

S285006

Case no. _____

IN THE SUPREME COURT OF CALIFORNIA

In re

EUGENE THOMPSON

on Habeas Corpus

Los Angeles County Super. Ct. Case no. YA045468
Hon. F. Hourigan, III

PETITION FOR A WRIT OF HABEAS CORPUS

Michael S. Romano, SBN 232182
Ben Halom, Law Student
THREE STRIKES PROJECT
Stanford Law School
559 Nathan Abbott Way
Stanford, CA 94305
Tel: (650) 736-7757
Fax: (650) 723-8230
schampion@law.stanford.edu

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INTRODUCTION

In 2001, Eugene Thompson was sentenced to forty years-to-life in prison under the Three Strikes law for stealing a purse from a car parked at a gas station. He was convicted of second-degree robbery (Penal Code section 211) and attempted carjacking (Penal Code sections 664 and 215) and sentenced under the Three Strikes law based on three prior “strike” convictions for robbery between 1989 and 1991.

Unbeknownst to any court until now, Mr. Thompson suffers from serious lifelong mental illness. He has also been evaluated by prison officials as “low risk” to commit any new crime if released, and he has a long track record of positive prison behavior and rehabilitative programming. He is now fifty-eight years old and has been serving his sentence in California prisons for over two decades (longer than most people serve for murder¹).

He is entitled to a new sentencing hearing for four distinct reasons:

¹ According to the United States Department of Justice, the median amount of actual time served in state prison by people convicted of murder is seventeen and a half years. Bureau of Justice Statistics, U.S. Dept. of Justice, Office of Justice Programs, *Time Served in State Prison, 2018*, 2 (March 2021).

First, Mr. Thompson’s constitutional rights were violated when his trial attorney failed to present readily available and mitigating evidence—including evidence of lifelong mental illness and severe childhood trauma and deprivation—that would be relevant to any fair hearing under *People v. Superior Court (Romero)*, 13 Cal. 4th 497 (1996). In *People v. Thimmes* 138 Cal. App. 4th 1207, 1212 (2006), the Court ordered a new *Romero* hearing when defense counsel failed to present material evidence at a Three Strikes sentencing hearing, in violation of the defendant’s Sixth Amendment right to effective representation. Mr. Thompson is entitled to the same relief. His lawyer presented no evidence that Mr. Thompson was severely mentally ill with schizoaffective disorder and a history of suicide attempts. (Exhibit (hereinafter “Ex.”) A; Ex. B.) Clear evidence of Mr. Thompson’s serious mental illness was available from his prior prison record. (Ex. E; Ex. B.) Trial counsel failed to notice that Mr. Thompson had been treated by state officials for “severe” mental health disorders in February 2000, just months before his commitment offense. (Ex. C.)² Mr. Thompson’s counsel also failed

² Today, Mr. Thompson is receiving the mental health care he needs, and prison records indicate that Mr. Thompson “currently

to present evidence that Mr. Thompson suffered from multiple childhood traumas, including parental abuse and neglect, severe food insecurity, and violence directed at his family. All of this evidence constitutes “character” and “background” evidence that is required at a Three Strikes sentencing hearing. *People v. Williams*, 17 Cal. 4th 148, 161 (1998). Indeed, California Courts of Appeal have held that defendants with similar mitigating circumstances necessarily fall outside the spirit of the Three Strikes law. *See People v. Dryden*, 60 Cal. App. 5th 1007, 1031-32 (2021) (holding the trial court abused its discretion “by denying defendant any meaningful relief from the Three Strikes law” after noting mitigating circumstances similar to those present here); *People v. Avila*, 57 Cal. App. 5th 1134, 1141 (2020) (same).

Second, Mr. Thompson’s sentence constitutes cruel or unusual punishment under new authority from the Court of Appeal in *People v. Avila*, 57 Cal. App. 5th 1134 (2020). In *Avila*, the Court vacated as unconstitutionally disproportionate a Three Strikes sentence in a case that is materially indistinguishable from Mr. Thompson’s. In *Avila*, the defendant stood convicted of

presents stable, with good insight and motivation for treatment.” (Ex. D; Ex. P.)

attempted robbery and attempted extortion. The defendant had prior convictions for multiple robberies, assault with a deadly weapon, unlawful intercourse with a minor under sixteen, possession of a firearm by a felon, and felony drug possession, among other crimes. *Id.* at 1141, 1148. Mr. Thompson's instant offense and criminal history are less serious compared to the defendant's in *Avila*. His case is on all fours with *Avila* and should be vacated on this ground alone.

Third, Mr. Thompson's sentence violates the Equal Protection Clause due to the enactment of recent sentencing reforms that treat Mr. Thompson differently from other similarly situated individuals without any rational justification. *See People v. Morales*, 63 Cal. 4th 399, 408 (2016) ("The concept of equal treatment under the laws means that persons similarly situated to the legitimate purpose of the law should receive like treatment."). Individuals who committed worse crimes and received longer prison sentences than Mr. Thompson are now eligible for reconsideration of their sentence under the recently enacted Penal Code section 1172.75. This new law provides an opportunity for resentencing for defendants who received a one-year sentence enhancement under Penal Code section 667.5(b).

See People v. Monroe, 85 Cal. App. 5th 393, 402 (2022) (holding that section 1172.75 “requires a full resentencing, not merely that the trial court strike the newly ‘invalid’ enhancements”). Because at the time Mr. Thompson was sentenced the court declined to impose the available section 667.5(b) enhancement for Mr. Thompson’s conduct, he is now not eligible for potential relief under section 1172.75. Meanwhile, identically situated defendants who did receive extra prison time under section 667.5(b) can have their entire Three Strikes sentence recalled and reevaluated. Penal Code § 1172.75; *Monroe*, 85 Cal. App. 5th at 402. Because there is no rational basis to treat Mr. Thompson differently from similarly situated defendants who received longer prison sentences, his sentence violates the Equal Protection Clause.

Finally, Mr. Thompson is eligible for reconsideration of his sentence under recent amendments to Penal Code section 1172.1(a) (through Assembly Bill 600) which became effective January 1, 2024. *See* Assem. Bill 600, 2023-2024 Leg., Reg. Sess. (Cal. 2023). The new law allows for reconsideration of any sentence if sentencing laws have changed since the date of the defendant’s original sentencing hearing. In Mr. Thompson’s case,

amendments to Penal Code section 1385—which controlled his *Romero* hearing and would have benefited him greatly—were enacted subsequent to his sentencing twenty-three years ago and entitle him to reconsideration under the new statute. *See* J. Richard Couzens, Judge, Superior Court, Placer County (Ret.) Recall of Sentence, Penal Code § 1172.1 (Dec. 2023) (discussing the new law and listing statutory changes that make defendants eligible for sentence reconsideration). Under Penal Code section 1172.1(a) and A.B. 600, Mr. Thompson can present post-conviction evidence of his sustained efforts at rehabilitation, evaluation by prison officials that he is “low risk” to commit a new crime, and his acceptance in a long-term, secure, residential reentry program. *See* Penal Code § 1172.1(a) (“[T]he court shall consider postconviction factors, including, but not limited to, the disciplinary record and record of rehabilitation of the defendant while incarcerated, evidence that reflects whether age, time served, and diminished physical condition, if any, have reduced the defendant's risk for future violence, and evidence that reflects that circumstances have changed since the original sentencing[.]”)

STATEMENT OF THE CASE

On January 26, 2001, a jury found Mr. Thompson guilty of attempted carjacking and second-degree robbery. (Ex. F.)

On March 22, 2001, Mr. Thompson was sentenced to forty years-to-life under the Three Strikes law. (Ex. G.); *People v. Thompson*, No. B149398, 2002 WL 49820 at *1 (Cal. Ct. App. Jan. 15, 2002). Mr. Thompson was sentenced based on three prior strikes for robberies committed between 1989 and 1991. *Id.*

On January 15, 2002, the Court of Appeal affirmed Mr. Thompson's conviction and sentence. *Id.*

Mr. Thompson is currently incarcerated at Mule Creek State Prison. He is fifty-eight years old.

On May 5, 2023, Mr. Thompson filed a petition for habeas relief in the Superior Court of California, County of Los Angeles. On June 2, 2023, Superior Court Judge Hector Guzman denied the petition. The form denial did not address the specifics alleged in the petition. (Ex. H.) The denial stated that the petition failed to allege a *prima facie* case for relief, and that multiple procedural and jurisdictional bars applied.

On April 16, 2024, Mr. Thompson filed a petition for habeas relief in the Second District Court of Appeal, and on April 19,

2024, his petition was denied on the grounds that (1) he was foreclosed from arguing ineffective assistance of counsel because it should have been raised on appeal, (2) the argument was not supported by an adequate record for review, (3) that he failed to set forth a *prima facie* case that his sentence constituted cruel and unusual punishment or that he had been denied equal protection under the law. (Ex. DD.)

This petition follows.

STANDARD OF REVIEW

Legal issues are reviewed de novo and a habeas court must issue an order to show cause if the petitioner establishes a *prima facie* case for relief. *In re Clark*, 5 Cal. 4th 750, 769 n.9 (1993); *In re Lawler*, 23 Cal. 3d 190, 194 (1979).

TIMELINESS

This petition is filed without substantial delay and with good cause because the novel legal relevance of Mr. Thompson's mental illness and history of trauma was only recently discovered by undersigned counsel. Knowledge of this legal relevance was previously unavailable to Mr. Thompson due to his mental disorders, lack of education, and lack of access to current legal materials.

A petitioner's knowledge of the factual basis for his claim is not sufficient to support a finding of substantial delay; he must also appreciate the legal basis for the claim in order to make use of that information. *In re Clark*, 5 Cal. 4th at 774-775. Mr. Thompson is severely mentally ill. He does not have access to any legal expertise nor regular access to legal materials. His instant claim is based on a sophisticated understanding of state constitutional law, newly decided California case law from 2020, and recent reforms to the Penal Code. *See Avila*, 57 Cal. App. 5th 1134. This petition is therefore filed without substantial delay. *See In re Robbins*, 18 Cal. 4th 770, 780 (1998) ("Substantial delay is measured from the time the petitioner or his counsel knew, or reasonably should have known, of the information offered in support of the claim and the legal basis for the claim.").

Even if substantial delay were found, that delay would be excused because Mr. Thompson's ignorance of the applicable law provides good cause for the delay. Delay in filing a habeas petition is justified by a petitioner's "inability to make use of [relevant] information because he was not aware of the law[.]" *Clark*, 5 Cal.4th at 786. *See also In re Saunders*, 2 Cal. 3d 1033,

1040 (1970) (excusing a seven year delay in filing a habeas petition because petitioner “was unaware of the applicable law”).

STATEMENT OF FACTS

The following mitigating circumstances include many that were readily available at the time of Mr. Thompson’s trial but were not presented in court. They are presented here for the first time.

I. CRIMINAL HISTORY

A. Instant offense.

The Court of Appeal described Mr. Thompson’s commitment offense as follows:

At about 12:30 a.m. on September 10, 2000, Marsha Matayoshi was putting gas into her car at a gas station at the intersection of Artesia and Crenshaw in Torrance when appellant approached her and asked her if she had any money. When she said that she did not, he asked her if her purse and keys were in her car. When she replied that they were, appellant opened the door of Matayoshi's car, got into the driver’s seat and picked up her purse and wallet. Matayoshi reached into the car, grabbed the purse, and struggled with appellant for control of the purse. As they struggled, appellant asked her where her car keys were.

