

NO. S251879

IN THE
SUPREME COURT OF CALIFORNIA

SUPREME COURT
FILED

NOV 20 2018

FIRST AMENDMENT COALITION,

Petitioner,

Jorge Navarrete Clerk

Deputy

v.

GOVERNOR OF THE STATE OF CALIFORNIA,

Respondent.

In Re The Matter of Petitioner's Motion to Unseal

**DECLARATION OF DAVID SNYDER IN SUPPORT OF PETITIONER'S
MOTION TO UNSEAL CLEMENCY-RELATED COURT RECORDS**

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Attorneys of Record for First Amendment Coalition

I, David Snyder, declare:

1. I make this declaration in support of Petitioner First Amendment Coalition's ("FAC") Motion to Unseal Clemency Materials (the "Motion"). I have personal knowledge of the facts set forth in this declaration and, were I called upon to testify to those facts under oath, I could and would do so.

2. I am an attorney licensed to practice law in the State of California and am the Executive Director of FAC, where I oversee the organization's operations, including the submissions of requests for public records and litigation seeking access to public records and meetings. Before joining FAC, I worked for seven years as an associate attorney at Sheppard Mullin Richter & Hampton, representing among others news organizations and journalists. Prior to my time as an attorney, I worked as a newspaper reporter for several publications.

3. FAC was alerted to the process by which the Governor solicits an opinion from the Supreme Court under Article V § 8(a) of the California Constitution on or around September 9, 2018 by a September 9, 2018 article in the Washington Post by Rob Kuznia entitled, "In commuting 20 murder convicts' sentences, California governor gains praise, condemnation." A true and correct copy of that article is attached hereto as Exhibit A.

4. At my direction, FAC has made several efforts to obtain clemency applications and related records submitted by the Governor of California to the California Supreme Court. Specifically, FAC has sought to obtain materials that were filed with this Court on October 10, 2018, in connection with Case Number S251879, and appear on this Court's docket as the "Request for Recommendation for Clemency" (the "Request") and the "Confidential record from Governor's Office," consisting of "One Binder" (the "Record") (collectively, the "Wright

Clemency Materials”). A true and correct copy of a screenshot displaying these docket entries on the California Supreme Court’s online, public-facing docket is attached hereto as Exhibit B.

5. On or around September 9, FAC Legal Fellow Glen Smith (“Smith”) found an August 18, 2017 Sacramento Bee article by Alexei Koseff entitled, “Jerry Brown commutes prison sentences for 6 murderers, three others.” A true and correct copy of that article is attached hereto as Exhibit C.

6. On or around October 14, Smith read a news brief in the October 14, 2018 edition of the Los Angeles Times by Patrick McGreevy entitled, “Court asked to review pardon for ex-legislator” concerning the request for recommendation for clemency involving former state senator Rod Wright. A true and correct copy of that article is attached hereto as Exhibit D.

7. The above-noted articles outline the number of requests the Governor has made to the California Supreme Court and the severity of the crimes committed by those individuals whose sentences had been commuted, in some cases with the concurrence of the Supreme Court. For example, the Washington Post article states that Governor Brown had granted over 1,000 pardons during his time in office, in contrast with less than twenty pardons granted by former Governor Arnold Schwarzenegger and zero pardons granted by former Governor Gray Davis. See Ex. A. The Post article also stated that Governor Brown has issued 82 commutations, which grant parole hearings to individuals previously sentenced to life in prison without parole. Ex. A. Given the unprecedented number of clemency actions, and the nature of many of the crimes, it seemed important to me as the Executive Director of FAC, an organization that promotes government transparency and citizen engagement in democracy, that the public gain more knowledge about this process, and the individual cases, by gaining access to public records in the possession or control of the Governor and/or the records of the California Supreme Court.

8. After reading the LA Times article about the Rod Wright petition, I directed Smith to submit a California Public Records Act request via email to the Governor's Legal Affairs Secretary for the Wright Clemency Materials. A true and correct copy of that records request is attached hereto as Exhibit E. The Deputy Legal Affairs Secretary responded by letter dated October 18, 2018, that only the request dated October 3, and filed with the Supreme Court on October 10, would be released in response to my CPRA request. A true and correct copy of that letter is attached hereto as Exhibit F.

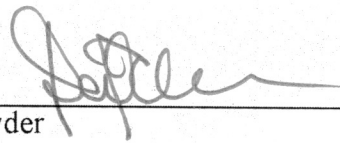
9. On November 1, 2018, Smith went at my direction and on behalf of FAC to the Office of the Clerk of the Supreme Court at 350 McAllister Street in San Francisco. Smith asked a Clerk's Office representative to see the Request and the Record in the Wright matter, as noted on the docket. The representative told Smith he would consult with a supervisor on the telephone while Smith waited at the counter. He went back to his desk for a few minutes, then returned to the counter and informed Smith that he would not be able to see the Request or the Record in the Wright matter, as submitted to the Court.

10. By letter dated November 6, 2018, and mailed to the Executive Officer of the Supreme Court, FAC repeated its request for the Wright Clemency Materials. A true and correct copy of that letter is attached hereto as Exhibit G. In this letter, FAC also requested public access to commutation requests and records for clemency matters then pending before this Court. Ex. G. As of the date of this declaration, I have not received a response to this letter.

11. On November 19, 2018, I accessed this Court's online docket and discovered that, as of that date, there were approximately 30 pending clemency requests that had recently submitted to the Court by the Governor's legal affairs secretary. True and correct printouts of the dockets I located on November 19 are attached hereto as Exhibit H.

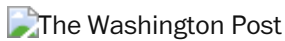
I declare under penalty of perjury under the laws of the United States and the State of California that the foregoing is true and correct.

Executed in San Rafael, California on November 20, 2018.



David Snyder

EXHIBIT A



National

In commuting 20 murder convicts' sentences, California governor draws praise, condemnation

By Rob Kuznia

September 9

LOS ANGELES — Thomas Yackley fatally stabbed two men at a party. Kimberly LaBore took part in a home invasion that ended with one person dead. Virgil Holt killed his boss at a fast-food restaurant shortly after he'd been fired.

All are among the 20 killers serving life sentences that were recently commuted by California Gov. Jerry Brown (D). With barely four months left in office, California's longest-serving governor is granting forgiveness to record numbers of criminals.

