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IN THE  
SUPREME COURT OF THE  
UNITED STATES OF AMERICA

BRUCE KOKLICH & LAWRENCE REMSEN,

Plaintiffs, et al.

- Against -

KATHLEEN ALLISON, Secretary, California  
Department of Corrections & Rehabilita-  
tion; JENNIFER SHAFFER, Exec. Officer of  
the State's Parole Agency; ROB BONTA, as  
State Attorney General; GAVIN C. NEWSOM,  
Governor of California

Defendants, et al.

ON PETITION FOR WRIT OF CERTIORARI FROM THE  
SUPREME COURT OF THE STATE OF CALIFORNIA

PETITION FOR A WRIT OF CERTIORARI

BRUCE KOKLICH & LAWRENCE REMSEN  
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(i)

QUESTIONS PRESENTED to the

UNITED STATES SUPREME COURT (USSC) REGARDING THE LACK  
OF JURISDICTION OF THE CALIFORNIA SUPREME COURT (CSC)

1. Did the CSC deny class member Bruce Koklich his First Amendment Right to Petition for Declaratory and Injunctive Relief (DIR) when he was part of the class of thousands of California inmates that had their contract and liberty interest rights violated when the Defendants failed to enforce the provisions of the law and unlawfully took his earned Good Time Credits without a notice or a hearing. (See Apendix C, Pages 11:6 - 11:25 and Cal. Const. Art. I § 9 & Art I § 31(d)?)
2. Did the CSC justices lose their immunity when they failed to follow the Legislative Declaration in Pen. Code § 1170(a)(1) and issue a merits opinion on the DIR (See: Appendix C) in violation of USSC and CSC authority (See: Cal. Gov. Code § 815.6 Cf. Appendix B at Pg.1:18 - Pg.3:12 and Cal. Const. Art. VI § 14; Cf. Stats 1977 Ch.165 § 15)?
3. Did the CSC abuse it's discretion when it ignored the indisputable fact that the California Legislature had repealed the States Indeterminate Sentencing Law (ISL) and Replaced it with the Determinate Sentencing Law (DSL) knowing that Legislative Policy is not subject to the initiative process and in order to reenact the ISL the Voters would have had to reenact the repealed ISL along with its purpose and policy and this never happened. Does this fact entirely and completely eliminate the Judicial branches jurisdiction to sentence one to uncertain terms of punishment for the offense. (See: Cal. Const. Art. IV § 9 Cf. Appendix C, Pages 8:12 - Page 11:6)?
4. Did the CSC abandon and ignore State and Federal authority as well as the Rule of Law when they knew that State Legislator Briggs could not lawfully use the initiative process via Proposition Seven (Prop.7) to circumvent DSL Legislative Policy (passed as an urgency measure) which mandated the Repeal of the ISL and the codification of the DSL for all crimes, and are Plaintiff's entitled to a Jury Trial to establish a lack of jurisdiction based on federal law, (See Appendix C, at Pg.15:9 - Pg.17:12)?
5. Did the CSC misconduct establish its abuse of discretion when it acted with a lack of jurisdiction, violated the Rule of Law, and ignored, controlling USSC and CSC precedent which forbids the use of an Executive Branch Ministerial Agency to fix or extend inmate prison terms after there term fixing and extending power and jurisdiction were repealed in violation of the Eighth and Fourteenth Amendments as well as Alleyne, Apprendi, Ring, Specht & Olivas (See: Appendix C, at Pg.17:12 - Pg.18:22)?
6. Did the CSC violate both the California Constitution (See: Cal. Const. Art I § 28(b)(8) & Art. VI § 14) and USSC controlling authority See: Appendix C at Pg.17:1212 - Pg.18:22,) when the CSC refused to issue a decision on the merits knowing there was a lack of jurisdiction over Minimum to Maximum ISL sentencing which continues to be in direct conflict with the Purpose and Policy of the Determinate Sentencing Law (See: Appendix C at Appendix 3 and Page 15:19 - Pg.18:21), supporting Removal Jurisdiction of this court? (See: also Appendix D).

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(iii)

LIST OF PROCEEDINGS IN  
STATE AND FEDERAL COURT

1. The only proceeding related to this Petition for Writ of Certiorari is the subject complaint (See: Appendix C) for Declaratory and Injunctive Relief (DIR) which was filed pursuant to the California Supreme Court's (CSC) original jurisdiction on June 20, 2023. The CSC mistakenly attempted to convert the DIR Complaint to a Writ of Mandate (See: Appendix cites at B & D). Petitioners posit that this CSC misconduct was intended to create procedural pleading defects so that the CSC could unlawfully avoid the facially pled merits of the DIR. Because of the CSC's unlawful intent to violate Bruce Koklich's first Amendment right to petition the Court and it's improper denial on July 7, 2023 the case was removed to this Court on October 4, 2023.