Matayoshi did not answer, but grabbed her keys from the console. Appellant tried

to grab the keys from her. She began honking her car horn.

People v. Thompson, No. B149398, 2002 WL 49820, at *1 (Cal. Ct. App. Jan. 15, 2002). Police officers responded to the commotion, and Mr. Thompson hit Ms. Matayoshi and ran off with her purse. *Id.* He dropped the purse as officers pursued and eventually arrested him. *Id.*

B. Prior strikes.

In 1989, Mr. Thompson was convicted of robbery for stealing \$1.25 from an acquaintance. (Ex. I; Ex. J.)

In 1990, Mr. Thompson pled guilty to two additional robbery convictions. (Ex. J.)

In 1991, Mr. Thompson was convicted of another “strong-arm” robbery. The sentencing court noted that he used “no weapons, no battery, no fighting, no injuries, fear, yes, but nothing else.” (Ex. K.)

II. SOCIAL HISTORY

A. Prison officials diagnosed Mr. Thompson with “severe” mental illness.

Mr. Thompson was identified by prison officials as suffering from “severe” mental illness as early as 1997, while incarcerated for a prior offense. (Ex. L.) Prison records show that Mr.

Thompson suffers from chronic mental illness that includes suicide attempts, hallucinations, and episodes of severe psychological distress during both his current and prior incarcerations. (Ex. M.) During his prior incarceration, Mr. Thompson received care through the prison system's Mental Health Crisis Bed (MHCB) and Enhanced Outpatient (EOP) programs in 1999 and 2000. (Ex. E; Ex. C.) EOP is used to treat incarcerated people with an "Acute Onset or Significant Decompensation of a serious mental disorder characterized by increased delusional thinking, hallucinatory experiences, marked changes in affect, and vegetative signs with definitive impairment of reality testing and/or judgment." *Mental Health Service Delivery System Program Guide, 2009 Revision*, Cal. Dep't of Corr. & Rehab. 12-1-7 – 12-1-8 (2009). These programs provide the highest level of prison mental health care for the most severely mentally ill patients.

Records show Mr. Thompson was receiving psychiatric treatment in February 2000, only months before his current offense. (Ex. C.)

Mr. Thompson's mental illness is severe, and the treatment he has received in prison reflects the depth of his issues. Mr.

Thompson has been sent to a Mental Health Crisis Bed thirteen times while in prison. (Ex. N.) Mental Health Crisis Beds are reserved for inmates who are suffering “severe episodes of psychiatric distress or mental disorder.” Calif. Dept. of Corr. & Rehab., *The Mental Health Services Delivery System* (2020).³ While incarcerated, Mr. Thompson has attempted suicide twice: once in 1997 and once in 2004. (Ex. O.) Medical records have described Mr. Thompson as “highly symptomatic,” and he has been prescribed psychotropic medications for many years to manage his symptoms. (Ex. N.) During his current incarceration, Mr. Thompson has received treatment under the California Correctional Case Management, Mental Health Crisis Bed, and Enhanced Outpatient Care programs. (Ex. N.)

Mr. Thompson’s prison records demonstrate that his severe mental illness (and documentation of his psychiatric condition) preceded his commitment offense by many years. (Ex. A; Ex. B.) These records show that he was experiencing auditory hallucinations at age thirty-one, while he was incarcerated for a

³ Available at <https://www.cdcr.ca.gov/bph/wp-content/uploads/sites/161/2020/10/Mental-Health-Delivery-System-rem.pdf>

prior offense in 1996. (Ex. B.) This predates his commitment offense by four years. He first attempted suicide a year later, in 1997, while still incarcerated on this prior offense. (Ex. A.) The same year, Mr. Thompson entered CDCR's California Correctional Case Management System (CCCMS). (Ex. L.) To enter CCCMS, patients must be diagnosed by prison mental health experts as "seriously mentally ill." CDCR, *The Mental Health Services Delivery System* (2020).⁴ Patients treated in CCCMS are provided with an individualized treatment plan, crisis intervention, a primary clinician, medication, and other services. *Id.*

Mr. Thompson also received more intensive levels of mental health care during this prior incarceration. In 1999, Mr. Thompson was sent to a Mental Health Crisis Bed (MHCB) after hearing voices that told him to break his radio. (Ex. E.) At this time, prison officials had prescribed him psychotropic medication. (Ex. E.) During this prior incarceration, Mr. Thompson also took part in CDCR's Enhanced Outpatient Program (EOP). (Ex. C.)

⁴ Available at <https://www.cdcr.ca.gov/bph/wp-content/uploads/sites/161/2020/10/Mental-Health-Delivery-System-rem.pdf>

EOP patients are provided with the “[h]ighest level” of outpatient prison mental health care and reside in separate housing units.

CDCR, *The Mental Health Services Delivery System* (2020).⁵

Today, Mr. Thompson is receiving the mental health care he needs. Indeed, prison records indicate that Mr. Thompson “currently presents stable, with good insight and motivation for treatment.” (Ex. P.) Despite his struggles with mental illness, prison officials describe Mr. Thompson as “calm, polite, cooperative” with a “significant amount of protective factors including regular exercise, family support, religious support, future orientation, job assignment, insight, sense of optimism, active & motivated in psych treatment.” (Ex. Q.)

B. Childhood trauma: abuse, deprivation, and pervasive violence.

Mr. Thompson was born in Compton, California in 1965, and his family lived in extreme poverty. Hunger was constant. Mr. Thompson’s father was an alcoholic who spent much of his time drinking and was unable to provide for his family. The cupboards in their house were often bare, and Mr. Thompson’s

⁵ Available at <https://www.cdcr.ca.gov/bph/wp-content/uploads/sites/161/2020/10/Mental-Health-Delivery-System-rem.pdf>

family faced cutoffs of water and electricity for days at a time.

Mr. Thompson lacked clean clothes and hole-free shoes. He lived his early childhood in tight quarters, sharing a single bedroom with six of his siblings.

Mr. Thompson first recalls being conscious of stealing at age eight. Driven by hunger, and with no food in the house, he and his siblings would sneak out of the house to the nearby corner store. There, they would grab food off the shelves and produce displays and attempt to eat it as quickly as possible before they were caught by store employees. When questioned, Mr. Thompson would claim that his parents were elsewhere in the store, and that they had already purchased the food.

Often, Mr. Thompson and his siblings would be caught, and these and other perceived infractions lead to physical violence from his parents. After Mr. Thompson was caught eating a cupcake from the store display, his mother asked that the employees stay and watch while she beat him. Mr. Thompson's father also threatened his children, telling them "I'll kill you if I ever catch you stealing food." He would beat them with belts, tree branches, or household objects.

Violence was not only endemic to Mr. Thompson's home life, but it also surrounded him in his neighborhood. Mr. Thompson's family home, on 152nd street in Compton, sat at the border between an African American neighborhood and the territory of a fervently anti-Black gang. The gang targeted Mr. Thompson's family—who are African-American—throughout his childhood, and their “campaign of terror” against Black residents in Compton continues to the present. Richard Winton, *Two Latinos Plead Guilty to Hate Crimes Against Blacks in Compton*, L.A. TIMES (Oct. 17, 2013).⁶ Members of the gang shot into Mr. Thompson's house at random throughout the day and night. He and his siblings frequently huddled under their beds as bullets ricocheted off the front of their house and left their porch riddled with holes.

These threats often escalated to violence. At age eight, Mr. Thompson witnessed gang members shoot a man through his car

⁶ Available at <https://www.latimes.com/local/lanow/la-xpm-2013-oct-17-la-me-ln-latino-plead-guilty-hate-crimes-blacks-compton-20131017-story.html#:~:text=Two%20members%20of%20155th%20Street%20Gang%20were%20charged%20with%20federal%20hate%20crimes.&text=Two%20Latino%20gang%20members%20pleaded,Am%20ericans%20out%20of%20west%20Compton>

windshield, killing him instantly. When he was nine, members of the gang set his brother's car on fire when only Mr. Thompson and his brother were home. His brother handed him one of his father's guns and they stood together on their front porch prepared to shoot any gang members who returned. Mr. Thompson was terrified that he would be shot or would need to shoot to defend himself. At age ten, Mr. Thompson saw his father stabbed multiple times while defending his home from gangs, and believed he might witness his father killed in front of him. This was just one of many times a young Mr. Thompson anxiously observed his father fending off gang members through the blinds of his family living room.

Mr. Thompson witnessed the deaths of many of his childhood friends at the hands of this endemic violence. He walked to school each day in fear of getting beaten up or killed. Partially to avoid the unyielding violence in his neighborhood, Mr. Thompson stayed late at school to play sports. He was on the football, baseball, track, water polo, and swimming teams, and regularly practiced on his own after games.

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C. “Low Risk” for release.

A validated, evidence-based public safety risk assessment designed and administered by CDCR concluded that Mr. Thompson is “low risk” to commit a new crime if released. (Ex. R.) This is the best possible score in evaluating his current risk to public safety under the California Static Risk Assessment (“CSRA”). (*Id.*) According to CDCR, the CSRA is a validated risk assessment of criminogenic factors that are “most predictive of recidivism.” Cal. Code Regs. tit. 15, § 3768.1.

The CSRA was developed by CDCR and the Center for Evidence Based Corrections at the University of California. It predicts the likelihood of a new felony arrest for crimes involving violence, property, and drugs, based on twenty-two objective and static risk factors, including prior convictions, use of violence, and age at release. Evaluations of the CSRA have verified that the assessment “is predictive in determining an offender’s likelihood of conviction upon release.” CDCR Office of Research, 2017 Outcome Evaluation Report (updated Jun. 2018). Mr. Thompson has a score of “1-Low,” which is the best possible score on the CSRA and reflects the lowest possible risk of recidivism upon release. (Ex. R.)

D. Age and physical infirmity.

Mr. Thompson is fifty-eight years old, an age that case law, empirical research, and CDCR regulations recognize as having a “drastically reduced recidivism risk.” *See, e.g., In re Stonerod*, 215 Cal. App. 4th 596, 634 n.21 (2013) (recognizing that “criminality . . . declines drastically after age 40 and even more so after age 50”) (quoting Weisberg et al., Stanford Criminal Justice Center, *Life in Limbo: An Examination of Parole Release for Prisoners Serving Life Sentences with the Possibility of Parole in California* (Sept. 2011)); Cal. Code Regs. tit. 15, § 2281(d)(7). In addition to his age, Mr. Thompson suffers from dyspnea on exertion, obesity, kidney disease, and other conditions which have reduced his mobility and strength. (Ex. S; Ex. T.)

E. Excellent conduct in prison.

Mr. Thompson’s low risk for reoffending is also reflected in his excellent conduct in prison. Prison officials have described Mr. Thompson as “calm, polite, [and] cooperative.” (Ex. Q.) His positive behavior is reflected in his CDCR security classification score of twenty-one (21), which is only two points shy of nineteen (19), the best possible score for a life-sentence prisoner. (Ex. R.)