Brown has handed out more than 1,100 pardons benefiting a wide array of individuals, including those convicted of dealing drugs, driving while intoxicated and forgery. The tally is staggeringly greater than the totals of his immediate predecessors. Republican Arnold Schwarzenegger granted 15 pardons, and Democrat Gray Davis ended with zero.

Perhaps more remarkable are the commutations, which grant parole hearings to — and often spell early release for — criminals who previously may have had no chance of ever being paroled. Brown has issued 82 in the past seven years, far more than any California governor since at least the 1940s. Criminal justice reformers nationwide applaud him. Victims rights advocates are livid.

"2018 is the worst I've ever seen it," said Patricia Wenskunas, founder and chief executive of the Crime Survivors Resource Center. "The sad reality is, California is not a victim-friendly state. It's an offender-friendly state."

California was once a leader in tough-on-crime policies, which turned its prisons into inmate warehouses. Then in 2011, the U.S. Supreme Court [ruled](#) that overcrowding in the state's prison system amounted to cruel and unusual punishment. The decision accelerated a wave of legal reforms that have reduced the prison population by [25 percent](#). About 115,000 inmates remain locked up in the state's 33 facilities. The vast majority of those released to date have been nonviolent offenders.

Brown's commutations for the 20 murder convicts were tucked into a larger [batch of pardons and commutations](#) that he handed out last month. The designation isn't synonymous with freedom but amounts to a reduction of an original sentence. For these 20 men and women, most of whom had been sentenced to life in prison with no possibility of parole, it means they'll be granted a hearing.

The governor sees his action not as a sign of lenience so much as a societal course correction. “There has been an overshoot in the time many people expect [criminals] to be locked up in a cage or cell,” he said in an interview.

In the 1970s, those convicted of first-degree murder tended to serve about a decade for their crimes, he noted; now it isn’t unusual for such sentences to span a half-century. Some 5,000 prisoners today are serving life sentences without parole in California.

Longtime prisoners who are making a good-faith effort to turn their lives around should have a shot at getting out, said Brown, a former Jesuit seminarian. “I think there’s wisdom in having the possibility of hope.”

Nazgol Ghandnoosh, a research analyst at the Sentencing Project, a criminal justice advocacy group based in Washington, said she has never seen so bold a move to spur early release for people convicted of violent crimes.

“It really stands out,” she said — in a good way, she added. Prisoners serving time for such offenses tend to age out of crime. “As a country, we need to move away from life without parole as a sentence altogether.”

Many California lawmakers and public safety officials have a different, harshly critical view of the governor’s move. Michele Hanisee, president of the Association of Los Angeles Deputy District Attorneys, said the latest commutations “are motivated by [Brown’s] personal philosophy of deincarceration.” And Republican Assemblyman Matthew Harper of Orange County called the commutations “deeply concerning. It is another action by Gov. Brown in a long line of policy that makes California less safe.”

To victims rights advocates, the commutations feel like an injustice.

“Governor Brown, can you commute my daughter and bring her back?” said Jennifer Lundy, whose 3-year-old was killed in 1993 by a man living with her family. “What have you done to restore my life?”

Whether California’s prison purge and Brown’s decisions have made the state less safe are unclear. In addition to his pardons and commutations, the governor has approved parole for more than 2,300 “lifers” sentenced for murder. (California is one of just three states where the governor has the last word on parole-board decisions.)

Yet while the violent-crime rate [rose by nearly 4 percent](#) in 2016 — the most recent year for which data is available — it was still half of the peak levels seen during the early 1990s, according to a report by the Public Policy Institute of California.

Brown has also rejected parole for people whose sentences he commuted. In 1994, Susan Lee Russo of Fresno County paid a man \$100 to kill her husband so she could collect insurance money. Russo claimed in her application for clemency that her husband, who was fatally shot in the head, had physically abused her.

“I was protecting myself and my children,” she wrote, according to the Associated Press.

The parole panel recommended her release, triggering an outcry from a group of Republican lawmakers and law-enforcement officials. Russo’s own daughters called her a “master manipulator.” Brown concluded that she “has more work to do.”

These days, the lone survivor of Yackley’s long-ago stabbing rampage is thinking about second chances and his attacker’s potential future.

On that late February night in 1992, Glenn McCarty had approached the 22-year-old Yackley and his friends at a party to tell them they weren’t welcome. When McCarty turned to walk away, Yackley knifed him in the back and then, in the ensuing melee, stabbed two other men.

The blade collapsed both of McCarty’s lungs. His friends died at the scene.

McCarty, now 54, said he harbors no anger toward Yackley, who from behind bars has earned his high school equivalency diploma, completed vocational courses, volunteered with an organization that rescues shelter dogs and worked with a youth intervention program.

“It is probably arguable that he’s made a more positive influence on society than I have,” said McCarty, a trucking company supervisor in the southwestern United States. “If he was eligible for parole when he was doing that, I would think that maybe he had an ulterior motive and I’d want to consider that. But I don’t think that he did.”

He wavers, however, on whether Yackley deserves parole.

“Whether he or I did more for society in a positive manner,” McCarty said Tuesday, “the fact of the matter is, Dave and Mike didn’t have that chance.”

Rob Kuznia

Rob Kuznia is a freelance reporter based in Los Angeles and is a frequent contributor to The Washington Post. He was part of a small team at The Daily Breeze in Southern California that won the 2015 Pulitzer Prize for local reporting.