2. There is an additional possibly related matter that was filed as a Writ of Mandate and was referred to the California's 2nd Appellate District, Division 1 (SADD) who also evaded Cal. Const. Art VI § 14 of the State Constitution which mandates a decision on the merits that intentionally was not provided. (Trial Court Case # 19STCP0010); SADD Case # B314858, filed 08/22/23; Opinion issued 12/09/22. CSC Petition for Review filed February 3, 2023, CSC Case # S278476.

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A.	July 7, 2023 Order confirming denial of petition for Declaratory and Injunctive Relief (See: Appendix #3). For example, it was illegal misconduct for the CSC to modify the procedural device for Declaratory and Injunctive Relief (DIR) into a Writ of Mandate. This is strong evidence of an intent to deny those members within the class equal protection of the DSL and to avoid a merits decision. This a case where no ministerial duty was pled thus denying Plaintiff due process and equal protection of the DSL. (See: also June 20, 2023 Letter from the CSC; June 26, 2023 response letter; and July 24, 2023 Denial of Motion/Application to Reconsider and Modify prior order.	6
B.	August 4, 2023 Application for Appellate Review and Application for Reconsideration and Modify prior Order documenting the CSC's intent to avoid a merits decision, this in violation of State and USSC controlling precedent (See: pages 1:18 - Pg.3:12). Also note that the CSC refused to file the Application to Reconsider in an attempt to hide, conceal and obstruct (from the public) the facts properly pled in the Reconsideration Application.	37
C.	June 14, 2023 Complaint for Declaratory and Injunctive Relief (DIR). Documenting Five Causes of Action that the CSC desperately wants to obstruct an adjudication on the merits as it would show a complete lack of jurisdiction over thousands of California Prisoners (See: DIR at Pages 15:19 - Pg.18:21).	114
D.	October 4, 2023 Notice of Removal of this Declaratory and Injunctive Relief (DIR) Complaint from the California Supreme Court to the USSC. Effective date of Removal is October 4, 2023, (See: <u>Silverbrand v. County of Los Angeles</u> , 46 Cal. 4th 106, 129 [205 P.3d 1047] (2009).	4

SEE BLUE APPENDIX DIVIDERS POST

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1 PETITION FOR WRIT OF CERTIORARI

2 (1). This case originated in the California Supreme Court (CSC) as an  
3 original jurisdiction complaint for Declaratory and Injunctive Relief  
4 (DIR). Plaintiffs are alleging that the CSC committed misconduct in  
5 multiple ways including: 1). Attempted to transform the DIR procedural  
6 device into a Writ of Mandate. We allege this is misconduct to set the  
7 pleading up for a procedural denial/dismissal without reaching the merits;  
8 2). Failing to adjudicate a merits decision is also a violation of state  
9 and federal law.

10 DECISIONS BELOW

11 (2) Decision denying Plaintiff's Complaint for Declaratory and  
12 Injunctive Relief (DIR) from the California Supreme Court (CSC) filed on  
13 July 7, 2023 (See: Appendix 1). The DIR was filed in the CSC pursuant to  
14 it's original jurisdiction. No other proceedings pleading the DIR COA's  
15 has been advanced in another court. The DIR complaint was removed to this  
16 court on October 4, 2023.

17 JURISDICTION

18 (3). The Judgement of the CSC was entered on July 7, 2023 and the  
19 August 4, 2023 Motion/Application for Appellate Review was rejected. The  
20 Motion/Application for Reconsideration was also rejected for filing on  
21 July 24, 2023, rejection letters for both are lodged at Appendix 2.  
22 Removal Jurisdiction is conferred pursuant to 28 U.S.C. §§ 1257 & 1331.

23 CONSTITUTIONAL AND STATUTORY PROVISIONS INVOLVED

24 (4). This case is brought under the Eighth and Fourteenth Amendments  
25 to the United States Constitution which provides:

26 Excessive bail shall not be required, nor excessive fines imposed,  
27 nor cruel and unusual punishment inflicted.

1 (5). This case also involves Amendment XIV to the United States  
2 Constitution, which provides:

3 All persons born or naturalized in the United States, and subject to  
4 the jurisdiction thereof, are citizens of the United States and of the  
5 State wherein they reside. No state shall make or enforce any law  
6 which shall abridge the privileges or immunities of Citizens of the  
7 United States; nor shall any state deprive any person of life, liberty  
8 or property, without due process of law nor deny to any person within  
9 its jurisdiction the equal protection of the laws.

10 CONCISE STATEMENT OF THE CASE & COMPELLING REASONS TO GRANT CER'.

11 (6). The Plaintiff's have standing because as confirmed in the DIR at  
12 Appendix C at Pg.1 of 23. Plaintiff's are not attacking or challenging  
13 their convictions or sentences in this complaint, but are attacking the  
14 CSC's failure to rule on the merits of the DIR in violation of Cal. Const.  
15 Art. VI §§ 13 & 14. Plaintiff's have standing to protect their interest  
16 and to see that the States laws are being enforced according to the terms  
17 and provisions and the "Rule of Law". For example, this case shows  
18 irrefutable evidence that the Plaintiff's and California Taxpayers are  
19 being massively damaged because Defendants have illegally and without  
20 jurisdiction administered SB-42's category four and below sentences under  
21 the repealed Indeterminate sentencing Law (ISL) in violation of the  
22 Legislative Declaration stating that all persons who's crime was committed  
23 on of after July 1, 1977 would be sentenced under the Determinate  
24 Sentencing Law (DSL) and it's "Purpose, Policy, Ways, and Means" (PPWM)  
25 (See: Appendix C at Appendix 3 DIR listing AB-476, Pg.17:21-36). The  
26 unlawful and unconstitutional violation of the 8th Amendment and 14th  
27 Amendment rights of those within the class discriminated against has  
28 resulted in unconstitutional loss of liberty through uncertain, excessive  
and disproportionate sentencing which continues to be grossly unfair and