Mr. Thompson has participated in several educational courses while in prison and has earned certificates for Substance Abuse and Narcotics Anonymous. (Ex. U.) He has received praise from prison officials for his conduct in life skills coursework. In 2020, Dr. Diaz of RJ Donovan Correctional Facility noted that Mr. Thompson “thoughtfully, insightfully, and diligently completed” a Substance Abuse Lifeskills course and commended Mr. Thompson “for his continual work and interest in self-improvement.” (Ex. V.) Mr. Thompson is committed to staying sober and has refrained from using drugs for over fifteen years. (Ex. N.) He has no history of positive drug tests while in prison. *Id.*

A deeply religious man, Mr. Thompson has also been recognized for the support he has provided his fellow inmates “by organizing memorials for inmate peers on the yard who have passed away” as well as to commemorate the passing of inmates’ family members. He prepared memorial pages and wrote music to play in memorial services. Prison officials noted that Mr. Thompson “truly provides a valuable service to inmate peers when in distress.” (Ex. W.) He currently attends church service

weekly and plays guitar in the yard band at Mule Creek State Prison.

ARGUMENT

I. MR. THOMPSON’S SIXTH AMENDMENT AND DUE PROCESS RIGHTS WERE VIOLATED AT HIS SENTENCING HEARING IN 2001

In a Three Strikes case, a failure by defense counsel to present readily available, material mitigating evidence at sentencing violates a defendant’s Sixth Amendment right to effective assistance of counsel and warrants a new sentencing hearing. *People v. Thimmes*, 138 Cal. App. 4th 1207, 1212 (2006) (“A standard of reasonable competence requires defense counsel to diligently investigate the case and research the law.”); *see also People v. Williams*, 17 Cal. 4th 148, 161 (1998) (holding that a trial court “must” consider the defendant’s “character, background, and prospects” prior to imposing a Three Strikes sentence).

Here, Mr. Thompson’s counsel during sentencing failed to investigate or present any mitigating evidence regarding Mr. Thompson’s severe mental illness and severe childhood trauma, which are proven to place defendants outside the ambit of the Three Strikes law. *See, e.g., People v. Dryden*, 60 Cal. App. 5th

1007, 1029-32 (2021) (holding that imposing a Three Strikes sentence was an abuse of discretion for a defendant with similar crimes and mitigating circumstances); *People v. Avila*, 57 Cal. App. 5th 1134, 1040-41 (2020) (same). Mr. Thompson's trial attorney presented no evidence and made only cursory argument on Mr. Thompson's behalf during the sentencing hearing and in a brief *Romero* motion. (See RT 227-243; Ex. X; Ex. Y.)

Counsel presented no evidence of Mr. Thompson's mental illness even though documents available at the time showed that he had been diagnosed with "severe" mental illness by state mental health experts less than a year prior to his commitment offense and had attempted suicide fewer than four years prior. (Ex. A; Ex. C; Ex. E.) This evidence strongly suggested that Mr. Thompson suffered from serious mental illness at the time of his commitment offense, but the court was not afforded the opportunity to hear it. In addition, none of Mr. Thompson's extensive history of childhood abuse and neglect was explored or even presented. These factors are material and precisely the kind of mitigating evidence that Courts of Appeal have held put a defendant outside the ambit of the Three Strikes law. *See, e.g.,*

Dryden, 60 Cal. App. 5th at 1029-32; *Avila*, 57 Cal. App. 5th at 1140-41.

A. Counsel’s performance at Mr. Thompson’s sentencing fell below an objective standard of reasonable care.

In a Three Strikes sentencing hearing, “[a] standard of reasonable competence requires defense counsel to diligently investigate the case and research the law.” *Thimmes*, 138 Cal. App. 4th at 1212; *see also Sanders v. Ratelle*, 21 F.3d 1446, 1456 (9th Cir. 1993) (requiring defense counsel to, at “minimum, *conduct a reasonable investigation* enabling him to make informed decisions about how best to represent his client”) (emphasis in original).

California courts have held that failure to investigate a mental health defense for a seriously mentally ill client with “voluminous medical records presenting this evidence” constitutes deficient performance. *See People v. O’Hearn*, 57 Cal. App. 5th 280, 288 (2015).⁷

⁷ Standards of professional conduct from the American Bar Association (ABA) may serve as “guides to determining what is reasonable” in the claims of ineffective assistance of counsel. *Strickland v. Washington*, 466 U.S. 668, 688 (1984). According to the ABA, “[d]efense counsel should conduct a prompt investigation of the circumstances of the case and explore all

Here, Mr. Thompson’s attorney failed to investigate or present any evidence regarding Mr. Thompson’s mental health history and childhood abuse. This failure constituted a classic case of deficient performance. *See, e.g., In re Sixto*, 48 Cal. 3d 1247, 1257 (1989) (failure to investigate which results in the omission of a potentially meritorious argument is a classic case of ineffectiveness); *People v. Ledesma*, 43 Cal. 3d 171, 221-28 (1987) (same).

Mr. Thompson’s attorney focused his brief *Romero* argument solely on the lack of a weapon in any of Mr. Thompson’s offenses and Mr. Thompson’s drug problem. (RT 242.) He was apparently unaware of Mr. Thompson’s mental illness. *Id.* Had Mr. Thompson’s attorney consulted Mr. Thompson’s available prison files prior to sentencing, he would have discovered that Mr. Thompson had been discharged from CDCR’s Enhanced Outpatient mental health program for high-needs inmates and transferred to the California Correctional

avenues leading to facts relevant to the merits of the case and the penalty in the event of conviction.” ABA Criminal Justice Defense Standard 4-4.1(a) (3d ed. 1993). Defense counsel must also “present to the court any grounds which will assist in reaching a proper disposition favorable to the accused.” ABA Criminal Justice Defense Standard 4-8.1(b) (3d ed. 1993).

Case Management System on February 15, 2000, only months before his commitment offense. (Ex. C.) Had Mr. Thompson's counsel even spoken with his client about his mental health issues, he would have discovered that his client had a history of auditory hallucinations, had attempted suicide in 1997, and had a history of childhood abuse and neglect. (Ex. A; Ex. C.)

If trial counsel had investigated, or merely consulted with his client, he would have been able to provide the court with relevant information regarding Mr. Thompson's "character, background, and prospects," which a court "must consider" before imposing a Three Strikes sentence. *Williams*, 17 Cal. 4th at 161.⁸

B. Trial counsel's failure prejudiced Mr. Thompson's sentencing because compelling mitigating evidence and new case law show Mr. Thompson falls at least partially "outside the spirit" of the Three Strikes law.

Trial counsel's failure to investigate left the Court ignorant of powerful mitigating evidence regarding Mr. Thompson's severe mental illness and traumatic and abusive childhood. *See People v. Belmontes*, 34 Cal. 3d 335, 348 n.8 (1983) ("Defendants are

⁸ Trial counsel's performance was deficient "even if the petitioner himself failed to come forward with evidence of his difficult history." *In re Lucas*, 33 Cal. 4th 682, 729 (2004).

entitled to sentencing decisions made in the exercise of the ‘informed discretion’ of the sentencing court.”).

It is well-settled in California that mental illness and childhood abuse are compelling mitigating factors at sentencing. The California Penal Code recognizes mental illness as a mitigating factor, as do the California Rules of Court. Penal Code § 1385(c)(2)(D); Cal. Rule Ct. 4.423(b)(2). California law also recognizes childhood trauma, including both abuse and neglect, as a mitigating factor. Penal Code § 1385(c)(2)(E).

Courts have described a failure to investigate mental illness, substance abuse, and childhood circumstances as “profoundly prejudicial” when “substantial and potentially compelling mitigating evidence” exists. *Silva v. Woodford*, 279 F.3d 825, 847 (9th Cir. 2002). Similarly, evidence of childhood abuse is “especially mitigating” and its omission is “particularly prejudicial.” *Andrews v. Davis*, 944 F.3d 1092, 1117 (9th Cir. 2019).

Indeed, California Courts of Appeal have held that defendants with mitigating circumstances similar to Mr. Thompson’s necessarily fall “outside the spirit” of the Three Strikes law and do not merit indeterminate life sentences. *See*

People v. Dryden, 60 Cal. App. 5th 1007 (2021), and *People v. Avila*, 57 Cal. App. 5th 1134 (2020). In *Dryden*, the Court of Appeal found that a trial court abused its discretion when it failed to strike any of the defendant’s prior strikes based on mitigating circumstances similar to those in Mr. Thompson’s case.⁹ The court in *Dryden* held that the following mitigating circumstances put the defendant outside the spirit of the Three Strikes law. First, the court noted the defendant’s “long history” of mental illness. *Id.* Second, the court noted the defendant’s “violent and abusive upbringing” and history of addiction. *Id.* Like the defendant there, Mr. Thompson suffers from lifelong, severe mental illness, which predates his instant conviction, according to prison psychiatric evaluations. (Ex. A; Ex. C; Ex. D.) He also suffered extraordinary violence and neglect as a child. If these mitigating factors put that defendant in *Dryden* outside the spirit of the Three Strikes law despite his more serious offenses,

⁹ Mr. Thompson’s criminal record is similar to the defendant’s in *Dryden*. In *Dryden*, the defendant was being sentenced for two counts of assault with a deadly weapon plus strike priors for assault with a deadly weapon and two counts of residential burglary. *Dryden*, 60 Cal. App. 5th at 1030. Compared with Mr. Thompson’s instant offense and priors, which never involved a weapon, the criminal record of the defendant in *Dryden* was arguably more serious.

then so too do they place Mr. Thompson outside the spirit of the law.

Similarly, in *Avila*, 57 Cal. App. 5th 1140-1141, the Court of Appeal again held that a Three Strikes sentence was inappropriate given mitigating circumstances similar to those present here. In *Avila* the defendant was convicted of attempted robbery and attempted extortion with strike priors for second degree robbery and assault with a deadly weapon. *Id.* The Court of Appeal reversed a Three Strikes life sentence as an abuse of discretion, pointing to the following mitigating factors. First, the court noted the young age of the defendant when he committed his prior strikes. *Id.* at 1141. Here, Mr. Thompson committed his strike priors at the young ages of twenty-four and twenty-six. Second, the court noted that the defendant did not use a weapon in his current strike. *Id.* at 1142. Similarly, Mr. Thompson did not use a weapon in any of his offenses. Third, the court noted that the defendant had been exposed to drugs at a young age and that his criminal conduct “appear[ed] to be related to his drug addiction rather than to sinister motives.” *Id.* at 144-45. Similarly, here, Mr. Thompson was exposed to drugs by his family at a young age. Each of Mr. Thompson’s convictions arose

from his drug addiction as well as the mental illness and childhood abuse which precipitated his drug addiction.

Mr. Thompson's prolonged periods of addiction, related to his mental illness and childhood trauma, are also recognized as a mitigating sentencing factor. *See People v. Garcia*, 20 Cal. 4th 490, 503 (1999) (reversing Court of Appeal and holding defendant's mitigating circumstances, including "drug addiction," put him outside the spirit of the Three Strikes law).