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EXHIBIT B

Appellate Courts Case Information

CALIFORNIA COURTS
THE JUDICIAL BRANCH OF CALIFORNIA

Supreme Court

Change court 

Court data last updated: 11/02/2018 10:24 AM

Docket (Register of Actions)

WRIGHT (RODERICK DEVON) ON CLEMENCY

Division SF

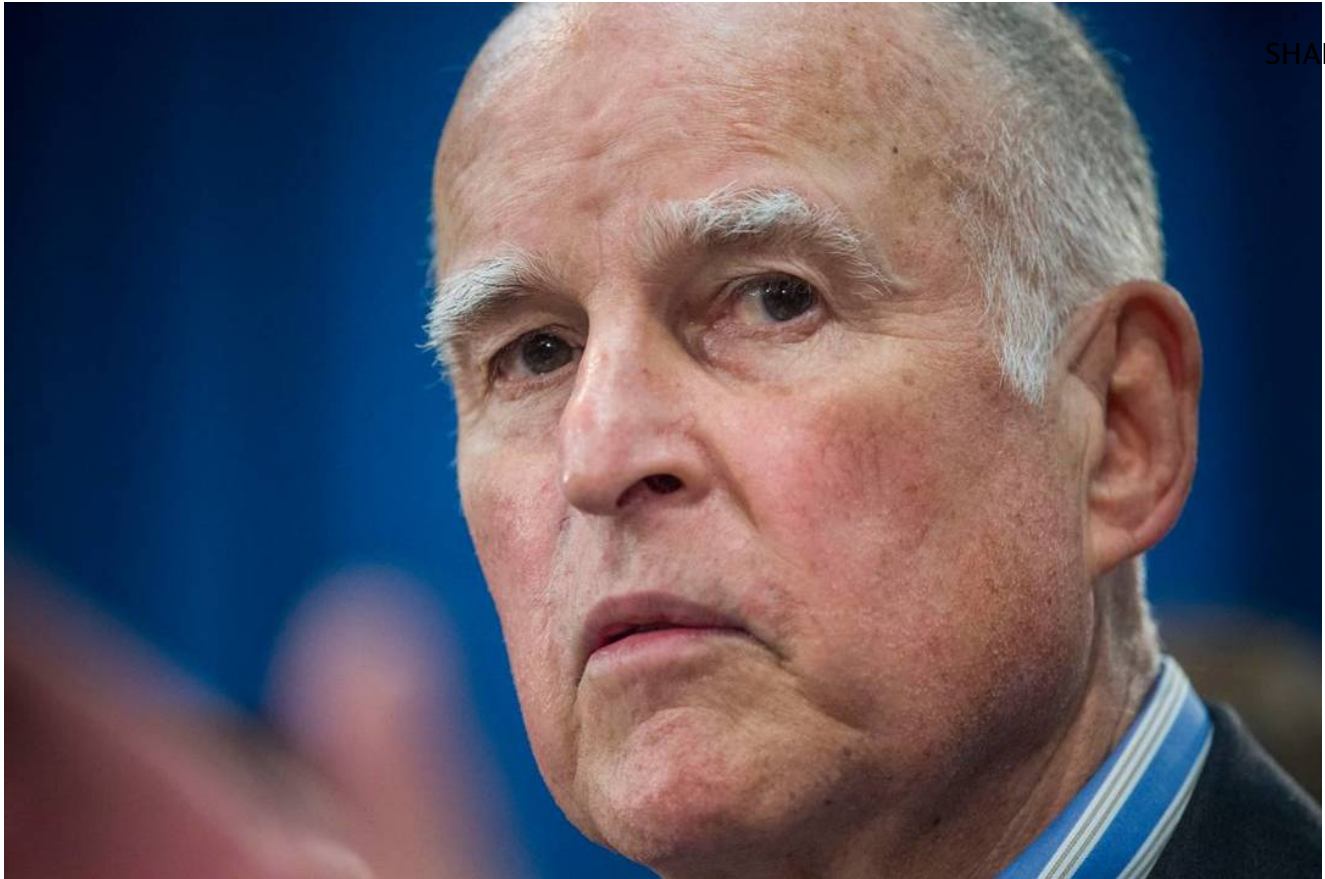
Case Number S251879

Date	Description	Notes
10/10/2018	Request for recommendation for clemency filed	October 3, 2018 Mr. Jorge E. Navarrete Clerk of the Supreme Court Supreme Court of California Office of the Clerk, First Floor 350 McAllister Street San Francisco, California 94102 RE: Pardon Application of Roderick Devon Wright Legal Affairs File No. D-2712-18 Dear Mr. Navarrete: I am writing on behalf of the Governor to request a recommendation from the Justices of the Supreme Court on whether a pardon should be granted to Senator Roderick Wright (Ret.). (Cal. Const., art. V, § 8, subd. (a).) Sen. Wright is a 66 year old applicant who has been convicted of two felonies. In 1972, at the age of 19, Sen. Wright was convicted of taking a vehicle without the owner's consent, for which he served three years, six months on probation. In 2014 at the age of 61, Sen. Wright was convicted of two counts of perjury, false declaration of candidacy, and five counts of fraudulently voting or attempting to fraudulently vote. He served, two years six months on probation and completed 1,500 hours of community service. The Board of Parole Hearings reviewed Sen. Wright's file and, after an en banc meeting, referred the application to the Governor with a favorable recommendation on September 18, 2018. (Pen. Code, § 4813.) As the Board of Parole Hearings has found, Sen. Wright's application presents a favorable case for a pardon. The crimes for which Sen. Wright was convicted - vehicle theft, perjury, false declaration of candidacy, and fraudulent voting - were non-violent in nature. Moreover, Sen. Wright has devoted much of his life to public service, including serving six years in the California State Senate and six years in the California Assembly. Since his conviction, Sen. Wright has been employed as a consultant on government affairs and is an adjunct professor. He has worked as a consultant for several utility companies and continues to be actively involved in his community as a member of an advisory committee that focused on Proposition 47 compliance and provided technical support in the drafting of the "Ban the Box" ordinance. Moreover, following his conviction, the Legislature enacted Senate Bill 1250 (2017-2018 Leg. Sess.), which clarifies the law regarding domicile. As the Board of Parole Hearings found, "establishing a domicile in the manner Mr. Wright did during the period of 2007 to 2009 would be permissible under the bill." Included with this letter are copies of the complete papers and documents filed in support of and in opposition to Sen. Wright's pardon application. (Pen. Code, § 4851.) For the convenience of the Court, I have separately included from that file the following excerpts: 1. Direct Application for Gubernatorial Pardon; 2. Board of Parole Hearings Recommendation that the Governor Grant a Pardon, August 21, 2018; 3. Direct Pardon Investigation Report, July 18, 2018, current RAP sheet and DMV records; 4. Letters of Support and Opposition. Should you need any additional information, please let me know. Thank you very much for your attention to this matter. Sincerely, PETER A. KRAUSE Legal Affairs Secretary
10/10/2018	Confidential record from Governor's Office lodged	One binder.

