Authority" to so modify a Sentence can-not be exclusively given to an Executive Branch Agency (CDC&R). (cf: CPC §1385 & People v. Superior Court (Romero), 44 Cal. App 4th 1073, 1086/13 Cal. 4th 497, @ 508-509 (1995). If the Court DOES NOT "SHARE" the authority to "modify a Sentence," (or follow the Federal definition of "violent felony" (See: No. I. supra), then, Proposition - 57 MUST BE DECLARED UNCONSTITUTIONAL! as a violation of Separation of Powers Doctrine. (Coulter v. Pool, 187 Cal. 181, citing People v. Tenorio, 3 Cal. 3d 89, 91) as well as the Due Process & Equal Protection Clauses of both Constitutions. (cf: MYERS v. YLST, 897 F.2d 417, 421-423 (9th Cir. 1990). In Glenn v. Chavez, 2012 US Dist. LEXIS 144075, "The Equal Protection Clause requires, generally that similarly situated Defendants [prisoners] be treated similarly." City of Cleburne, Texas v. Cleburne Living Center, 473 US 432, 439, 87

L. Ed. 2d 313, 105 S. Ct. 3249 (1985), citing Plyler v. Doe, 457 US 202, 205-211, 72 L. Ed. 2d 786, 791-798 (1982).

Here, Petitioner has proven that he was, in fact, convicted of a "NON-violent" felony, (and is similarly situated with other 'non-violent' felons). The Judge had to violate and ignore numerous Judicial Precepts held sacred by American Jurisprudence to illegally DENY the Petition. This included the violation of the "Supremacy Clause" and his Oath of Office! Petitioner has a RIGHT to a valid "characterization of the status of his "crime/offense," and to be treated equally as one of those coming under the purview of Prop - 57.

In Witter v. Baker, 2014 US Dist. LEXIS 111321 (2:01-CV-1034-RCJ-CWH), citing Myers v. Ylst, supra, ".....reversed the denial of Habeas relief of a State prisoner on the ground that the State Supreme Court had violated the Equal Protection Clause [of the U.S. & State Constitutions] by denying him the retroactive benefit of a new rule of State Law, while granting such benefit to another prisoner...."..... "it must apply it with an even hand." id. at 421... "The Equal Protection Clause prohibits a State from affording one person... the benefit of a ruling [change in State Law]... while denying it to another. Johnson v. Arizona, 462 F.2d 1352 (9th Cir. 1972); U.S. v. Gaines, 2015 US Dist. LEXIS 57324, at fn 2, "... was entitled to the retroactive benefit of \$750."; People v. Lopez, 251 Cal. App. 2d 918, 922 (1967); Brown v. Louisiana, 447 US 323, 65 L. Ed. 2d 159, 166, 100 S. Ct. 2214 (1980); Bowen v. U.S., 422 US 916, 920, 45 L. Ed. 2d 641, 95 S. Ct. 2569 (1975). It appears that the Judge(s) in California care NOTHING about their Oath(s) of Office or the U.S. Constitution! (U.S. Supremacy Clause)!

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III. DERELICTION OF DUTY; MALFEASANCE IN OFFICE; VIOLATION OF STARE DECISIS; VIOLATION OF OATH OF OFFICE, Etc.

The refusal to follow Stare Decisis and the 9th Circuit's decisions cited, constitutes Malfeasance in Office, and Each's refusal to address and adjudicate (which cannot be done absent the A/G's position) the issue(s) constitutes Judicial Cowardice at the utmost! Each's agreement to violate the Court's Rules constitutes a violation of Each's Oath of Office, as well as "Conduct Unbecoming" of a Commissioned Officer. Petitioner is &/was entitled to the "Honest Service" (McDade Act, 28 USC §530B) of each Attorney General & Judge. This was denied for NO reason, and violated said Act, as well as their Canons! In this Petitioner's case, Each's (non-)actions unduly lengthens Petitioner's draconian incarceration & establishes the blatant appearance of BIAS in the California Judiciary. Petitioner's well-grounded and pled research cannot be controverted!

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IV. VIOLATION(S) OF DUE PROCESS; VIOLATION(S) OF COURT RULES; VIOLATION(S) OF STARE DECISIS; VIOLATION(S) OF OATH(S) OF OFFICE; ABDICATION(S) OF JUDICIAL POWER; MALFEASANCE IN AND OF OFFICE; EXTREME BIAS AGAINST PETITIONER; FRAUD; VIOLATION(S) OF U.S. CONSTITUTION'S ARTICLE VI, §2, "SUPREMACY CLAUSE"; DERELICTION OF DUTY, Etc.