Because none of these mitigating circumstances were presented at his original sentencing, Mr. Thompson is entitled to habeas relief to afford him the opportunity for a full and fair resentencing hearing. At minimum, Mr. Thompson should have an opportunity to fully develop evidence of mental illness and childhood trauma that may put him "outside the spirit" of the Three Strikes law, at least in part, and show that he "hence should be treated as though he had not previously been convicted of one or more serious and/or violent felonies." *Williams*, 17 Cal.4th at 161.¹⁰

¹⁰ According to ballot materials accompanying the initiative that enacted the 1994 Three Strikes law, the sentencing scheme was intended to keep "career criminals, who rape women, molest innocent children and commit murder, behind bars where they

II. MR. THOMPSON'S SENTENCE VIOLATES NEW CONSTITUTIONAL PRECEDENT IN *PEOPLE v. AVILA*

New precedent from the California Court of Appeal holds that life sentences imposed under the Three Strikes law in circumstances materially indistinguishable from Mr. Thompson's case violate the state's constitutional ban on disproportionate sentences. *Avila*, 57 Cal. App. 5th at 1145 (citing *In re Lynch*, 8 Cal. 3d 410, 424 (1972)).¹¹

Here, Mr. Thompson's commitment offense and prior crimes are less serious and violent than the defendant's in *Avila*. Simply put, if the Three Strikes sentence in *Avila* was unconstitutionally disproportionate then so is Mr. Thompson's.

A. Mr. Thompson's commitment offense is indistinguishable from *Avila*.

In *Avila*, the defendant was convicted of attempted robbery and extortion. He accosted two different victims over multiple days. He threatened them, destroyed their property, and

belong.” (Ballot Pamp., Gen. Elec. (Nov. 8, 1994), Argument in Favor of Prop. 184, p. 36). Mr. Thompson has never committed any such crime.

¹¹ Constitutional rulings based on excessive punishment and evolving standards of decency apply retroactively. *In re Kirchner*, 2 Cal. 5th 1040, 1048-49 (2017) (quoting *Montgomery v. Louisiana*, 136 S. Ct. 718, 734 (2016)).

demanded protection money. 57 Cal. App. 5th at 1139. The trial court described Mr. Avila's crimes as "brutal" and "violent" and targeting vulnerable victims by invoking gang violence. *Id.* at 1142. *Id.* Nevertheless, the Court of Appeal held that Avila's offenses were minor because they did not involve actual violence and because they involved only a small amount of property loss. *Id.* at 1146.

Similarly, here, Mr. Thompson was convicted of bungled purse snatching by a seriously mentally ill person, where no one was seriously injured, and no property was lost. *Thompson*, No. B149398, 2002 WL 49820, at *1. If the crime in *Avila* was unsophisticated, then Mr. Thompson's offense was altogether amateurish. Mr. Thompson's crime was unplanned and involved only a single victim. Mr. Thompson made no reference to organized crime. He used no weapons, and no one was seriously injured.¹² His victim alerted the police to the crime almost immediately, and Mr. Thompson was apprehended near the

¹² Though Mr. Thompson's sentencing judge noted that "the potential in this case was very serious," it is actual violence and threats, not the potential for them, that matters here. (Ex. Z.) As the court noted in *Avila*: "Sentencing is not the proper venue for the trial court's imagination." 57 Cal. App. 5th at 1142.

scene. The purse that Mr. Thompson took was recovered, and no permanent property damage occurred. *Id.*

B. Mr. Thompson’s priors are indistinguishable from the defendant’s *Avila*.

Mr. Thompson’s criminal history and prior strikes are also similar to, and less serious than, the defendant’s in *Avila*.

In *Avila*, the defendant had prior convictions for assault with a deadly weapon, multiple robberies, and unlawful intercourse with a child under sixteen. 57 Cal. App. 5th at 1148.

Here, Mr. Thompson’s prior crimes (all robberies) were less violent. Like the defendant in *Avila*, Mr. Thompson committed his prior strikes at a young age. Mr. Thompson committed all but one of his prior strikes when he was younger than twenty-five, and committed the last when he was twenty-six. Furthermore, Mr. Thompson’s prior criminal history is less extensive and less serious than the defendant’s in *Avila*. Mr. Thompson’s prior convictions were for drug-motivated strong-arm robberies. He used no weapons, and no one was seriously injured.¹³ He has

¹³ Mr. Thompson’s first robbery was for \$1.25, which he stole to buy crack cocaine. (Ex. J.) Mr. Thompson’s second strike was for two closely related robberies of automobiles (Ex. AA.) Mr. Thompson’s third strike was also a drug-motivated strong-arm robbery, which the superior court judge characterized as: “in the

none of the violence or sex-related convictions that appear in *Avila*. Mr. Thompson's last prior offense occurred at least nine years before the instant offense.

C. Mr. Thompson's mitigators are indistinguishable from those in *Avila*.

The *Avila* Court also noted several mitigating factors that reduced the severity of the defendant's offense. In *Avila*, the Court held that the defendant's addiction, arising from his exposure to drugs at a young age, provided a "backdrop to his criminal history" and mitigated his culpability for his current offense. *Avila*, 57 Cal. App. 5th at 1148-49.

The same mitigating factors recognized in *Avila* apply with equal if not greater force in Mr. Thompson's case. Like the defendant in *Avila*, Mr. Thompson was exposed to drugs at a young age. Just as the defendant in *Avila*, Mr. Thompson struggled with addiction and drug abuse throughout his early adulthood, when he committed his strike priors. Mr. Thompson was under the influence of drugs during his commitment offense. *People v. Thompson*, No. B149398, 2002 WL 49820 at *1 (Cal. Ct.

scheme of robberies, comparatively speaking, [it] was far less bad; no weapons, no battery, no fighting, no injuries, fear, yes, but nothing else." (Ex. K.)

App. Jan. 15, 2002) (Ex. BB.) Moreover, like the *Avila* defendant, Mr. Thompson suffered childhood abuse and neglect at the hands of his alcoholic father and the instability and violence surrounding his childhood home.

In addition to the factors mentioned in *Avila*, Mr. Thompson's crime is also mitigated by his severe mental illness at the time of his commitment offense. (Ex. A; Ex. B; Ex. C.)

D. The “Evolving Standards of Decency” analysis from *Avila* applies with equal or greater force here.

Avila held that the “evolving state of California’s criminal jurisprudence” invalidated certain Three Strikes sentences, even though many sentences imposed under the Three Strikes law have been upheld in the past. 57 Cal. App. 5th at 1150. The court held that the constitutional calculus had changed due to a “sea change in sentences,” enumerated legislative changes to specific recidivist laws, doctrinal development in California’s cruel or unusual jurisprudence, and “broad penal reform.” *Id.* at 1151. Such reforms allow laws to “fairly address a person’s individual culpability and to reduce prison overcrowding that partially resulted from lengthy sentences incommensurate to the individual’s culpability.” *Id.* at 1151. These changes include:

Proposition 36's transformation of the Three Strikes law so that it now exempts non-violent and non-serious third strike felonies; court discretion to strike firearms enhancements; court discretion to strike five-year sentence enhancements; limits on one-year prison priors; limits on health and safety enhancements; prohibitions on the death penalty for juveniles; limits on life without parole for juveniles; other limits on lengthy sentences for juveniles; greater parole considerations for youth offenders; restrictions to the applicability of felony murder; and restrictions on lengthy sentences for murder. *Id.* at 1141, 1149-51.

Since *Avila* was decided, California sentencing law has “evolved” even more, amplifying the disproportionality of Mr. Thompson’s sentence. *See id.* at 1149-1150 (citing *In re Foss*, 10 Cal. 3d 910, 923 (1974)). On October 12, 2021, for example, the Governor signed Senate Bill No. 567 into law, reducing criminal sentences across the board by restricting the ability of courts to impose the harshest of punishments. Penal Code §§ 1170, 1170.1. Other notable changes include Senate Bill No. 81, which requires courts to now afford greater weight to “evidence offered by the defendant to prove that specified mitigating circumstances are present.” Senate Bill No. 81, California 2021-2022 Regular

Session. Since *Avila*, Proposition 57 has been developed further, now providing credit-earning opportunities to incarcerated people for sustained good behavior and increasing parole consideration for nonviolent offenders. CDCR, *Proposition 57: Credit-Earning Opportunities*.¹⁴

In addition to observing sentencing changes in California, the *Avila* court compared the punishment the defendant received for attempted robbery and attempted extortion to the punishments for other crimes. The court noted that the defendant's thirty-nine years-to-life sentence "exceed[ed] the punishment in California for second degree murder, attempted premeditated murder, manslaughter, forcible rape, and child molestation." 57 Cal. App. 5th at 1151.

Here, Mr. Thompson received a forty years-to-life sentence for stealing a purse. That sentence likewise exceeds the punishment in California for these other, more serious crimes. Moreover, the time that Mr. Thompson has already served exceeds the typical sentence for intentional homicide. The average amount of time served in state prisons by individuals

¹⁴ Available at <https://www.cdcr.ca.gov/proposition57/>.

convicted of homicide is seventeen years. “Time Served in State Prison,” Bureau of Justice Statistics, U.S. Dept. of Justice, Office of Justice Programs (March 2021). Mr. Thompson has already served more than twenty years.

III. MR THOMPSON’S FORTY YEARS-TO-LIFE SENTENCE VIOLATES THE EQUAL PROTECTION CLAUSE

Mr. Thompson’s sentence violates the Equal Protection Clause because similarly situated defendants have a right to have their sentences reevaluated under new law—Penal Code section 1172.75—but Mr. Thompson does not. *See People v. Morales*, 63 Cal.4th 399, 408 (2016)) (“The concept of equal treatment under the laws means that persons similarly situated regarding the legitimate purpose of the law should receive like treatment.”).

Mr. Thompson was sentenced to forty years-to-life under the Three Strikes law. At the time of his sentencing, the sentencing judge exercised his authority under section 1385 of the Penal Code and struck three one-year enhancements for prior prison commitments under Penal Code section 667.5(b). (Ex. CC.) Similarly situated defendants who were not offered such mercy received longer sentences under the enhancement.

Today, that enhancement has been repealed, and defendants who received the longer sentence, by virtue of the section 667.5(b) enhancement, now have an opportunity for reevaluation of their entire sentence under section 1172.75(d) of the penal code. *See People v. Monroe*, 85 Cal. App. 5th 393, 401 (2022) (holding that 1172.75 “requires a full resentencing, not merely that the trial court strike the newly ‘invalid’ enhancements.”); *People v. Buycks*, 5 Cal. 5th 870, 893 (2018) (“[W]hen part of a sentence is stricken . . . [at] resentencing ‘a full resentencing as to all counts is appropriate.’”)

The result is that a person serving a longer sentence than Mr. Thompson, and with an identical criminal history, has an opportunity for a new sentence and possible release, while Mr. Thompson does not. In fact, had Mr. Thompson received a longer sentence—by the imposition of sentence enhancements under section 667.5(b)—he would be entitled to reconsideration of his current Three Strikes sentence under section 1172.75(d) and *Monroe*. 85 Cal. App. 5th at 402.