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EXHIBIT C



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CAPITOL ALERT

Jerry Brown commutes prison sentences for six murderers, three others

BY ALEXEI KOSEFF
akoseff@sacbee.com

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L

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Gov. Jerry Brown on Friday commuted the sentences of nine California prisoners who were convicted over the past three decades primarily of murder or attempted murder.

Seven are now eligible to appear before the state Board of Parole Hearings, which will determine whether they are ready to be released.

The Democratic governor has now issued 18 commutations since returning to office in 2011, including seven in April, compared to one in his first two terms. That is far more than his immediate four predecessors, two of whom issued no commutations, but in line with historic figures for other governors. His father, former Gov. Pat Brown, issued 55.

Inmates can apply to have their sentence reduced or eliminated and must demonstrate exemplary behavior since their conviction. The latest recipients of commutations are:

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- Florence Anderson, who was sentenced in 2002 in Humboldt County Superior Court to 25 years to life for first degree murder, plus 2 years for second-degree burglary. Anderson helped rob a man whom her pimp stabbed and killed, believing he had large sums of cash on him. Her application for clemency, in which Anderson described the “severe physical abuse” she suffered at the hands of her pimp and her battle with addiction, was supported by the former district attorney of Humboldt County and several correctional officers. Brown wrote that he “cannot overlook the violent abuse she endured and her limited role in this crime.” He also noted that Anderson “has maintained her sobriety and helps fellow inmates who also struggle with addiction.”

- Christopher Edwin Asay, who was sentenced in 1989 in San Bernardino County Superior Court to life without the possibility of parole for first-degree murder, plus a two-year firearm enhancement. Asay shot and stole \$16,000 from a man employed by the armored car service that

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have grown as a person, so if given the privilege of a second chance, I can and will be a productive member of society,” he wrote in his application for clemency. His request was supported by Gov. Gary Herbert of Utah, where Asay has been housed since 2001.

- Hamid Bashir, who was sentenced in 2002 in Los Angeles County Superior Court to 15 years to life for second-degree murder, plus a 10-year firearm enhancement. At age 18, Bashir shot a security guard in the hand during a robbery that left the store manager dead. Since entering prison, Bashir earned his GED and has completed some vocational training. He is currently enrolled in a seminary program, counsels at-risk youth and plans to participate in an urban ministry program if released. Former Los Angeles Mayor Richard Riordan has offered Bashir a job, a scholarship to further his education and housing, writing in his clemency application that he would guarantee Bashir’s “good behavior and that he will be a positive asset to society.”
- Paul Carrillo, who was sentenced in 1990 in Riverside County Superior Court to life without the possibility of parole for first-degree murder. Heavily intoxicated, Carrillo and a friend killed a taxi driver by striking him in the head multiple times with a 2x4 with nails in it. While in prison, Carrillo has become a Native American spiritual leader for other inmates and was selected to speak at the first California prison TEDx conference in 2014. He was recommended for commutation by his warden at the Ironwood State Prison, who wrote that Carrillo “inspires those who think there is nothing to gain by doing the right thing” and “gives inmates hope.”
- Travielle Craig, who was sentenced in 1993 in Los Angeles County Superior Court to life without the possibility of parole for first-degree murder, plus a one-year deadly weapon enhancement, three years for assault with a deadly weapon and a three-year great bodily injury enhancement. On the night of the Rodney King verdict, Craig asked two men for money to support King’s cause and attacked them with a piece of wood when they didn’t have enough; one of them later died from the injuries. In his application for clemency, Craig wrote that he was young and immature at the time of his crime, unable to handle the murder of his father and death of his grandmother. Since then, he has earned his GED and multiple degrees from Bible college, regularly preaches at church services, mentors at-risk youth and contributed to a literary journal. An associate warden commended his “extraordinary conduct” in caring for rescue dogs displaced by a fire. “I have matured now and feel that I can be an asset to whatever community I am in,” Craig wrote.

- DeAngelo McVay, who was sentenced in 1999 in Los Angeles County Superior Court to life

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commutation, calling him a “poster child for rehabilitation” and noting, “In my career, I have never seen an inmate with more positive words from CDCR staff.” McVay volunteers as a rescue dog trainer, was certified as a Biblical counselor and is chairman of the inmate Men’s Advisory Council at his facility. Brown noted his “remarkable transformation in prison.”

- John Paul Rodriguez, who was sentenced in 2010 in Los Angeles County Superior Court to nine years for attempted murder, plus a 10-year firearm enhancement and a three-year great bodily injury enhancement. At age 17, Rodriguez shot at another man outside of a nightclub, hitting him once in the back, though he survived his injuries. Rodriguez earned his GED and three associate degrees in prison and has secured a scholarship to continue his education after his release. He also volunteers in a literacy and youth offender mentorship programs. In his application for clemency, a staff member praised Rodriguez for “selfless commitment and dedication in ensuring those around him live a healthy lifestyle.” Rodriguez said he is “ready to help those I have hurt in my past by aiding people with internal struggles and helping the community by reducing recidivism.”
- Mary Elizabeth Stroder, who was sentenced in 1995 in Kern County Superior Court to life without the possibility of parole for first-degree murder, plus a three-year firearm enhancement. Stroder and her boyfriend robbed a woman by taking her to several ATMs to withdraw money on their behalf, then drove her to an isolated area and shot her. Brown noted a 2009 psychological evaluation that described Stroder’s “lifetime experience of neglect, devaluation and abuse,” including possible sexual abuse by her parents. In addition to her involvement in self-help and vocational training programs, nearly 7,000 individuals signed a petition calling for a “chance of freedom” for Stroder, whom a legal advocate described as “one of the most self-aware, respectful, accountable and thoughtful whom I have met.”
- Raul Zarate, who was sentenced in 2010 in Los Angeles County Superior Court to nine years for attempted murder, plus a four-year firearm enhancement and three-year great bodily injury enhancement. Zarate was involved in a drunken argument outside of a house party at age 17 and shot two individuals, though both survived their injuries. While in prison, Zarate earned his high school diploma and four associate degrees, and was certified a Braille transcriber by the Library of Congress. He has lined up housing, therapy, life skills programs, scholarships to continue his education and a full-time job once he leaves prison. Brown wrote that Zarate has “done exactly what we ask of inmates – fully commit to rehabilitation and prepare for success upon release.”