1 unequal to the crime as compared to the greater Category Five Crimes thus  
2 costing the class for which the law was created, their contractually  
3 earned Good Time and Participation credits and taxpayers Billions of  
4 dollars. Based on all the compelling reasons to grant Certiorari  
5 including facial sentencing facts lodged herein, once construed in  
6 accordance with the Constitutional Rule of Law, a decision on the merits  
7 would entitle the Plaintiff's and California taxpayers relief along with  
8 protecting the liberty interests of thousands of illegally and  
9 unconstitutionally sentenced prisoners from an absence of all jurisdiction  
10 and a lawless and unjust punishment for crimes being administratively  
11 decided by the same branch charged with their prosecution (See: DIR at  
12 Appendix C and therein at Appendix 3 at Pg.8:12 - Pg.11:6, see SB-42 at  
13 Appendix # 3 & Pen. Code §§ 12 & 13, 1170(a)(1), 2931 and 3000). Relief  
14 is also in the publics interest because it will unburden the Taxpayers  
15 whose funds are being illegally used in the multiple billions of dollars  
16 to support an illegal sentencing structure which was repealed and never  
17 lawfully reenacted. These funds would be better used to help keep  
18 homeless people off our streets instead of fleecing the taxpayers, which  
19 is totally unacceptable and illegal in this country.

20 (7). Petitioners adopt herein all their previously pled facts and  
21 their multiple United States Supreme Court (USSC) authorities along with  
22 numerous U.S. Constitutional violations documenting indisputable factual  
23 evidence warranting relief, notwithstanding that the CSC nor any State  
24 Court has provided a decision on the merits in violation of their own and  
25 this Courts precedent (See: Cal. Const. Art. VI § 14.;Cf. Lucido v.  
26 Superior Ct. 51 Cal.3d 336, 366 [272 CR 767] (1990); accord Sanders v.  
27 U.S., 373 U.S. 1, 8, 15-17, [83 S.Ct. 1068] (1963). The CSC denied

1 Plaintiff's DIR complaint including request for Appellate review and  
2 additionally Motion/Application for Reconsideration and failed to even  
3 accept the reconsideration for filing (See: Appendix 2). Because of the  
4 improper CSC denial (See: Appendix A & B) Plaintiff's will explain the  
5 multiple errors of fact and law as documented in the DIR lodged (See  
6 Appendix # C). The CSC failed to address the jurisdictional issues raised  
7 by the DIR Appendix C. The CSC continues to refuse to follow the Rule of  
8 Law and continues to wrongly avoid, skip and evade Three (3) Indisputable  
9 facts which prove that uncertain and unconstitutional punishment for crime  
10 cannot exist under California law, they are:

- 11 A. On July 1, 1977 the State of California repealed it's ISL which  
12 has never been lawfully reenacted; and,
- 13 B. The July 1, 1977 repeal included the "Purpose, Policy, Ways, and  
14 Means" (PPWM), for which uncertain sentencing existed from 1917  
15 through 1977. For example, based on the Legislative declared  
16 Purpose and Policy in Pen. Code § 1170(a)(1), Stats 1977 Ch.165 §  
17 15, and the laws in effect on that date the Parole Agency Board  
18 had no power or resources to act in any manner; and,
- 19 C. The July 1, 1977 repeal of the ISL also included specifically  
20 eliminating the Parole Agency's term fixing and term extending  
21 Article III Legislative & Judicial Powers including the necessary  
22 PPWM, without which uncertain and disproportionate sentencing  
23 cannot exist.

24 INTRODUCTION, BASIS FOR FEDERAL JURISDICTION AND  
25 CHRONICLED BACKGROUND DOCUMENTING CALIFORNIA'S DISPROPORTINATE AND  
26 UNCONSTITUTIONAL SENTENCING

27 (8). Please take notice that back in 1975 after two state Supreme  
28 Court decisions on how the ISL was being implemented the Legislature  
conducted a through investigation of excessive recidivism issues in the  
state. (See: In Rodriguez, 14 Cal.3d 639, 650 [122 Cal.Rptr. 552] (1975);  
Cf. People v. Wingo, 14 Cal.3d 169, 181 [534 P.2d 1001] (1975). The  
result of their investigation formed the conclusion and belief by Attorney  
General Evelle J. Younger, Governor Brown and both houses of the

1 California Legislature that the Indeterminate Sentencing Law (ISL), was a  
2 failed experiment with an 83% recidivism rate that had failed to  
3 sufficiently reduce and/or deter crime in California (See: Appendix # 1).