When those who appear similarly situated are treated differently, the Equal Protection Clause requires “at least a rational reason for the difference.” *Engquist v. Oregon Dept. of*

Agriculture, 553 U.S. 591, 602 (2008). There is no rational justification to differentiate Mr. Thompson from similarly situated defendants who have new sentencing opportunities because they received an additional enhancement under section 667.5(b). Mr. Thompson must be entitled the benefit of section 1172.75 and a chance for his current sentence to be reevaluated.

IV. MR THOMPSON IS ENTITLED TO RECONSIDERATION OF HIS SENTENCE UNDER NEW PENAL CODE SECTION 1172.1(a) / A.B. 600

On January 1, 2024, new Penal Code section 1172.1(a) became effective, enacted by Assembly Bill 600 (2023). As relevant here, the new law permits reconsideration of a defendant's sentence "at any time" if sentencing laws have changed since the defendant was originally sentenced. *See generally* J. Richard Couzens, Recall of Sentence, Penal Code § 1172.1 (Dec. 2023) (discussing new law and listing statutory changes that make defendants eligible for sentence reconsideration).

Here, California has enacted several amendments to its sentencing laws since Mr. Thompson was originally sentenced twenty years ago. Perhaps most importantly, the law that controls whether to impose or dismiss prior strike allegations,

Penal Code section 1385, now includes specific mitigating circumstances and legal presumptions that would have benefited Mr. Thompson had it been in effect at the time of his sentencing. *See* Penal Code § 1385(c)(2)(D) and (E) (listing mental illness and childhood trauma as mitigating factors weighing in favor of dismissing enhancements).

New Penal Code section 1172.1(a) provides this Court an opportunity to resentence Mr. Thompson under current law if “in the interests of justice.”

As discussed above, several mitigating factors in Mr. Thompson’s case have never been presented in court before and warrant a reconsideration of his current life term. These mitigators include:

- A lifelong history of severe mental illness. *See* Penal Code § 1385(c)(2)(D) (listing mental illness as a mitigating factor at sentencing).
- A social history of childhood trauma, neglect, deprivation, and violence. *See* Penal Code § 1385(c)(2)(E) (listing childhood trauma as a mitigating factor at sentencing).
- Mr. Thompson is “low risk” to commit a new crime if released according to evidence-based evaluation designed

and administered by CDCR officials. *See* Cal. Code Regs. tit. 15, § 3768.1 (describing the California Static Risk Assessment as evaluating factors “most predictive of recidivism.”) (Ex. R).

- Long history of in-prison rehabilitative programming, lack of prison rule violations, and compliance with mental health treatment. Mr. Thompson’s low security classification score (21) reflects his participation in rehabilitative programing (including sobriety maintenance) and compliance with prison rules and regulations over time. (Ex. U; Ex. V; Ex. N.) Prison officials describe Mr. Thompson as “calm, polite, [and] cooperative.” (Ex. Q.) Today, Mr. Thompson is receiving the mental health care he needs, and prison records indicate that Mr. Thompson “currently presents stable, with good insight and motivation for treatment.” (Ex. P.)
- Advanced age and diminished physical condition further reduce Mr. Thompson’s recidivism risk. *See In re Stoneroad*, 215 Cal. App. 4th 596, 634 n.21 (2013) (recognizing that “criminality . . . declines drastically after age 40 and even more so after age 50”)

- Finally, Mr. Thompson has been accepted in an award-winning, secure, long-term residential reentry provider that can closely supervise Mr. Thompson’s release with on-site parole and CDCR officers and care for his medical and mental health needs. *See* Anita Chabria, “In L.A. a new vision of incarceration proves that rehabilitation works,” *Los Angeles Times* (Dec. 26, 2023) (profiling the reentry program where Mr. Thompson has been accepted).

None of these critical factors were presented at Mr. Thompson’s original sentencing hearing and have never been heard by a court. In light of these facts, Mr. Thompson’s long sentence, and relatively minor criminal history, he deserves one full, fair chance to litigate his case and present all available evidence related to a fair punishment.

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CONCLUSION

For the foregoing reasons, Mr. Thompson respectfully requests that this Court grant his petition.

Dated: May 13, 2024

Respectfully submitted,

THREE STRIKES PROJECT
Stanford Law School
Attorneys for Eugene Thompson

By: /s/ Michael S. Romano
Michael S. Romano, SBN 232182

VERIFICATION

I, Michael Romano, declare under penalty of perjury that I am counsel for petitioner Eugene Thompson in his Petition for a Writ of Habeas Corpus. My business address is 559 Nathan Abbott Way, Stanford, CA, in Santa Clara County.

I am making this verification on his behalf because he is incarcerated out of county and because these matters are more within my knowledge than his.

I have read the foregoing Petition for a Writ of Habeas Corpus and declare that the contents of the petition are true and correct to the best of my knowledge.

Dated: May 13, 2024

/s/ Michael S. Romano
Michael S. Romano

CERTIFICATION OF WORD COUNT

Cal. Rule of Court 8.024(c)

The text of this brief consists of 9,272 words as counted by the Microsoft Office Word word processing program used to generate the brief.

Date: May 13, 2024

/s/ Michael S. Romano
Michael S. Romano

PROOF OF SERVICE

In re Eugene Thompson
(Los Angeles Cty. Super. Ct. Case no. YA045468)

I, DANIELLE RICHARDSON, declare that I am over the age of eighteen years and not a party to this action. My business address is 559 Nathan Abbott Way, Stanford, California 94305-8610.

On MAY 13, 2024, in Stanford, California, I served the foregoing PETITION FOR WRIT OF HABEAS CORPUS to the office of the Attorney General of the State of California using the TrueFiling electronic filing system at docketinglaawt@doj.ca.gov.

On May 13, 2024, I also served the foregoing PETITION to the following recipients by enclosing a true copy in a sealed envelope addressed to each person whose name and address is shown below and depositing the envelope in the United States mail with the postage fully prepaid:

Los Angeles District Attorney	Los Angeles County Superior Court
Writs & Appeals Division	Attn: Hon. Hector Guzman
320 W. Temple St., Suite 540	210 W. Temple Street
Los Angeles, CA 90012	Los Angeles, CA 90012

I declare under penalty of perjury of the laws of the State of California that the foregoing is true and correct, and that this declaration was executed on MAY 13, 2024, at Stanford, California.

/s/ Danielle Richardson
Danielle Richardson

S285006

Case no. _____

IN THE SUPREME COURT OF CALIFORNIA

In re

EUGENE THOMPSON

on Habeas Corpus

Los Angeles County Super. Ct. Case no. YA045468
Hon. F. Hourigan, III

**EXHIBITS IN SUPPORT OF PETITION FOR A WRIT OF
HABEAS CORPUS**

Michael S. Romano, SBN 232182
Ben Halom, Law Student
THREE STRIKES PROJECT
Stanford Law School
559 Nathan Abbott Way
Stanford, CA 94305
Tel: (650) 736-7757
Fax: (650) 723-8230
schampion@law.stanford.edu

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EXHIBIT A

CDCR Interdisciplinary Treatment Team
notes, 12/30/2021

SQ - San Quentin State PrisonPatient: **THOMPSON, EUGENE**

DOB/Age/Sex: 6/28/1965 / 57 years / Male

CDCR: E44409

Mental Health IDTT MPage Forms

Evidence of poor impulse control : Yes
History of violence in prison/jail : Yes
Poor insight motivation for treatment : No
Age less than 31 : No
IEX : No

Fosci, Simonetta Social Worker - 12/29/2021 13:46 PST

Suicide and Self-Harm Summary

Suicide and Self-Harm History : Yes

Fosci, Simonetta Social Worker - 12/29/2021 13:46 PST

Suicide and Self-Harm History Narrative : 5/30/20: Today, IP denied any history of SA. However, records indicate that he made an attempt in 2004 by OD on pills following the passing of his mother.

PULLED FORWARD -

IP reported two previous MHCB admissions: one for a suicide attempt & one for suicidal ideation. He has consistently reported the attempt in 2004 following the passing of his mother. He overdosed on pills and subsequently fell asleep. He woke up and reported being unable to see or open his eyes. He was taken to the hospital where his stomach was pumped and was kept there for three weeks. When he returned, he was admitted to EOP. He does not remember what triggered the other incident when he experienced suicidal thoughts nor does he remember when this occurred.

Previous documentation reveals a second attempt in 1997 where he attempted to jump off the tier but was restrained and talked out of it. He has also reported other incidences of suicidal ideation following the death of his father and disappointment at not attending a BPH.

Fosci, Simonetta Social Worker - 12/30/2021 9:42 PST

Fosci, Simonetta Social Worker - 12/30/2021 9:42 PST

Suicide History Grid

	Suicide Attempt #1	Suicide Attempt #2
Suicide Attempt Date :	1/1/1997 PST	3/18/2004 PST
Intent to Die :	Yes	Yes
Suicide Method :	Jumping	Pills/Overdose
Lethal Method? :	No	Yes - if the inmate had not been discovered he/she would have died
Medical Severity (1-4) :	1 - No apparent injury	4 - Severe, requiring intensive medical/surgical management; Hospitalization required

Report Request ID: 58692023

Print Date/Time: 8/10/2022 13:17 PDT

WARNING: This report contains confidential, proprietary, and/or legally privileged information intended for the recipient only.

Exhibits in Support of Petition

EXHIBIT B

CDCR Mental Health Documentation,
Encounter Date: 6/8/2018



HEALTH CARE SERVICES

RJD - RJ Donovan Correctional Facility

480 Alta Road

San Diego, CA 92179-

Patient: THOMPSON, EUGENE

DOB/Age/Sex: 6/28/1965 57 years Male

Encounter Date: 6/8/2018

Attending: Sedighi, Fred P&S

CDCR #: E44409

PID #: 11520631

Referring:

Mental Health Documentation

Document Type:

MHPC Progress Note

Document Subject:

MH PC Note

Service Date/Time:

7/16/2018 16:21 PDT

Result Status:

Auth (Verified)

Perform Information:

Sharp, Seneca Post-Doc Intern (7/16/2018 17:33 PDT)

Sign Information:

Sharp, Seneca Post-Doc Intern (7/16/2018 17:33 PDT)

Authentication Information:

Sharp, Seneca Post-Doc Intern (7/16/2018 17:33 PDT)

Inmate's Program and Level of Care

EOP

New Issues/Complaints

Presenting Problem MH

06/14/18 08:50:00

IP reported "I have an anger management certificate, I have a narcotic anonymous certificate, I would like to do a substance abuse or depression group." Regarding his current mental health symptoms, IP reported "I'm hearing voices, hearing voices all the time, saying that they're taking my head off, that they are taking my heartbeat away, sometimes I try to prevent it and it stresses me out and makes me very angry. Sometimes they tell me that people are going to do things to me, but they don't tell me to hurt no one or myself." IP denied CAH and commands to hurt himself or others. Reported AH onset in Corcoran SHU at age 31 when he first started hearing voices. When asked what he wanted to work on in EOP, he stated "I would like to work on the voices, I think they will always be with me, but I can get to where I can ignore them or they don't bother me."

IP reported his most recent MHC admit was in December 2016 after he learned that his parole date was moved from 2016 to 2020, stated that he became angry and depressed.