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EXHIBIT D

...ary, state Sen. Hannon-Beth Jackson (D-Santa Barbara) wrote in the official ballot argument against the proposition. "You'll be getting your family ready for the day in the dark; your kids will be walking to school or waiting for the school bus before the sun rises."

Gov. Jerry Brown signed the bill that put Proposition 7 on the ballot, adding a bit of flair to his signing message by writing, "Fiat Lux!" which translated from Latin means, "Let there be light."

But unless Congress changes the rules, California's ballot measure is a debate without a decision. In that way, it resembles the 2016 advisory proposition that pleaded for congressional action on campaign finance rules. It passed. Supporters applauded. But the status quo remains.

john.myers@latimes.com

CALIFORNIA LEGISLATURE

Court asked to review pardon for ex-legislator

An attorney for Gov. Jerry Brown on Friday asked the state Supreme Court to recommend whether former Democratic state Sen. Rod Wright should be pardoned for his felony convictions in 2014 on charges of voter fraud and perjury for lying about living in his district.

The request by the governor's legal secretary, Peter A. Krause, was the next formal step in a process that began last month after the state parole board recommended a pardon. Four of the judges must concur in the recommendation before it can go to Brown for consideration.

— PATRICK MCGREEVY

DECISION CALIFORNIA

Feinstein and De León set to debate Wednesday

Sen. Dianne Feinstein and state Sen. Kevin de León will meet Wednesday for a conversation moderated by the Public Policy Institute of California. The discussion is scheduled for 12:10 p.m. Wednesday and will be streamed online at ppic.org.

PPIC President Mark Baldassare will moderate the debate. The candidates will have three minutes to answer each question and will not engage one another as in a traditional debate, but Baldassare will have discretion over allowing rebuttals.

— SARAH D. WIRE

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»» California governors haven't focused on homelessness 'for decades,' Newsom says

»» O.C. transit workers warn of service and job cuts if the gas tax hike is repealed

»» L.A. County sheriff's deputies union backs Republican Cox for governor

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her support for a bill to end the sale of animal-tested cosmetics in California. Maroon 5 guitarist James Valentine urged state lawmakers to resist a water project backed by President Trump.

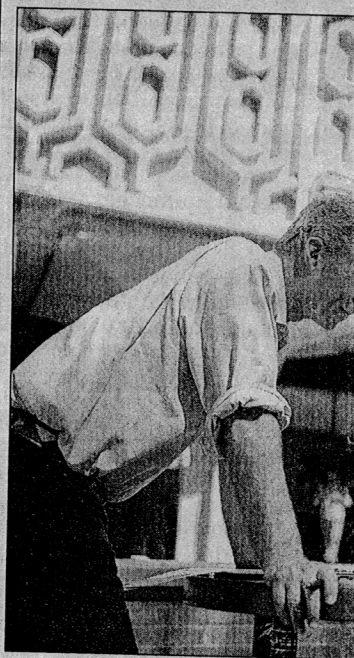
As California legislators cast votes in the final hours of this year's session, celebrities leveraged their fan bases on Facebook and Twitter to encourage lawmakers to pass bills and Gov. Jerry Brown to sign them into law.

Actors have been known to reach out to state Capitol offices to discuss legislation. In 2015, for example, Patricia Arquette called the state Senate to talk about fair pay for women.

But Assemblywoman Shirley Weber (D-San Diego) said she was surprised to learn from her son in July that Kim Kardashian West tweeted to support her legislation.

"He said, 'She's tweeting about this bill, [Assembly Bill] 2550,'" Weber said. "I said, 'That sounds familiar, what's the name?' And he told me, 'It's women's dignity,' and I said, 'That's my bill!'"

Assembly Bill 2550, which the governor signed in August, prohibits male corrections officers from patting



COURTIN

Tom Steyer talks to Cal State Lissa Flores, both 18-year-olds and political action group, the around the campus to register

EXHIBIT E



Glen Smith <gsmith@firstamendmentcoalition.org>

Public Records Act Violations

1 message

Glen Smith <gsmith@firstamendmentcoalition.org>

Mon, Oct 15, 2018 at 9:50 AM

To: peter.krause@gov.ca.gov, govlegalunit@gov.ca.gov

I have made Public Records Act requests to the Office of the Governor regarding applications for clemency. I have received some of the applications via correspondence with Rei Onishi.

I have seen press reports regarding the pardon application for former State Senator Rod Wright. His application should be released immediately. Your office has already acknowledged that these forms are public records. Any delay in granting access would be in violation of Government Code Section 6253(d). We should also be given access to your letter to the State Supreme Court with respect to Mr. Wright. Its contents have been widely reported, there is no conceivable reason to deny access to the letter itself.

Please contact me to arrange public access to these documents.

Glen A. Smith | Legal Fellow | First Amendment Coalitio
gsmith@firstamendmentcoalition.org | 415-460-5060
534 4th St. #B | San Rafael, CA 94901
<https://firstamendmentcoalition.org>

EXHIBIT F



OFFICE OF THE GOVERNOR

October 18, 2018

Via Electronic Mail

Mr. Glen Smith

gsmith@firstamendmentcoalition.org

RE: Public Records Act Request

Dear Mr. Smith,

This letter is in response to your correspondence received October 15, 2018, which we are construing as a Public Records Act request for the pardon application submitted by former state senator Rod Wright and for the October 3, 2018 cover letter sent by Legal Affairs Secretary Peter Krause to the California Supreme Court regarding that application.

Enclosed is the cover letter responsive to your request, which is also publicly accessible at the following web link:

http://appellatecases.courtinfo.ca.gov/search/case/dockets.cfm?dist=0&doc_id=2266458&doc_no=S251879&request_token=NiIwLSIkXkg%2FWyBFSCItE5IMDw0UDxTJiJOJz1RICAgCg%3D%3D

The pardon application, however, is exempt from disclosure under the Public Records Act unless it is granted. (See Gov. Code, § 6254, subd. (I) [exempting “[c]orrespondence of and to the Governor or employees of the Governor’s office” and records in the custody of or maintained by the Governor’s Legal Affairs Secretary]; Gov. Code, § 6255 [exempting records where the public interest in nondisclosure outweighs the public interest in disclosure]; Penal Code, § 4807, subd. (b) [requiring the Governor to submit an annual report to the Legislature that includes each clemency application that was granted, and expressly providing that it shall be made available to the public].)