4 (9). Ten months before the decision was made to repeal the ISL  
5 legislator John V. Briggs, who, in a conspiracy with a small faction of  
6 other Legislators that were connected to the prison guards union and long  
7 term expansion of the prison industrial complex contacted Governor Brown  
8 and attempted to intimidate him using dishonest means by advancing the Red  
9 Herring of "the most violent crime wave California has ever experienced,"  
10 and in what appears to be criminal misconduct, urged the Governor's Veto  
11 of the elimination and repeal of the ISL and repeal of the Parole Agency's  
12 term fixing and term extending powers. (See: Appendix C at Appendix # 2.;  
13 Cf. Cal. Const. Art. IV § 15.)

14 (10). Effective July 1, 1977, with the support of both parties, both  
15 houses, the Attorney General, and the Governor, the California Legislature  
16 repealed and replaced the ISL with the Determinate Sentencing Law (DSL)  
17 (See: Appendix C at Appendix # 3). In repealing the 59-year-old ISL, the  
18 Legislature found and newly declared that the purpose for imprisonment for  
19 crime was "punishment" and repealed the "PURPOSE, POLICY, WAYS, MEANS"  
20 (PPWM) necessary for these Parole Agency's operation and uncertain  
21 punishment for crime to exist under the ISL (See: SB-42 and AB-476, at  
22 Appendix C & Appendix # 3).

23 (11). In enacting the DSL, the Legislature stated as one of the  
24 reasons for repealing the uncertain MINIMUM to MAXIMUM" sentencing  
25 structure, that made up the foundation of the ISL, was that neither the  
26 prisoners or their family knew at sentencing when or if they were going to  
27 be released all the while those with less serious crimes were doing more  
28

1 time than those committing the greater crimes (See: Stanworth Infra.;  
2 accord Wingo, Supra.; Cf. Rodriguez, Supra.). For example, the  
3 constitutional reason for repealing the ISL's uncertain sentencing  
4 structure is because there was no uniformity or proportionality in the  
5 actual time each person served including additional time extended by the  
6 Parole Agency for the same offense being decided by the same branch  
7 charged with the persons prosecution (See: AB-476 Stats 1977 Ch. 165 § 15;  
8 Cf. Specht v. Patterson, 386 U.S. 605, 608-09 [87 S.Ct. 1209] (1967);  
9 accord Ring v. Arizona, 536 U.S. 584, 602 [122 S.Ct. 2428] (2002); Cf.  
10 Alleyne v. United States, 133 S.Ct. 2151, 2155-65 [186 L.Ed. 315] (2013).

11 (12). According to all the facts and law that existed as of July 1.  
12 1977, the date of the ISL's repeal, the purpose of imprisonment became  
13 "PUNISHMENT FOR THE CRIME ITSELF" and uncertain ISL sentencing had ceased  
14 to exist (See: Penal Code § 1170(a)(1) at Appendix C & Appendix # 6 and  
15 SB-42 Pgs. 1 thru 4 at Appendix # 3). The "ceased to exist" fact is also  
16 supported by CSC authority:

17 "...because the ISL, under which the defendant in Ralph was  
18 sentenced, no longer exists: both the DSL and the measure before  
19 us disclose a manifest intent to increase rather than decrease the  
20 penalties" (See: In re Jeanice D., 28 Cal.3d 210, 228 [169  
21 Cal.Rptr. 455] (1980) (Emphasis added.)

22 (13). Effective July 1, 1977, after the repeal of the ISL and under  
23 the newly enacted DSL, all punishments for crime were controlled in SB-  
24 42's Seven Category Sentencing Structure including category five and six  
25 crimes, which was: Straight Life, with or without the Possibility of  
26 Parole or Death (as an example See: Pen. Code § 190, Stats 1976 Ch. 1139 §  
27 133). The punishment for category four crimes (5, 6, or 7 years) is  
28 deemed to be the most serious crimes that are punished for less than

1 "life". (See: SB-42 Categories one thru four at Appendix C & Appendix # 3  
2 at Pg.2). On November 7, 1978, after Legislator Briggs violated multiple  
3 State Constitutional statutes and abused his office related to advancing  
4 Prop. 7. The voters then wrongly ratified Prop. 7 labeled the Murder  
5 Penalty Initiative statute (See: Appendix C & Appendix # 5, Prop. 7's  
6 Title prepared by the Attorney General). In Prop. 7's Title, Senator  
7 Briggs, its author and drafter, asked the voters to: 1. Change and expand  
8 provisions for the death penalty as described on pages 32 thru 35 and 42  
9 thru 46; 2. Change the sentence for first degree murder from "Life" to "25  
10 years to Life", 3. "Increase the punishment for second degree murder"; 4.  
11 Stated that parole was prohibited before service of 25 or 15 year terms,  
12 except subject to earned P.C. § 2931 Good-Time Credits, (See: Prop. 7's  
13 Title on Pg.32 of the 1978 Ballot at Appendix C & Appendix # 5; Cf. People  
14 v. Ramirez, 25 Cal.3d 260, 278 [599 P.2d 622] (1975): [Held: "When a state  
15 creates or recognizes (due process) rights and specifies the conditions of  
16 their forfeiture, it may not thereafter arbitrarily deny such (Cal. Pen.  
17 Code §§ 1170(a)(1) DSL terms & 2931 Good-Time Credit) rights. The state  
18 action must be guided by due process considerations (3 USSC citations)".]