When asked how everything else was going, IP reported "I have a lot of concerns right now, I have about a year and a half before I go to the board and I just had throat cancer and the radiation and the chemo, then I had to do a CAT scan which came back negative, but I been having this big lump in my throat, I think it might be a sign of the cancer."

Signed By: Sharp, Seneca Post-Doc Intern

Current Status of Illness

IP presented as stable with no mental health decompensation observed or reported during the contact.

Collateral

None at this time

Mental Status

Appearance: _ CDCR blues, short and groomed goatee, short shaved head

Subjective/History of Present Illness

Met with IP in the housing unit due to refusing an earlier scheduled confidential contact.

Regarding his inability to make the confidential contact, IP stated "I was over there at group, and they just kept telling me to keep waiting for someone to come get me and I got tired and came back." IP also stated "I been doing alright, my group was good and everything has been going fine." IP was given a copy of his group schedule.

Problem List/Past Medical History

Ongoing

Adjustment disorder with mixed anxiety and depressed mood

Depression

Fever

Leukocytosis

Lymphadenopathy of left cervical region

Metastatic squamous cell carcinoma

Metastatic squamous cell carcinoma to tongue

Nausea

Obesity (BMI 30-39.9)

Schizoaffective disorder

Schizoaffective disorder

Historical

Abscessed tooth

IPOC Goals

Current IPOCs

Goals (Activated):

Hallucinations IPOC (Initiated) 06/14/2018 11:00

Indicators & Orders

Hallucinations IPOC (Initiated) 06/14/2018

Report Request ID: 58695853

Print Date/Time: 8/10/2022 13:21 PDT

WARNING: This report contains confidential, proprietary, and/or legally privileged information intended for the recipient only.

Exhibits in Support of Petition

EXHIBIT C

CDCR Mental Health Placement/Removal Forms,
3/14/1999; 2/15/2000

MENTAL HEALTH PLACEMENT
COMPLETE SECTION "A" OR "B" AS APPROPRIATE

APP

NAME: Thompson, V CDC#: E44409 HOUSING: AFAC DATE: 3/4/99 PBSP

This inmate has completed a mental health evaluation with the following results:

- ☐ DOES NOT MEET COURT ORDERED AT RISK CRITERIA FOR EXCLUSION FROM SHU
- ☐ DOES NOT MEET CRITERIA FOR INCLUSION IN THE MENTAL HEALTH TREATMENT POPULATION
- ☒ PRESENTLY INCLUDED IN MENTAL HEALTH TREATMENT POPULATION, NEW LEVEL OF CARE
- ☒ MEETS COURT ORDERED AT RISK CRITERIA FOR EXCLUSION FROM SHU
- ☒ MEETS INCLUSION CRITERIA FOR THE MENTAL HEALTH TREATMENT POPULATION

Level of Functioning Assessment (GAF) score or equivalent: 40 Psychotropic Medication: YES ☒ NO: ☐

Behavioral Alerts: _____

Previous Level of Care:

- ☐ Inpatient DMH. ☐ Crisis Beds (MHCB) ☐ Enhanced Outpatient (EOP) ☒ Clinical Case Management (C³MS)
- ☐ NO Mental Health Needs ☐ Other: _____

Treatment Team's Current Level of Care Recommendation:

- ☐ Inpatient DMH ☐ Crisis Beds (MHCB) ☒ Enhanced Outpatient (EOP) ☐ Clinical Case Management (C³MS)
- ☐ NO Mental Health Needs ☐ Other: _____

B. THIS INMATE HAS COMPLETED A MENTAL HEALTH ASSESSMENT AND DOES NOT MEET CRITERIA FOR INCLUSION IN THE MENTAL HEALTH TREATMENT POPULATION. (Check application box below.)

- ☐ As of _____ this C³MS inmate is in remission and free of psychotropic medication. clinical discharge from Mental Health Treatment Population will be on _____
- ☐ The inmate is removed from the Mental Health Treatment Population.
- ☐ The inmate's clinical situation was one of medical necessity as diagnosed by CDC clinical staff on _____. Medical necessity is no longer applicable, treatment has stopped and the inmate is removed from Mental Health Treatment Population.
- ☐ This inmate was initially designated as a Mental health treatment Population patient at a Reception Center or institution without a Mental Health treatment Population program. Within the last 90 days the inmate has transferred to a Mental Health treatment Population facility and a review of the inmate's Unit Health Record and assessment by the Interdisciplinary Treatment Population.

Additional Information: _____

cc: CC-II
C-File
Health Records


Treatment Team Chairperson


Chief Psychologist
W. SAVILLE, M.D.

DATE: 3/4/99 NAME: Thompson, V CDC#: E44409 HOUSE: AFAC 128-C

C:\FORMS\MHPLACE4.DOC

BC

MENTAL HEALTH PLACEMENT/REMOVAL

NAME: THOMPSON, EUGENE

CDC#: E44409

HOUSING: B3-223 DATE: 2-15-00

COMPLETE SECTION "A" OR "B" AS APPROPRIATE:

A. This inmate has completed a mental health assessment with the following results:

☐ DOES NOT MEET COURT ORDERED AT RISK
CRITERIA FOR EXCLUSION FROM SHU

☒ MEETS COURT ORDERED AT RISK CRITERIA
FOR EXCLUSION FROM SHU

☐ DOES NOT MEET CRITERIA FOR INCLUSION
IN THE MENTAL HEALTH TREATMENT POPULATION

☒ MEETS INCLUSION CRITERIA FOR THE MENTAL HEALTH
TREATMENT POPULATION

☒ No ☐ Yes Inclusion is based upon Medical Necessity. (Obtain Chief Psychiatrist/Designee signature.)

☒ PRESENTLY INCLUDED IN MENTAL HEALTH TREATMENT POPULATION NEW LEVEL OF CARE

Level of Functioning Assessment (GAF) score or equivalent: 55

Psychotropic Medication: YES: ☒ NO: ☐

Behavioral Alerts: _____

Previous Level of Care:

☐ Inpatient DMH.

☐ Crisis Beds (MHCBS)

☒ Enhanced Outpatient (EOP)

☐ Clinical Case Management (C³MS)

☐ NO Mental Health Needs

☐ Other: _____

Treatment Team's Current Level of Care Recommendation:

☐ Inpatient DMH.

☐ Crisis Beds (MHCBS)

☐ Enhanced Outpatient (EOP)

☒ Clinical Case Management (C³MS)

☐ NO Mental Health Needs

☐ Other: _____

B. **THIS INMATE HAS COMPLETED A MENTAL HEALTH ASSESSMENT AND DOES NOT MEET CRITERIA FOR INCLUSION IN THE MENTAL HEALTH TREATMENT POPULATION.** (Check applicable box below.)

☐ As of _____ this CCCMS inmate is in remission and free of psychotropic medication. Clinical discharge from Mental Health Treatment Population will be on _____.

☐ The inmate is removed from the Mental Health Treatment Population.

☐ The inmate's clinical situation was one of medical necessity as diagnosed by CDC clinical staff on _____. Medical necessity is no longer applicable, treatment has stopped and the inmate is removed from Mental Health Treatment Population.

☐ This inmate was initially designated as a Mental Health Treatment Population patient at a Reception Center or institution without a Mental Health Treatment Population program. Within the last 90 days the inmate has transferred to a Mental Health Treatment Population facility and a review of the inmate's Unit Health Record and assessment by the Interdisciplinary Treatment Team concludes the inmate does not meet the criteria for continued inclusion in the Mental Health Treatment Population.

Additional Information: _____

Original: Health Record

cc: CC-II
C-File

S. Clarke PhD
Treatment Team Chairperson

D. Abrahamowitz PhD
Chief Psychiatrist or Designee

DATE: 2-15-00 NAME: THOMPSON CDC# E44409 HOUSE: B3-223

128-C PBSP

EXHIBIT D

CDCR Interdisciplinary Treatment Team
notes, 9/5/2017

SATF - California Substance Abuse Treatment Facility

Patient: **THOMPSON, EUGENE**

DOB/Age/Sex: 6/28/1965 / 57 years / Male

CDCR: E44409

Mental Health IDTT MPage Forms

MHLowerRationale : I/P is symptomatic, on multiple psychotropic medications, & wishes to receive EOP LOC- Maintain at Modified EOP LOC until transfer to EOP yard.

Riffle, Jeffrey Psychologist - 9/5/2017 15:42 PDT

EOP Functional Evaluation

FE ability to understand instructions FE ability to understand instructions : I/P has proven capable of understanding, remembering, and carrying out simple instructions/basic tasks without difficulty.

FE ability to respond to coworkers : I/P appears to respond appropriately to others.

FE ability to be around objects : I/P does display psychosis and there may be some risk associated with being around potentially dangerous equipment and/or sharp objects.

FE ability to respond to work situations : I/P works as an ADA Caregiver and appears to function well.

FE ability to work in hot weather : I/P is currently on heat meds and that needs to be taken into consideration.

FE ability to work in large groups : No apparent problem. I/P functions on yard (socializes & exercises).

FE ability to deal with changes : No apparent problems. I/P has job, seems to function without difficulty.

FE any other MH limitations : None at this time.

FE activities/tasks the IP can still do : I/P appears to function well as a Caregiver.

Riffle, Jeffrey Psychologist - 9/5/2017 15:42 PDT

Clinical Summary & Case Formulation

Clinical Summary : 51 y/o, AA, Male sentenced to LWP for multiple robberies & an attempted carjacking-3rd Striker. I/P raised by his biological parents with 9 siblings; Denied a HX of childhood/adult trauma; Substance Use (PCP & Alcohol- Both Daily from 15 years of age, onward; Claims to be clean/sober for 15 years; Denies cravings; & No Hx of positive drug tests in prison). Enrolled in 12th Grade/Dropped Out/Did not graduate; Never married; 1 son- deceased; Worked in roofing/demolition (6 year Hx); Denied Community MH Tx or DSH placement; MHCB X 13; EOP placements X 8 (Most recent in 2010); CCCMS since 9/23/2011. I/P began hearing voices once he was incarcerated (1996). The I/P endorsed a depressed mood, feelings of worthlessness, anxiety, and difficulty managing his stress/anxiety. He denied any significant weight changes, fatigue, a diminished interest in activities, or panic attacks. I/P denied any history of current or past manic episodes. I/P reported No problems with sleep or appetite. I/P reports that he is attending to his ADL's and feels safe on the yard. I/P first began having depressive symptoms in 2004 after his mother's death. I/P keeps busy by exercising and reading. I/P currently prescribed psychotropic medications (Zyprexa & Zoloft), reports compliance, saw psychiatry last week, and had his previous anti-psychotic medication (Geodon) replaced with Zyprexa. On the Subjective Units of Distress Scale (SUDS), Symptoms are rated by patients 1-10; 10 being the worst. I/P rated his depressive symptoms as 7/10 (Same as Previous Rating). He rated his anxiety symptoms as 6/10 (Same as Previous Rating). I/P denied any further symptoms.

I/P highly symptomatic, on multiple psychotropic medications, recent MHCB admission, & wishes to have additional MH Services - Maintain on Modified EOP.

Predisposing Factors : Substance Abuse & High School Drop Out.