Sincerely,

A handwritten signature in dark ink, appearing to read "Rei Onishi", is written over a faint, larger signature.

REI R. ONISHI
Deputy Legal Affairs Secretary



OFFICE OF THE GOVERNOR

October 3, 2018

Mr. Jorge E. Navarrete
Clerk of the Supreme Court
Supreme Court of California
Office of the Clerk, First Floor
350 McAllister Street
San Francisco, California 94102

RE: *Pardon Application of Roderick Devon Wright*
Legal Affairs File No. D-2712-18

Dear Mr. Navarrete:

I am writing on behalf of the Governor to request a recommendation from the Justices of the Supreme Court on whether a pardon should be granted to Senator Roderick Wright (Ret.). (Cal. Const., art. V, § 8, subd. (a).)

Sen. Wright is a 66 year old applicant who has been convicted of two felonies. In 1972, at the age of 19, Sen. Wright was convicted of taking a vehicle without the owner's consent, for which he served three years, six months on probation. In 2014 at the age of 61, Sen. Wright was convicted of two counts of perjury, false declaration of candidacy, and five counts of fraudulently voting or attempting to fraudulently vote. He served, two years six months on probation and completed 1,500 hours of community service. The Board of Parole Hearings reviewed Sen. Wright's file and, after an en banc meeting, referred the application to the Governor with a favorable recommendation on September 18, 2018. (Pen. Code, § 4813.)

As the Board of Parole Hearings has found, Sen. Wright's application presents a favorable case for a pardon. The crimes for which Sen. Wright was convicted — vehicle theft, perjury, false declaration of candidacy, and fraudulent voting — were non-violent in nature. Moreover, Sen. Wright has devoted much of his life to public service, including serving six years in the California State Senate and six years in the California Assembly. Since his conviction, Sen. Wright has been employed as a consultant on government affairs and is an adjunct professor. He has worked as a consultant for several utility companies and continues to be actively involved in his community as a member of an advisory committee that focused on Proposition 47 compliance and provided technical support in the drafting of the "Ban the Box" ordinance.

Mr. Jorge E. Navarrete
Clerk of the Supreme Court
Supreme Court of California
October 3, 2018
Page 3

Moreover, following his conviction, the Legislature enacted Senate Bill 1250 (2017-2018 Leg. Sess.), which clarifies the law regarding domicile. As the Board of Parole Hearings found, "establishing a domicile in the manner Mr. Wright did during the period of 2007 to 2009 would be permissible under the bill."

Included with this letter are copies of the complete papers and documents filed in support of and in opposition to Sen. Wright's pardon application. (Pen. Code, § 4851.) For the convenience of the Court, I have separately included from that file the following excerpts:

1. Direct Application for Gubernatorial Pardon;
2. Board of Parole Hearings Recommendation that the Governor Grant a Pardon, August 21, 2018;
3. Direct Pardon Investigation Report, July 18, 2018, current RAP sheet and DMV records;
4. Letters of Support and Opposition.

Should you need any additional information, please let me know. Thank you very much for your attention to this matter.

Sincerely,



PETER A. KRAUSE
Legal Affairs Secretary

EXHIBIT G



November 6, 2018

Jorge E. Navarrete
Supreme Court Clerk and Executive Officer
Supreme Court of California
350 McAllister Street
San Francisco, CA 94102

Re: Request to Inspect Court File:
Wright (Roderick Devon) on Clemency. Case No. S251879

To the Honorable Clerk of the Supreme Court:

This letter is a request for public access to the Request for Recommendation for Clemency and the Record lodged by the Governor in Case Number S251879, now pending before the California Supreme Court. This request is being made on behalf of the public by the First Amendment Coalition ("FAC"), a non-profit organization based in San Rafael, California. The Docket for this matter, a copy of which is enclosed for your convenience, includes two entries dated October 10, 2018. The first entry notes the filing of a "Request for Recommendation for Clemency filed" (the "Request") and the second one denotes a "Confidential record from Governor's Office lodged" consisting of "One Binder" (the "Record"). FAC's request is for a copy of the October 10 Request and access to the Record that has been submitted to the Court for its consideration in responding to the Governor's Request. FAC is also requesting access to the similar Requests and Records of any other Clemency Requests now pending before the Court.

On November 1, I visited the Office of the Court Clerk in San Francisco to view the Request and Record in the Wright matter. I was told by the clerk at the front desk that the Record submitted by the Governor could not be viewed by the public and that I would need to contact the Governor's office to obtain a copy of the October 10 Request. This denial of public access to court records is contrary to the California Rules of Court, the California Constitution, the Common Law of California and the First Amendment to the U.S. Constitution.

The Governor has submitted the Request and Record to the Court pursuant to the requirements of Article V § 8(a) of the California Constitution to solicit a vote on a recommendation from the Court, "4 judges concurring." Penal Code § 4851 requires the Governor to submit documents "for consideration of the justices." The Docket here does not contain any reference to orders or findings of the Supreme Court that are necessary before the file in this matter could be sealed pursuant to California Rules of Court 8.46(d)(6) or 8.47(c)(2). Given the lack of the required findings and orders, the Request and Record should be available for public inspection.

The California Supreme Court has ruled that the public has access rights to court files and proceedings under both the Common Law and Article I § 2 of the California Constitution. See, Sander v. State Bar of California, 58 Cal. 4th 300 (2013). It has also ruled that First Amendment guarantees public access to court records. See, NBC Subsidiary (KNBC-TV), Inc. v. Superior Court, 20 Cal. 4th 1178 (1999). These rights attach to "[T]he various documents filed in or received by the court, such as the pleadings and motions filed by the parties and the evidence admitted in court proceedings." Copley Press v. Superior Court, 6 Cal. App. 4th 106, 113 (1992). Public access rights to the records of the Court of Appeal and Supreme Court are also protected by the California Rules of Court, Rule 8.45, et. seq. See, McNair v. National Collegiate Athletic Assn., 234 Cal. App. 4th 25, 29 (2015).

FAC understands from reviewing the dockets of previous clemency cases that the Court may return the Record to the Governor if a majority of the Justices vote to recommend that the request for clemency be granted. It is possible that this may occur in the Wright Clemency case now before the Court. We request that the Court retain the Record, or a copy of it, until our request for public access is resolved.