19 STATEMENT OF FACIAL FACTS

20 (14). On March 26, 1975 the California Department of Justice Attorney  
21 General Evelle Younger states the ISL was a failed experiment and  
22 expressed his support for Senate Bill 42 (SB-42) Which repeals the  
23 Indeterminate Sentencing Law (ISL) in California and provides a "Seven  
24 Category Sentencing Structure" of Determinate and fixed prison terms aka.  
25 the Determinate Sentencing Law (DSL) (See: Appendix C at Appendix # 1. at  
26 Pg. 2).

27 (15). On September 1, 1976 California Legislator John V. Briggs

1 issued a strongly worded "most violent crime wave California has ever  
2 experienced" letter to then Governor Jerry Brown in an attempt to  
3 unlawfully influence Governor Brown to veto SB-42 so as to keep the ISL in  
4 place. The September 1, 1976 letter is direct evidence that Briggs' goal  
5 was to prevent the repeal of the ISL and it's uncertain and extended terms  
6 of punishment of inmates for crimes for personal and financial gain (See:  
7 Appendix C at Appendixes # 2 & # 7; Cf. Cal. Const. Art. IV § 15, see also  
8 Specht, supra, & Ring, Supra.)

9 (16). As previously stated, on July 1 1977 the California Legislature  
10 repealed and replaced the ISL with the DSL. In repealing the 59-year-old  
11 ISL, the Legislature found and declared that the purpose of imprisonment  
12 for crime was "Punishment" and repealed the "PURPOSE, POLICY, WAYS, and  
13 MEANS" (PPWM) necessary for uncertain ISL punishment for crime to exist  
14 (See Appendix C at Appendix # 3, which includes AB-476, the Urgency  
15 Statute and post SB-42 clean-up legislation).

16 (17). On July 1, 1977 the California Legislature passed AB-476,  
17 Stats, 1976 Ch. 1139 § 273, operative July 1, 1977 as an unchangeable  
18 Urgency Statute (unless specifically modified by the voters). In that  
19 Bill the Legislature declared that the Purpose and Policy for imprisonment  
20 for all crimes committed after that date was punishment and that  
21 Legislative Declarative policy must prevail. In short, the Legislative  
22 Declaration in Pen. Code § 1170(a)(1) controls all other Pen. Code  
23 mandates including Pen. Code § 190, not the other way around. (See:  
24 People v. Saffell, 25 Cal.3d 223, 236 [157 CR 897] (1979); Cf. Am Jur 2d §  
25 23 (1998); Cf. Twin City Pipe Line Co. v. Harding Glass Co., 283 U.S. 353,  
26 357 [51 S.Ct.476] (1931); Cf. Thome v. Macken, 58 Cal.App.2d 76 [136 P.2d  
27 116] (1943).) Moreover, fourteen months later the DSL along with



1 mandatory P.C. § 2931 Good Time Credits were ratified, subsumed and  
2 incorporated into the Proposition Seven Initiative. This codification  
3 process was confirmed by controlling CSC authority that has been followed  
4 for nearly 75 years:

5 It is a well established principle of statutory law that, where a  
6 statute adopts by specific reference the provisions of another  
7 statute, regulation, or ordinance, such provisions are incorpo-  
8 rated in the form in which they exist at the time of the reference  
9 and not as subsequently modified, and that the repeal of the  
provisions referred to does not affect the adopting statute, in  
the absence of a clearly expressed intention to the contrary"  
(See: Palermo v. Stockton Theatres Inc., 32 Cal.2d 53, 58-59 [195  
P.2d 1] (1948),

10 (18). When the Prop. 7 Initiative was passed by the voters on  
11 November 7, 1978, they adopted, by necessity, the DSL because the ISL no  
12 longer existed due to repeal. Therefore all prisoners were subject to the  
13 DSL and its retroactive application, even those with ISL terms whose crime  
14 was committed before the repeal of the ISL prior to July 1, 1977 who were  
15 already sentenced and incarcerated. In order to meet constitutional  
16 standards ALL ISL sentences (pre and post Prop. 7) were, pursuant to Penal  
17 Code § 1170.2 to be provided DSL terms (See: Appendix C at Appendix # 3 at  
18 AB-476 at Pg.17:21-36).