MH Perpetuating Factors : Multiple Incarcerations/Poor Distress Tolerance.

Precipitating Factors : Poor Distress Tolerance & Death of His Mother.

Maintaining Factors : Family Contact, Religious Beliefs, & Exercising

MH Case Formulation : I/P with early drug usage has developed maladaptive/minimal coping skills to allow him to manage his various challenges.

Riffle, Jeffrey Psychologist - 9/5/2017 15:42 PDT

Goal Setting with Patient

Contributed to goals and plan : Yes

Aware of plan content : Yes

Present at team meeting : Yes

Report Request ID: 58697840

Print Date/Time: 8/10/2022 13:41 PDT

WARNING: This report contains confidential, proprietary, and/or legally privileged information intended for the recipient only.

Exhibits in Support of Petition

EXHIBIT E

CDCR Mental Health notes, March 1999

MENTAL HEALTH PLACEMENT/REMOVAL

NAME: Thompson, Eugene CDC#: E-44409 HOUSING: INF. DATE: 3-3-99

COMPLETE SECTION "A" OR "B" AS APPROPRIATE:

A. This inmate has completed a mental health assessment with the following results:

☐ DOES NOT MEET COURT ORDERED AT RISK
CRITERIA FOR EXCLUSION FROM SHU

☒ MEETS COURT ORDERED AT RISK CRITERIA
FOR EXCLUSION FROM SHU

☐ DOES NOT MEET CRITERIA FOR INCLUSION
IN THE MENTAL HEALTH TREATMENT POPULATION

☒ MEETS INCLUSION CRITERIA FOR THE MENTAL HEALTH
TREATMENT POPULATION

☒ No ☐ Yes Inclusion is based upon Medical Necessity. (Obtain Chief Psychiatrist/Designee signature.)

☒ PRESENTLY INCLUDED IN MENTAL HEALTH TREATMENT POPULATION, NEW LEVEL OF CARE.

Level of Functioning Assessment (GAF) score or equivalent: 50

Psychotropic medication: YES: ☒ NO: ☐

Behavioral Alerts: _____

Previous Level of Care:

☐ Inpatient DMH.

☒ Crisis Beds (MHCB)

☐ Enhanced Outpatient (EOP)

☐ Clinical Case Management (C³MS)

☐ NO Mental Health Needs

☐ Other: _____

Treatment Team's Current Level of Care Recommendation:

☐ Inpatient DMH.

☐ Crisis Beds (MHCB)

☐ Enhanced Outpatient (EOP)

☒ Clinical Case Management (C³MS)

☐ NO Mental Health Needs

☐ Other: _____

B. THIS INMATE HAS COMPLETED A MENTAL HEALTH ASSESSMENT AND DOES NOT MEET CRITERIA FOR INCLUSION IN THE MENTAL HEALTH TREATMENT POPULATION. (Check applicable box below.)

☐ As of _____ this CCCMS inmate is in remission and free of psychotropic medication. Clinical discharge from Mental Health Treatment Population will be on _____.

☐ The inmate is removed from the Mental Health Treatment Population.

☐ The inmate's clinical situation was one of medical necessity as diagnosed by CDC clinical staff on _____. Medical necessity is no longer applicable, treatment has stopped and the inmate is removed from Mental Health Treatment Population.

☐ This inmate was initially designated as a Mental Health Treatment Population patient at a Reception Center or institution without a Mental Health Treatment Population program. Within the last 90 days the inmate has transferred to a Mental Health Treatment Population facility and a review of the inmate's Unit Health Record and assessment by the Interdisciplinary Treatment Team concludes the inmate does not meet the criteria for continued inclusion in the Mental Health Treatment Population.

Additional Information: _____

Original: Health Record

cc: CC-II
C-File

J. Douglas, MD
Treatment Team Chairperson

J. Douglas, MD

Allen R. Doran, MD
Chief Psychiatrist or Designee

DATE: 3-3-99 NAME: Thompson CDC# E-44409 HOUSE: INF.

128-C PBSF

NAME and NUMBER

THOMPSON E-44409

On Monday, 3-1-99, at approximately 1045 hours, while I was assigned as A4 Floor Officer, when Inmate Thompson, E-44409, AF4-127L, broke up his radio (Soundesign Ser. #6224) stating that he was hearing voices and told him, Thompson, to brake his radio. Thompson was admitted to the Infirmary after talking with "A" facility psychologist. The soundesign radio and tape player ser. # 6224 was removed from Thompson cell and sent to R&R. The radio was smashed into numerous pieces.

ORIG:

C-FILE

CC:

R&R

AWC

INMATE

T. TRAVIS

CORRECTIONAL OFFICER

A4 Floor Officer 3rd watch

DATE 3/1/99

GENERAL CHRONO

Exhibits in Support of Petition

EXHIBIT F

CT Excerpt, Case no. YA045468-01
(Verdict)

SUPERIOR COURT OF CALIFORNIA COUNTY OF LOS ANGELES			000079
THE PEOPLE OF THE STATE OF CALIFORNIA PLAINTIFF	DEPARTMENT SOUTHWEST-F	CASE NUMBER YA045468-01	
VERSUS			
01 THOMPSON, EUGENE DEFENDANT		VERDICT (GUILTY)	

WE, THE JURY IN THE ABOVE-ENTITLED ACTION, FIND THE DEFENDANT, EUGENE THOMPSON, GUILTY OF THE CRIME OF ATTEMPTED CARJACKING, IN VIOLATION OF PENAL CODE SECTION 664/215(A), A FELONY, AS CHARGED IN COUNT ONE OF THE INFORMATION.

FILED
LOS ANGELES SUPERIOR COURT

JAN 26 2001

JOHN A. CLARKE, CLERK
Mark Holcomb
BY M. HOLCOMB, DEPUTY

THIS _____ DAY OF _____ 2001,

FOREPERSON: SIGNATURE SEAT # JUROR IDENTIFICATION #

VERDICT (GUILTY)

Exhibits in Support of Petition

SUPERIOR COURT OF CALIFORNIA COUNTY OF LOS ANGELES		000080
THE PEOPLE OF THE STATE OF CALIFORNIA <div style="text-align: right;">PLAINTIFF</div> VERSUS 01 THOMPSON, EUGENE <div style="text-align: right;">DEFENDANT</div>	DEPARTMENT SOUTHWEST-F <div style="text-align: center;">VERDICT (GUILTY)</div>	CASE NUMBER YA045468-01

WE, THE JURY IN THE ABOVE-ENTITLED ACTION, FIND THE DEFENDANT, EUGENE THOMPSON, GUILTY OF THE CRIME OF SECOND DEGREE ROBBERY, IN VIOLATION OF PENAL CODE SECTION 211, A FELONY, AS CHARGED IN COUNT TWO OF THE INFORMATION.

FILED
LOS ANGELES SUPERIOR COURT

JAN 26 2001

JOHN A. CLARKE, CLERK
M. Holcomb
BY M. HOLCOMB, DEPUTY

THIS _____ DAY OF _____ 2001,

FOREPERSON: SIGNATURE SEAT # JUROR IDENTIFICATION #

VERDICT (GUILTY)

Exhibits in Support of Petition

EXHIBIT G

RT Excerpt, Case no. YA045468-01
(Sentencing Date)

1 CASE NUMBER: YA045468
2 CASE NAME: PEOPLE VS. EUGENE THOMPSON
3 TORRANCE, CALIFORNIA THURSDAY, MARCH 22, 2001
4 DEPT. SOUTHWEST F HON. FRANCIS J. HOURIGAN, JUDGE
5 REPORTER: WILLIAM F. BARNES, CSR #3766
6 TIME: 9:52 A.M.

7 APPEARANCES:

8 THE DEFENDANT WITH HIS COUNSEL,
9 JACQUES CAIN, DEPUTY PUBLIC
10 DEFENDER OF LOS ANGELES COUNTY;
11 BELLE CHEN, DEPUTY DISTRICT
12 ATTORNEY OF LOS ANGELES COUNTY,
13 REPRESENTING THE PEOPLE OF THE
14 STATE OF CALIFORNIA.

15
16 THE COURT: PEOPLE VERSUS EUGENE THOMPSON, YA045468.

17 MR. THOMPSON IS PRESENT WITH MR. CAIN.

18 THE PEOPLE ARE REPRESENTED BY MISS CHEN.

19 CASE IS HERE FOR A COURT TRIAL ON PRIORS. THE
20 JURY FOUND MR. THOMPSON GUILTY OF THE CHARGES.

21 VERDICTS WERE TAKEN.

22 ARE THE PEOPLE READY ON THE PRIORS TRIAL?

23 MS. CHEN: YES, YOUR HONOR.

24 THE COURT: DEFENSE READY?

25 MR. CAIN: YES.

26 THE COURT: YOU MAY PROCEED.

27 MS. CHEN: THANK YOU.

28 THE PEOPLE CALL SCOTT WILCOX.

EXHIBIT H

Court Order Summarily Denying Petition for
Writ of Habeas Corpus, June 2, 2023

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**SUPERIOR COURT OF CALIFORNIA
COUNTY OF LOS ANGELES**

FILED
Superior Court of California
County of Los Angeles

JUN 02 2023

David W. Slayton, Executive Officer/Clerk of Court
By: S. Rosario, Deputy

THE PEOPLE OF THE STATE OF CALIFORNIA) Case No. YA045468
)
Plaintiff and Respondent,) ORDER SUMMARILY DENYING
) PETITION FOR WRIT
versus) OF
) HABEAS CORPUS
Eugene Thompson,)
)
Defendant and Petitioner,)
) (CRC 4.551(g))

IN CHAMBERS

Petition for Writ of Habeas Corpus by Eugene Thompson, *pro se* ("Petitioner"). No appearance by a Respondent.

The Court has read and considered the Petition for Writ of Habeas Corpus filed by the Petitioner on May 5, 2023, and finds that the following apply:

The Petition is required to be on Judicial Council form MC-275 and the Petitioner has not shown good cause to be excused from this requirement. California Rule of Court 4.551 (a).

The petition is incomplete in that it lacks some or all of the required information (i.e., when and where was Petitioner sentenced or otherwise detained; by whom and where the Petitioner is restrained; whether there was an appeal and the outcome of that appeal; whether prior habeas petitions have been filed and, if so, when, in which court, and the outcome of each). Penal Code §§1474, 1475 and 1477; California Rule of Court 4.551(a).

Assuming the facts alleged in the petition are true, petitioner fails to allege facts establishing a *prima facie* case for habeas relief. *People v. Duvall*, (1995) 9 Cal.4th 464, 474-75.

Petitioner has failed to explain and justify the significant delay in seeking habeas relief. *In re Clark*, (1993) 5 Cal.4th 750, 765; *In re Swain* (1949) 34 Cal. 2nd 300, 302.

The court is without jurisdiction to grant a resentencing hearing.