Please contact me if you have any questions concerning this request. We will call the Office of the Clerk to schedule a convenient time to inspect the file(s) we have identified. As noted below, we have sent a copy of this request to the Governor's Legal Affairs Secretary.

Sincerely,

Glen A. Smith
Legal Fellow
First Amendment Coalition
gsmith@firstamendmentcoalition.org

cc Office of the Governor
Legal Affairs Secretary

EXHIBIT H

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Supreme Court Case Number	Court of Appeal Case Number	Trial Court Case Number	Attorney Firm
S252285 GUZMAN (ANTHONY) ON CLEMENCY			Peter Andrew Krause Office of the Governor
S252284 FLOWERS (RICHARD) ON CLEMENCY			Peter Andrew Krause Office of the Governor
S252282 NGUYEN (HUAN) ON CLEMENCY			Peter Andrew Krause Office of the Governor
S252281 LEE (KENNY) ON CLEMENCY			Peter Andrew Krause Office of the Governor
S252279 RODRIGUEZ (RAMON) ON CLEMENCY			Peter Andrew Krause Office of the Governor
S252278 HERNANDEZ (JOE) ON CLEMENCY			Peter Andrew Krause Office of the Governor
S252277 HARRIS (JAMES) ON CLEMENCY			Peter Andrew Krause Office of the Governor
S252271 WONG (ELAINE) ON CLEMENCY			Peter Andrew Krause Office of the Governor
S252261 OATIS (WALTER) ON CLEMENCY			Peter Andrew Krause Office of the Governor
S252259 SNYDER (RICHARD) ON CLEMENCY			Peter Andrew Krause Office of the Governor
S252258 JAMES (HOWARD) ON CLEMENCY			Peter Andrew Krause Office of the Governor
S252257 VELEZ (LUIS) ON CLEMENCY			Peter Andrew Krause Office of the Governor
S252237 RIVERA (RICK) ON CLEMENCY			Peter Andrew Krause Office of the Governor
S252235 HOLTON (GERALD) ON CLEMENCY			Peter Andrew Krause Office of the Governor

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S252232 COLES (JAMEEL) ON CLEMENCY			Peter Andrew Krause Office of the Governor
S252229 JACKSON (FATEEM) ON CLEMENCY			Peter Andrew Krause Office of the Governor
S252162 AI (BOREY) ON CLEMENCY			Peter Andrew Krause Office of the Governor
S251910 HUDNALL (JOHANNA) ON CLEMENCY			Peter Andrew Krause Office of the Governor
S251908 GLASS (ROBERT) ON CLEMENCY			Peter Andrew Krause Office of the Governor
S251906 KING (JAMES) ON CLEMENCY			Peter Andrew Krause Office of the Governor
S251905 RICHARDSON (RICHARD) ON CLEMENCY			Peter Andrew Krause Office of the Governor
S251904 MARSTON (THOMAS) ON CLEMENCY			Peter Andrew Krause Office of the Governor
S251903 JONES (CRYSTAL) ON CLEMENCY			Peter Andrew Krause Office of the Governor
S251902 HERNANDEZ (JESUS) ON CLEMENCY			Peter Andrew Krause Office of the Governor
S251901 JACOBS (DEAN) ON CLEMENCY			Peter Andrew Krause Office of the Governor

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S251897 BIGGS (JESSIE) ON CLEMENCY			Peter Andrew Krause Office of the Governor
S251895 ESQUERO (JOSE) ON CLEMENCY			Peter Andrew Krause Office of the Governor
S251894 FERGUSON (HUEY) ON CLEMENCY			Peter Andrew Krause Office of the Governor
S251892 JOHNSON (JOHN) ON CLEMENCY			Peter Andrew Krause Office of the Governor
S251891 FISCHER (MICHAEL) ON CLEMENCY			Peter Andrew Krause Office of the Governor
S251890 FLORES (GUSTAVO) ON CLEMENCY			Peter Andrew Krause Office of the Governor
S251888 JACKSON (TYRONE) ON CLEMENCY			Peter Andrew Krause Office of the Governor
S251887 BARNFIED (RICHARD) ON CLEMENCY			Peter Andrew Krause Office of the Governor
S251879 WRIGHT (RODERICK DEVON) ON CLEMENCY			Peter Andrew Krause Office of the Governor
S251878 CRAWFORD (MICHAEL DAVID) ON CLEMENCY			Peter Andrew Krause Office of the Governor
S251876 SEAL (DEBORAH LYNN) ON CLEMENCY			Peter Andrew Krause Office of the Governor
S251873 ZECH (JOHN BASE) ON CLEMENCY			Peter Andrew Krause Office of teh Governor

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S251453 ROBERTS (CURTIS) ON CLEMENCY			Peter Andrew Krause Office of the Governor
S251451 ARMSTRONG (DERYL) ON CLEMENCY			Peter Andrew Krause Office of the Governor
S251449 FORD (HOWARD) ON CLEMENCY			Peter Andrew Krause Office of the Governor
S251448 WHITE (JAMES) ON CLEMENCY			Peter Andrew Krause Office of the Governor
S251447 PADILLA (JOSE) ON CLEMENCY			Peter Andrew Krause Office of the Governor
S251445 MANNING (JOHN) ON CLEMENCY			Peter Andrew Krause Office of the Governor
S251444 BURTON (DERRICK KEITH) ON CLEMENCY			Peter Andrew Krause Office of the Governor
S251442 THOMPSON (LARRY) ON CLEMENCY			Peter Andrew Krause Office of the Governor
S251440 NGUYEN (TIN) ON CLEMENCY			Peter Andrew Krause Office of the Governor
S251439 ERWIN (WILLIE) ON CLEMENCY			Peter Andrew Krause Office of the Governor
S251438 QUARLES (VONYA KAY) ON CLEMENCY			Peter Andrew Krause Office of the Governor
S250669 SMITH (DAVID MAURICE) ON CLEMENCY			Peter Andrew Krause Office of the Governor
S250668 LOCKHART (ERIC) ON CLEMENCY			Peter Andrew Krause Office of the Governor