The SUPREME COURT OF CALIFORNIA's ORDER, (as well as the district court of the United States, Eastern District of California's) DENYING the Petition for a Writ in the Nature of Habeas Corpus (hereinafter "it"):

1. Violates Petitioner's RIGHT to Due Process & Equal Protection of Law pursuant to Article I, §7, of the California Constitution, and the Fifth Article, and the XIVth Article in Amendment to the United States Constitution, and was "contrary to the evidence presented" by their **FAILURE & REFUSAL** to Issue an Order to Show Cause (OSC) as required by Court Rule 4.551(c) (See also: 28 USC §2254(d)(1)).

This DENIAL totally and conveniently **IGNORED** the points addressed in No. I (Page 5, supra)^{1/}. In No. II, Petitioner presented his reasoning (that the Court, in fact, DOES HAVE THE AUTHORITY to "modify a Sentence" which was authorized by the 'self-executing' Constitutional provision (Art. I, §32), as well as the Court's holding(s) in CPC §1385 & the Romero cases cited. Further, "it" violates CA Court Rule 4.551(g) in that a "Post-Card" Denial is "insufficient!" This was again committed by the Justices of the CALIFORNIA SUPREME COURT!, and proves Each's blatant and total disregard for Constitutional Law & the "Rule of Law!" (ie; the "Supremacy Clause!)).

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^{1/} Chief Justice, John Marshall, once stated, "We [Judges] have no more right to decline the exercise of jurisdiction which is given, than to usurp that which is not given. The one or the other would be treason to the Constitution." Cohens v. Virginia, 19 US (6 Wheat) 264, 404 (1821) (Underline added). Judges of the California (State & Federal) Courts took an Oath (Art. XX, §3) to uphold and support the Constitution of the United States and the Constitution of the STATE OF CALIFORNIA, and Each's blatant disregard of that obligation/allegiance can only result in an act of Treason.

2. Further, "it" violates Stare Decisis from the cases cited in Claims No. I, II, & III, supra. The SUPREME COURT OF CALIFORNIA Justices are REQUIRED to follow the holdings & decisions in the U.S. Supreme Court and 9th Circuit Court of Appeals Cases. The "ORDER(S)" prove that Each Justice did intentionally REFUSE to apply the principles of Stare Decisis, or ANY Decisis! and establishes a violation of his/her Oath of Office.

3. Further, "it" violates Each's oath of Office (and the Judicial Canons), as each Justice swore an Oath to uphold the United States Constitution, and the Laws made in pursuance thereof, as well as the California Constitution. They were "Bound" by said Oath via Article VI, Cl. 2 of the U.S. Constitution (Supremacy Clause). The STATE OF CALIFORNIA recently made a change to its Constitution (Article I, §32), using the term, "Non-violent felony/offense." STATE OF CALIFORNIA "defines" NEITHER "Violent Felony," nor "Non-Violent Felony." The Supremacy Clause states, ".... and the Judges in every State shall be bound thereby, any Thing in the Constitution or Laws to the Contrary notwithstanding." (underline added). The 9th Circuit Court of Appeals case of United States v. Sherbondy, 865 F. 2d 996, 1010-1011 & fn 18 (1988) does state, ".....determining what constitutes a "violent felony" (....) is a definitional question." The ONLY "definition" of "violent felony" appears in 18 USC §924(e)(2)(B)!; and via Each's Oath of Office, and the above-cited Supremacy Clause, in addition to the Legal Maxim cited, "Expressio/ Inklusio unius est, exclusio alterius." were REQUIRED to Classify Petitioner's Offense(s) as "Non-Violent," and effectuate "prop-57." This Each REFUSED TO DO! (See: Brown v. Superior Court, supra.).

4. Further, "it" establishes an "Abdication of Judicial Power." The Judge's abdication of his/her Judicial authority to "modify a Sentence" invokes the consequences cited in the footnoted case, (Cohens v. Virginia), as SUPREME COURT OF CALIFORNIA IS REQUIRED to resolve Issues of Controversy regarding the California

Constitution. At the very least, the Judge should have issued an OSC (or Request for Informal Response, per CRC Rule 4.551), and since the newly initiated (Prop-57) Article I, §32 of the California Constitution literally and essentially does, in fact, "modifies a Sentence," the Court was required to acknowledge its authority to function in this "Parole Consideration" (and/or Discharge) process, OR the Court was required to VOID the Proposition as being in violation of the Separation of Powers Doctrine. They did NEITHER! This refusal also establishes Each's "Gross Malfeasance in Office" by accepting the Salary provided by the Taxpayers/Voters of California and REFUSING to perform Each's Judicial Duties!