19 (19). On October 7, 1978, the Briggs Initiative aka Prop. 7 confirmed  
20 that the voters intended that the increased 15 and 25 year sentences were  
21 to be reduced for good behavior subject to contractually earned Penal Code  
22 § 2931 Good Time Credits (See: Appendix C at Appendix # 3 at Prop. 7's  
23 title & Art. IV § 9; Cf. Wolff v. McDonnell, 94 S.Ct. 2963, 2974 (1974).)  
24 All Federal and State controlling authority addressing Pen. Code § 2931  
25 confirms that these credits were mandatory Aleatory Contract Credits and  
26 not discretionary (See: Sandin v. Conner, 515 U.S. 472, 478-80 [115 S.Ct.  
27 2293] (1995). Pursuant to the Legislative Declarations in Penal Code §  
28



1 July 1, 1977, all crimes were determinate sentences as submitted, codified  
2 and approved by the Legislature and signed into law by Governor Brown,  
3 (See: Appendix C at Appendix # 3) and Prop. 7 voters, by way of Penal Code  
4 § 190 et seq., could not change Declared Legislative policy from  
5 Determinate Sentences to ISL terms with parole "Subject to Good Time  
6 Credits" (See: Appendix C at Appendix # 5.) Briggs' attempt to transform  
7 the sentencing law by subterfuge into ISL sentences and eliminate Pen.  
8 Code § 2931 credits to reduce ones parole release date was blatantly  
9 illegal. NOWHERE in Prop. 7 was the subject of Parole Agency  
10 reinstatement or reenactment of the ISL ever proposed or discussed in the  
11 tinest way (See: County of San Diego v. Commission on State Mandates, 6  
12 Cal.5th 196, 208 (2018); Cf. Cal. Const. Art. II § 8(d); Cf. Cal. Const.  
13 Art. IV § 9; accord Freedland v. Greco, 454 Cal.2d 462, 468 [289 P.2d 463]  
14 (1955).

15 REASONS TO GRANT CERTIORARI SUPPORTING  
16 USSC ORDER FOR DECLARATORY AND INJUNCTIVE RELIEF

17 (24). Please take Notice that Appendix C at Pages 8 through 17  
18 contains the supporting authorities and argument which buttresses this  
19 Writ Petition's Five following segments (A-E) and are incorporated herein  
20 by this reference.

[To Review Argument A below please See Appendix C at Pg.8:12 - 11:5]

21 A. PROP. 7 WAS DRAFTED AND PASSED IN COMPLETE LACK OF  
22 JURISDICTION AS THE INITIATIVE WAS INTENDED TO DEFEAT THE  
23 DISTINCT LEGISLATIVE PURPOSE AND PUBLIC POLICY OF THE REPEAL  
OF THE ISL USING SUBTERFUGE, INDIRECTION AND EVASION

[To Review Argument B Below please see Appendix C at Pg.11:6 - 11:26]

24 B. BOTH SB-42 AND PROP.7 MANDATED PEN. CODE § 2931 GOOD TIME  
25 CREDITS ON CATEGORY FOUR AND BELOW SENTENCES

1 [To Review Argument C Below please see Appendix C at Pg.12:1 - 15:19]

2 C. THE CALIFORNIA CONSTITUTION AND MULTIPLE CONTROLLING STATE AND  
3 FEDERAL AUTHORITIES PROHIBIT THE PASSAGE OF LAW IMPAIRING THE  
4 OBLIGATION OF CONTRACTS, PROP.7 MANDATED PEN. CODE § 2931 GOOD  
5 TIME CREDITS THAT COULD NOT BE MODIFIED OR TAKEN BY ANY STATE LAW

6 [To Review Argument D Below please see Appendix C at Pg.15:20 - 17:13]

7 D. ONGOING REQUEST FOR JURY TRIAL TO PROVE UP THE DEFENDANTS TOTAL  
8 LACK OF SUBJECT MATTER JURISDICTION OVER PAROLE AGENCY HEARINGS

9 [To Review Argument E Below please see Appendix C at Pg.17:14 - 18:21]

10 E. THE PAROLE AGENCY IS ACTING WITHOUT JURISDICTION AND IN  
11 BLATANT DISREGARD TO THIS COURTS OWN PRECEDENT AS WELL AS THE  
12 NINTH CIRCUIT, THE USSC, AND CONTINUES TO ABUSE IT'S LACK OF  
13 ARTICLE III POWER TO ILLEGALLY EXTEND PRISON TERMS AS AN  
14 ONGOING FORM OF PUNISHMENT FOR A CRIME THAT HAS NOT YET BEEN  
15 COMMITTED UNDER THE GUISE OF SUITABILITY, WHICH IS IN AN OF  
16 ITSELF A WORD THAT CANNOT BE DEFINED TO ANY DEGREE OF CERTAINTY

17 (25). The previous arugments show strong facial evidence that  
18 Certiorari is waranted. These claims are also buttressed by on the record  
19 evidence advanced by a highly credible CSC justice.