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S250667 JORDAN (KENNETH) ON CLEMENCY			Peter Andrew Krause Office of the Governor
S250666 GUERRERO (ARTURO) ON CLEMENCY			Peter Andrew Krause Office of the Governor
S250564 HONG (VIET QUOC) ON CLEMENCY			Peter Andrew Krause Office of the Governor
S250563 OLSGARD (MELISSA JEAN) ON CLEMENCY			Peter Andrew Krause Office of the Governor
S250080 MARTINEZ (LARRY) ON CLEMENCY			Peter Andrew Krause Office of the Governor
S250076 ANDERSON (BELINDA) ON CLEMENCY			Peter Andrew Krause Office of the Governor
S250058 THOMPSON (TIMOTHY) ON CLEMENCY			Peter Andrew Krause Office of the Governor
S250057 WOODS (EARLONNE) ON CLEMENCY			Peter Andrew Krause Office of the Governor
S250056 PEREZ (ALFREDO) ON CLEMENCY			Peter Andrew Krause Office of the Governor
S250054 BLOUIN (JULIAN) ON CLEMENCY			Peter Andrew Krause Office of the Governor
S249612 DREW (DAVID BRIAN) ON CLEMENCY			Peter Andrew Krause Office of the Governor
S249456 EPSTEIN v. SCHWARZENEGGER	A147366	CGC10505436	Peter Andrew Krause Office of Governor Edmund G. Brown Jr.

Supreme Court Case Number	Court of Appeal Case Number	Trial Court Case Number	Attorney Firm
S249456 EPSTEIN v. SCHWARZENEGGER	A147092	CGC10505436	Peter Andrew Krause Office of Governor Edmund G. Brown Jr.
S249379 DAVILA v. DERBY	A149631	HG13708711	Nandor Burton Krause Law Offices of Archer Norris
S248727 TALIANO (BRANDITA) ON CLEMENCY			Peter Andrew Krause Office of the Governor
S248725 SMITH (WILLIAM) ON CLEMENCY			Peter Andrew Krause Office of the Governor
S248724 DELGADO (MANUEL) ON CLEMENCY			Peter Andrew Krause Office of the Governor
S248723 GARVIN (TAMMY) ON CLEMENCY			Peter Andrew Krause Office of the Governor
S248721 GREEN (CHARLES) ON CLEMENCY			Peter Andrew Krause Office of the Governor
S248720 YACKLEY (THOMAS) ON CLEMENCY			Peter Andrew Krause Office of the Governor
S247544 GIBSON (GREGORY) ON CLEMENCY			Peter Andrew Krause Office of the Governor
S247540 MOHAMED (RONNIE) ON CLEMENCY			Peter Andrew Krause Office of the Governor
S247539 JORDAN (JOAQUIN) ON CLEMENCY			Peter Andrew Krause Office of the Governor
S247536 McFADDEN (JACK) ON CLEMENCY			Peter Andrew Krause Office of the Governor
S247532 DeJOHNETTE (LAVERNE) ON CLEMENCY			Peter Andrew Krause Office of the Governor

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S245386 MILLER (JOHNNY AL) ON CLEMENCY			Peter Andrew Krause Office of the Governor
S245385 BRUNO (MICHAEL JOSEPH) ON CLEMENCY			Peter Andrew Krause office of the Governor
S245383 JEFFERS (ADAM R.) ON CLEMENCY			Peter Andrew Krause Office of the Governor
S245380 SNYDER (IRMA RACHEL) ON CLEMENCY			Peter Andrew Krause Office of the Governor
S244508 MORRIS (QUINTIN) ON CLEMENCY			Peter Andrew Krause Office of the Governor
S244500 STEWART (JEREMY) ON CLEMENCY			Peter Andrew Krause Office of the Governor
S244376 CARTER (KIMBERLY JOYCE) ON CLEMENCY			Peter Andrew Krause Governor's Office
S242531 LOOP (DAVID) ON CLEMENCY			Peter Andrew Krause Office of the Attorney General
S242530 DEMPSTER (DENNIS WAYNE) ON CLEMENCY			Peter Andrew Krause Office of the Attorney General
S242528 BONANNO (MARTIN JOSEPH) ON CLEMENCY			Peter Andrew Krause Office of the Attorney General

Supreme Court Case Number	Court of Appeal Case Number	Trial Court Case Number	Attorney Firm
S242526 GALUSHA (BENJAMIN) ON CLEMENCY			Peter Andrew Krause Office of the Attorney General
S242524 FULTZ-LEWIS (KATHERINE) ON CLEMENCY			Peter Andrew Krause Office of the Attorney General
S239958 CAL FIRE LOCAL 2881 v. CALIFORNIA PUBLIC EMPLOYEES' RETIREMENT SYSTEM (STATE OF CALIFORNIA)	A142793	RG12661622	Peter Andrew Krause State Capitol
S236305 STEPHENSON (CRAIG LOUIS) ON CLEMENCY			Peter Andrew Krause Office of the Attorney General
S236158 NGO-GALAZ (NGUYET) ON CLEMENCY			Peter Andrew Krause Office of the Attorney General
S232017 BELMONTE (TERRI LYNNE) ON CLEMENCY			Peter Andrew Krause Office of the Attorney General
S231646 VELASQUEZ (DOLORES) ON CLEMENCY			Peter Andrew Krause Office of the Attorney General
S229132 PETALUMA, CITY OF v. COHEN	C075812	34201380001459CUWMGDS	Peter Andrew Krause Office of the Attorney General
S227124 DAVIS (DIRK MARTIN) ON CLEMENCY			Peter Andrew Krause Office of the Attorney General
S206407 FAIR POLITICAL PRACTICES COMMISSION v. AMERICANS FOR RESPONSIBLE LEADERSHIP			Peter Andrew Krause Office of the Attorney General
S197169 PACK v. S.C. (CITY OF LONG BEACH)	B228781	NC055053	Peter Andrew Krause Office of the Attorney General
S197169 PACK v. S.C. (CITY OF LONG BEACH)	B228781	NC055010	Peter Andrew Krause Office of the Attorney General
S188724 KEYES v. BOWEN	C062321	34200880000096CUWMGDS	Peter Andrew Krause Office of the Attorney General
S185722 KRAUSE ON RESIGNATION			Stephen Michael Krause
S175006 KRAUSE ON DISCIPLINE			Ernest Krause Attorney at Law

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