5. Further, "it" continues the blatant and extreme BIAS & DISCRIMINATION against This Petitioner, in retaliation for his filing Criminal Treason charges against Each of them. Any Pleading, No matter how well-pled, is required to be delayed as long as possible and then arbitrarily DENIED with NO REASON! Petitioner spends numerous hours meticulously researching the Issues, only to have the Justice(s) arbitrarily DENY the Petition without any (alleged) "learned input" from the STATE OF CALIFORNIA (via the Attorney General). This blatant Discrimination points to NO other explanation. The Court was required to Issue an OSC, have the Attorney General attempt to find any authorities to counter this Petitioner's well-pled & Legally-Sound Claims, and then make a Constitutionally valid "reasoned decision" for all the Courts & CDC&R to follow. This "Conduct Unbecoming" is a Court's Martial Offense, and the Defrauding of those who elected (and appointed) Each to their Office.

6. Lastly, "it," as shown by all of the above, UNLESS this Honorable Court GRANTS CERTIORARI, and "repremands the errant California Judges, ESTABLISHES that the "Rule of Law" IS DEAD in California, and the California Judiciary is a MASSIVE FRAUD!

Respectfully Submitted,

Eric Richard, esq. © SP/c

REASONS FOR GRANTING THE PETITION

1. It is quite apparent the the Judge(s) in CALIFORNIA (both State & Federal), either: 1) DO NOT UNDERSTAND the import and all-reaching application of the U.S. Constitution's "Supremacy Clause" (Article VI, §2), or, 2) CARE NOT one whit about it, or their "solemn" Oath of Office (as evidenced by Each's "flip-pant disregard" of both), and so, need a strong reminder (kick in the behind) of what EXACTLY it (ALL the words used in Clause 2) means as applied to this Country's Jurisprudence; and that IF their Oath is just a "bunch of words," they should be invited to find employment in the "Private Sector!"
2. The issues presented (and NOT adjudicated) will, and are, affecting @ 20% of California prisoners (as well as possibly some in all other States), and will continue to waste Judicial resources due to the volume of litigation from these prisoners. Both Judge(s) (& Legislators) and prisoners deserve and require a new "difinitive ruling" as to the correct application of the "clearly est~~ab~~lished" "legal definitions" of terms used in Constitutional provisions/ Statutes (versus: "lists")(or can the Judge(s) just ignore, "Anything in the Constitution or Laws of the State to the contrary, notwithstanding..."?).
3. It is time for "The Rule of Law" to be paramount in California's (and other States') Jurisprudence. Logic, Reason, and TRUTH should be the primary tools of adjudication, NOT emotions!

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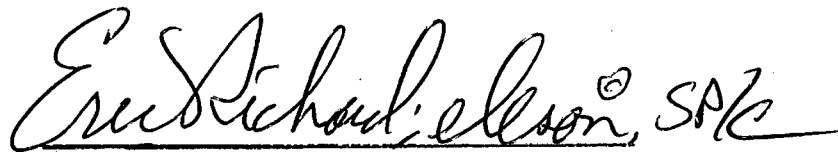
CONCLUSION

Therefore, based upon all of the foregoing, and the Issues presented in all the Attachments, Petitioner has proven that the Lower Courts are in dire need of a reminder of the purpose our Fore-Fathers placed the "Supremacy Clause" within our Organic Documents; and this Honorable Court is the perfect forum in which to so do. This Petition for a Writ of Certiorari should be GRANTED.

Respectfully Submitted,

July 5th, 2018, c.e.

(remailed:
November 20th, 2018, c.e.)

A handwritten signature in black ink that reads "Eric Richard Eleson" followed by a circled "c" and the letters "SPK". The signature is written in a cursive, flowing style.

Eric Richard; eleson©, Secured Party,
Tertius Interveniens/Auth. Rep., ex rel.,
ERIC RICHARD ELESON©, Trust (J-59564)
Exemption No. 5598928464 (juris et de jure)
Holder-In-Due-Course, Record Owner
Trade Name Owner, Sovereign American
Bond No. C-52971371