20 AN ESTEEMED CSC JUSTICE HAS CONFIRMED  
21 THE FACT THAT THE ISL WAS NEVER REENACTED.

22 (26). On October 23 1980, the distinguished CSC Justice J. Richardson  
23 issued his opinion in In re Jeanice D., (Supra.) This opinion was  
24 promulgated two years after Prop.7 and was ratified and implemented into  
25 law. Justice Richardson confirmed that (disent):

26 "There is nothing whatever in the text of the measure [Prop.7]  
27 itself not its accompanying analysis which suggests that the ISL  
28 would be partially revived, or that new indeterminate life terms  
were thereby established for murder, or that existing sentences  
therefor would be moderated. To the contrary, the voters were  
told otherwise....because the ISL, under which the defendant in  
Ralph was sentenced, no longer exists: both the DSL and the  
measure before us disclose a manifest intent to increase rather  
than decrease the penalties" (See: In re Janice D., 28 Cal.3d 210,  
227-228 [169 Cal.Rptr. 455] (1980).

1 (27). Justice Richardson's opinion, supported with numerous  
2 constitutional and common law authorities, established that the ISL and  
3 it's terms cannot be reenacted by adopting a section from the repealed law  
4 and/or without disclosing to the voters the specific intent of the measure  
5 to: 1: revive the Purpose, Policy, Ways, and Means necessary for uncertain  
6 and indeterminate sentences to re-exist for category 1-4 crimes, which  
7 never happened; 2. revive, reinstate, or constitutionalize the Parole  
8 Agency's Article III power to fix or extend terms of confinement for  
9 category 1-4 crimes, which never happened; 3. re-authorize a non-  
10 constitutional ministerial/administrative agency to execute both judicial  
11 and legislative powers to decide different punishments for different  
12 offenders committing the same crime (in violation of the State and Federal  
13 separation of powers doctrine) all when the intended result (under the  
14 guise of unsuitability) enlarges punishment for a crime that has not yet  
15 been committed. (See: Alleyne, Apprendi, Ring, Specht, and Olivas,  
16 supra.).

#### 17 CONCLUSION

18 (28). Lastly, what makes the Executive Branch Parole Agency's actions  
19 so outrageous is how prisoners are having the punishment for their crimes  
20 arbitrarily decided by the same branch of government charged with their  
21 prosecution. This is not only fundamentally unfair, but such a  
22 administrative process cannot be tolerated to exist under the American  
23 Justice System (maybe in Iran, Russia or China, but not here). However,  
24 as shown through this Petition/Complaint, and to add insult to injury,  
25 these same State Officials have taken it upon themselves, without  
26 authority of law, to decide punishment for crime for personal and  
27 financial gain in such a way that every offender committing the same crime

1 is serving a different punishment being administratively decided in  
2 violation of Cal. Const. Art. III § 3. In Petitioner's cases the amount  
3 of time they have already served is grossly disproportionate and unlawful.  
4 Accordingly, based on all the above facts that Plaintiff's adopt herein,  
5 we respectfully request that this Court consider and compare the case of  
6 Dennis Stanworth. Mr. Stanworth was sentenced to death following his plea  
7 of guilty to two first degree murders and two attempted murders. He also  
8 pled guilty to four counts of aggravated kidnaping, forcible rape, oral  
9 copulation and robbery. Because of People v. Anderson, 6 Cal. 3d 638 [100  
10 CR 152] (1972), Stanworth's sentence was modified to "Life" with the  
11 possibility of Parole. In 1979, the Parole Agency fixed Stanworth's term  
12 a twenty-three years, four months and nine days. That is 3.9 years for  
13 each of Stanworth's Six Life Sentences and other crimes. Also noteworthy,  
14 the court held that Stanworth was not sentenced to an indeterminate  
15 sentence, but to a determinate life sentence, See: In re Stanworth, 33  
16 Cal.3d 176, 183 [187 CR 783] (1982).

17 (29). It is outrageous government conduct when a non-constitutional  
18 ministerial agency can give itself jurisdiction and make law to deny  
19 parole for speculative unsuitability reasons which clearly is punishment  
20 for a crime that has not yet been committed. And as this  
21 Petition/Complaint shows is happening today, at the voters and taxpayers  
22 expense, for personal and financial gain, and to further the mass  
23 incarceration industry, which is needlessly and wrongly misappropriating  
24 Billions of taxpayer correctional dollars while our streets are lined with  
25 homeless people in need of shelter. Plaintiff's posit that Administrative  
26 action after Nov. 7 1978 has been taken for personal gain by those who  
27 profit from failing to enforce the "Rule of Law" and for the purpose of

1 continuing an unconstitutional and illegal administrative process by  
2 using, extorting and exploiting the minority population (mostly Blacks and  
3 Hispanics) as pawns and chattel, please closely review Appendix C at  
4 Appendix # 7).

5 (30). Based on the facial facts presented by Plaintiff's, Petitioners  
6 request that the CSC be compelled to follow the Rule of Law mandated by  
7 the State Constitution, U.S. Constitution, and their own CSC precedent  
8 including State Statutory and Common Law authorities. Based on the  
9 indisputable facts contained herein, the At Issue" subjects presented are  
10 ripe for Federal Analysis:

11 "The Civil Rights Act ... created criminal penalties for  
12 conspiracy to deprive persons of rights secured by 'the  
13 Constitution or laws'... a major purpose of the Civil Rights Acts  
14 was to 'involve the federal judiciary in the effort to exert  
federal control over state officials who refuse to enforce state  
law'" (See: Main v. Thiboutot, 448 U.S. 1, 13 & 20 [65 L.Ed.2d  
555] (1980).

15 (31). Plaintiff's Petition herein warrants this Courts Original  
16 Jurisdiction of the USSC because this "Substantial Issue" is of large  
17 State Wide Impact and continues to allow "based on the facts presented,"  
18 the likelihood that many more mostly Black and Hispanic prisoners will  
19 needlessly continue to be wrongly incarcerated way beyond their SB-42  
20 Seven Category Sentencing Structure DSL release date.

21 (32). The State cannot arbitrarily confiscate Petitioner's  
22 contractually secured Liberty Interest credits, including Pen. Code § 2931  
23 Good Time and Participation Credits by falsely transforming a DSL sentence  
24 into a ISL sentence and deny the Petitioner an opportunity to be heard on  
25 their Contract Clause and Liberty Interest due process right to Good Time  
26 Credits which assure a much earlier release, especially with out a hearing  
27 on the illegal confiscation:

1 "Similarly, the Fourteenth Amendment's Due Process Clause has been  
2 interpreted as preventing the States from Denying potential  
3 litigants use of established adjudicatory procedures, when such an  
4 action would be 'the equivalent of denying them an opportunity to  
5 be heard upon their claimed [rights]'" (Citation.) (See: Logan v.  
6 Zimmerman Brush Co. ET AL, 455 U.S. 422, 429 [102 S.Ct. 1148]  
7 (1982).

8 (33). Indeed, any conclusion to eliminate the Due Process  
9 requirements would allow the State to destroy at will virtually any State  
10 Created contract clause or Liberty Interest right that the Petitioner's  
11 have:

12 "While the Legislature may elect not to confer a property  
13 interest,... it may not constitutionally authorize the deprivation  
14 of such an interest, once conferred, without appropriate  
15 procedural safeguards." (See Logan, Ibid. at Pg.432). (Emphasis  
16 added).

17 (34). When considering the herein facts this Court should assign  
18 counsel to Plaintiff's and decide the case on the merits as supported by  
19 the documentary evidence and facial facts as presented by California's own  
20 Supreme Justices.

21 (35). What chance does a reasonable person have to protect their  
22 federally guaranteed rights after those Constitutional Rights were denied  
23 because, like in the case at Bar. the State's highest court refuses to  
24 follow its own decisions, obey the mandatory provisions sent forth by the  
25 Legislative policy, and the State's Constitution.]

26 PRAYER FOR RELIEF

27 (36). WHEREFORE, for all the foregoing reasons, Petitioner's  
28 respectfully request relief as follows:

- 29 A. Issue the Writ, assign counsel and Order the Respondents to Show  
30 Cause why the relief requested should not be granted.
- 31 B. Issue a Temporary Restraining Order and Preliminary injunction  
32 staying, restraining and enjoining Respondents from holding any  
33 further Parole Agency Board Hearings for category one thru four  
34 crimes as specified in SB-42 & AB-476, which includes the repeal  
35 of the Purpose, Policy, Ways, and Means for the Indeterminate  
36 Sentence Law parole agency hearings.

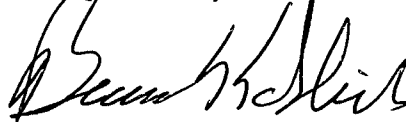


- 1 C. Issue a Judicial Declaration confirming that the Proposition Seven  
2 Initiative is "Void on it's Face" for the reasons previously  
3 presented in this Petition.  
4  
5 D. Based on U.S. Supreme Court precedent Court to issue a judicial  
6 declaration confirming that Cal. Pen. Code § 2931 Good Time  
7 Credits are a State Created Liberty Interest right that is  
8 protected by the Due Process clause (See: ¶ 24 at B. ante).  
9  
10 E. Find and declare that Defendants have violated the law of  
11 contracts, specifically Cal. Pen. Code § 2931 and that  
12 Petitioner's are entitled to the provisions of the Aleatory  
13 Contract according to State and Federal Contract Clause authority.  
14  
15 F. Issue an Order granting such other and further relief as the Court  
16 may deem just and proper.

9 VERIFICATION

10 (37). As the Petitioner's in the above entitled action, we declare  
11 under penalty of perjury under the laws of the State of California and the  
12 Laws of the United States of America, that the foregoing facts and facial  
13 evidence is true and correct. EXECUTED on October (month) 4th (day),  
14 2023, in the City of Chino, State of California as citizens of the USA.

15 Respectfully Submitted

16 

17 Bruce Koklich  
18 Petitioner in Pro Se'

19 

20 Lawrence Rensen  
21 Petitioner in Pro Se'

22  
23 "There is no cruelar tyranny than  
24 that which is perpetrated under the  
25 shield of law and in the mame of Justice"

26 Montesquieu, cira, 1741