The petition presents claims raised and rejected in a prior habeas petition and Petitioner has not alleged facts establishing an exception to the rule barring reconsideration of claims previously rejected. Such successive claims constitute an abuse of the writ of habeas corpus. *In re Reno*

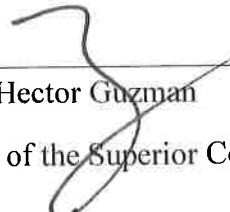
1 (2012) 55 Cal. 4th 428, 455; *In re Martinez* (2009) 46 cal. 4th 945, 956; *In re Clark*, (1993) 5
2 Cal.4th 750, 767-68; *In re Miller* (1941) 17 Cal. 2nd 734, 735.

3 Petitioner filed a prior petition for habeas relief and failed to raise the claims raised in the current
4 petition, and Petitioner has not alleged facts establishing an exception to the rule requiring all
5 claims to be raised in one timely filed petition. *In re Reno* (2012) 55 Cal. 4th 428, 454; *In re*
6 *Clark*, (1993) 5 Cal.4th 750, 767-68; *In re Horowitz* (1949) 33 Cal. 2nd 534, 546-47.

7 For all of the foregoing indicated reasons, the petition is DENIED.

8 The Clerk is ordered to serve a copy of this memorandum upon the petitioner and upon the
9 District Attorney (Habeas Corpus Litigation Team), 320 West Temple Street, Room 540, Los
10 Angeles, California 90012.

11 Dated: 6-2-23

12 
13 Hon. Hector Guzman

14 Judge of the Superior Court
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EXHIBIT I

Excerpt, Presentence Report, Case no.
YA045468-01 (Prior Conviction)

25
26
27
28

10-21-89

2 xs 5 P

COMPTON POLICE DEPARTMENT – 211 PENAL CODE (ROBBERY). ON 12-8-89
COMPTON SUPERIOR COURT, CASE NUMBER TA002154, 211 PENAL CODE
(ROBBERY), DISPOSITION: CONVICTED, FELONY, SENTENCE: THREE YEARS
STATE PRISON.

- 4 - (THOMSPON)

76P725B – Prob. 19SC (Rev 7/00)

EXHIBIT J

RT Excerpt, Case no. YA045468-01
(details of 1989 conviction offense)

1 OTHER TWO GIRLS. AND -- THEY INTRODUCED ME TO COCAINE.

2 THIS IS HOW I GOT STARTED ON DRUGS, YOUR
3 HONOR. AND THE FIRST ROBBERY THAT I GOT, I WAS IN GARDENA
4 AT A DRUG HOUSE. AND I SPENT ALL MY MONEY. I SPENT ALL MY
5 MONEY EXCEPT FOR ABOUT TWO DOLLARS.

6 THERE WAS THIS OTHER GUY NAMED RAY WITH ME.
7 AND -- HE HAD ABOUT TWO DOLLARS. AND THERE WAS ANOTHER
8 GUY, HAD A DOLLAR. SO WE -- HE HAD A DOLLAR AND SOME
9 CHANGE.

10 SO WE -- DECIDED TO PUT OUR MONEY TOGETHER,
11 AND TRY TO GET A TEN-DOLLAR PIECE OF CRACK. WELL, THE DOPE
12 DEALER -- IT CAME UP TO ABOUT SEVEN DOLLARS. AND THE DOPE
13 DEALER TOLD US, TOLD ME, HE SAID -- NO. TEN DOLLARS OR
14 BETTER.

15 AND I GOT SO MAD, BECAUSE I HAD SPENT ALL MY
16 MONEY WITH HIM. I TOLD HIM, I SAID "MAN, I SPENT
17 EVERYTHING I HAD WITH YOU, MAN. YOU CAN'T LET ME SLIDE
18 WITH THREE DOLLARS?"

19 HE WAS LIKE NO, TEN DOLLARS OR BETTER. SO --
20 I GOT SO MAD, THAT I JUST WALKED OUT OF THE PLACE.

21 AND WHEN I GOT OUTSIDE, THE OTHER GUY THAT
22 GAVE ME THE DOLLAR, THAT GAVE ME THE DOLLAR, HE SAID "WELL,
23 DID YOU GET -- DID YOU GET THE DOPE?"

24 I SAID NO. I SAID THE DUDE SAID TEN DOLLARS
25 OR BETTER. AND -- HE SAID "WELL, GIVE ME MY MONEY BACK."

26 AND I GOT SO MAD, I JUST PUSHED HIM. I JUST
27 PUSHED HIM, LIKE MAN, GET OUT OF MY FACE. AND HE BROKE AND
28 RAN.

1 AND ME AND THE OTHER GUY NAMED RAY WAS SITTING
2 IN THE CAR. SITTING IN THE CAR FOR ABOUT 15 MINUTES. THE
3 POLICE CAME UP BEHIND US, AND THEY TOOK US TO JAIL.

4 THAT WAS WHAT -- MY FIRST ROBBERY FOR A DOLLAR
5 25. THAT'S WHAT MY FIRST ROBBERY WAS ABOUT.

6 WELL, HERE IN TORRANCE, THEY OFFERED ME A
7 THREE-YEAR DEAL. THEY SCARED ME. I WAS SO SCARED, I
8 DIDN'T KNOW WHAT TO DO. THEY OFFERED ME, THEY SAID "WELL,
9 TAKE THIS DEAL FOR THREE YEARS, AND -- WE'LL GIVE YOU
10 HALF-TIME. AND YOU'LL BE OUT IN ABOUT 16 OR 18 MONTHS."

11 SO I SAID "OKAY, I'LL TAKE THE DEAL."

12 WELL, WHILE I WAS HERE, THEY -- THEY CAME AND
13 SAID "WELL, YOU HAVE A ALIAS IN COMPTON, FOR MAURICE ROYAL,
14 SOMEONE THAT HAS A ROBBERY."

15 I SAID "MAN, I NEVER HEARD OF ANY MAURICE
16 ROYAL," OR SOMETHING LIKE THAT. WHOEVER IT WAS.

17 THEY SAID "WELL, WE'LL JUST RUN IT CONCURRENT.
18 WE'LL JUST RUN IT CONCURRENT WITH THE ROBBERY THAT YOU GOT
19 RIGHT NOW."

20 SO -- I TOLD HIM, I SAID "WELL, OKAY. WELL, I
21 HAVE TO DO ANY MORE TIME?"

22 THEY SAID "NO, YOU'LL JUST DO STILL THE 16.
23 JUST SIGN FOR IT, YOU WON'T HAVE TO GO TO COURT OR
24 ANYTHING."

25 SO I SIGNED. THAT'S HOW I GOT THE SECOND
26 ROBBERY, YOUR HONOR.

27 SO AFTER THE THREE YEARS CAME OUT, AFTER THE
28 THREE YEARS -- AFTER THE 18 MONTHS WAS UP, I WAS RELEASED

EXHIBIT K

RT Excerpt, 1991 sentencing

1 HAVE BEEN STAYING SENTENCES FOR YEARS AND THE TANNER
2 DECISION GOING WAY BACK THAT CAUSED A SUCH A STIR AND
3 FINALLY WAS RESOLVED WITH CASE LAW AND LEGISLATURE
4 CERTAINLY SEEMS TO ME WOULD HAVE RAISED THOSE KINDS OF
5 ISSUES AND CERTAINLY MADE THE LEGISLATIVE WRITERS AWARE OF
6 THAT SO THE LEGISLATURE CAN MAKE CLEAR WHAT THEY FEEL THE
7 COURT SHOULD BE ALLOWED TO DO AND NOT BE ALLOWED TO DO.

8 WHILE I THINK THAT'S A RESOURCEFUL ARGUMENT,
9 MR. NIELSEN, THEY'VE USED A LITTLE BIT OF DIFFERENT
10 LANGUAGE WHEN THEY SAY STRIKE THE ADDITIONAL PUNISHMENT, IT
11 IS ALSO A WAY TO ARTICULATE WHAT THEY ARE SAYING RATHER
12 THAN USING THE CLEAR PHRASE MAY NEITHER STRIKE NOR STAY
13 PUNISHMENT. IT DOESN'T COME UP VERY OFTEN, CERTAINLY NOT
14 IN THIS COURT. IT'S NOT VERY OFTEN THE COURT IS STAYING
15 THAT KIND OF PUNISHMENT. JUST IN THIS CASE IT SEEMED TO
16 THE COURT THAT THE NUMBER OF YEARS THAT I DID CHOOSE WAS
17 APPROPRIATE.

18 BUT WITH THAT COMMENT, WHAT ELSE, IF ANYTHING, DO
19 YOU WANT TO SAY?

20 MR. NIELSEN: I HAVE NOTHING MORE THAT I CAN PUT IN.

21 THE COURT: I'M GOING TO LEAVE THE SENTENCE THE WAY I
22 ORIGINALLY HAD IT. I FEEL IT'S A FAIR SENTENCE UNDER ALL
23 OF THE FACTS OF THE CASE. I NEEDN'T MAKE A FURTHER RECORD,
24 REALLY, IN MY VIEW. I TRIED TO GIVE MY REASONS FOR THE
25 SENTENCE BEFORE.

26 ONE THING THAT WAS FAIRLY IMPORTANT TO ME WAS IN
27 THE SCHEME OF ROBBERIES WHILE ALL ROBBERIES ARE BAD,
28 COMPARATIVELY SPEAKING, THIS WAS FAR LESS BAD; NO WEAPONS,

1 NO BATTERY, NO FIGHTING, NO INJURIES, A STREET TYPE
2 ROBBERY, FEAR, YES, BUT NOTHING ELSE. AND I FELT THAT THE
3 SENTENCE I GAVE WAS A FAIR SENTENCE.

4 I'M GOING TO LEAVE IT THE WAY IT IS.

5
6 (PROCEEDINGS CONCLUDED.)
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EXHIBIT L

CDCR Psychiatric Services Unit/
Institutional Classification Committee,
Special Review, 11/26/1997

NO. **E-44409**NAME **THOMPSON, EUGENE**PSU **B02/204**Custody: **CLO B CS/90**A2/B EFF **11/26/97**

Assignment:

MERD (04/03/98)RelDate: **EPRD: 10/03/00**Reclass: **12/06/97 INITIAL**

Action:

**REF CSR RX ASSESS AND
SUSPEND SHU TERMS; TX
TO PBSP IV CCCMS/SAC IV
CCCMS**

Inmate **THOMPSON** appeared before PBSP Psychiatric Services Unit/Institutional Classification Committee this date for Special Review. Committee notes 115 of 06/13/96 which S received at Corcoran and yet S was subsequently transferred to PBSP without the Security Housing Unit term being addressed. Committee acts to assess a 6 month concurrent Security Housing Unit term aggravated due to similar prior 115 of 3/27/96 and commute the Security Housing Unit term that applies to the 06/13/96 CDC 115 in its entirety. Committee also acts to suspend the remainder of the Security Housing Unit term S received as a result of the 115 of 10/03/96 and release S to PBSP IV General Population at Correctional Clinical Case Management Services level of Mental Health Care as the Committee no longer believes S to be a threat to the safety and security of the institution. S assured the Committee that he would continue to participate in Mental Health Treatment. Committee acts to place S on the Support Services Waiting List; CLO B Custody; and A2/B Work Group/Privilege Group. Casefactors are as follows: S is a 32-year-old, Black, Parole Violator With a New Term received in CDC on 11/20/91, from Los (continued)

DATE: **11/26/97**

(JOHNSON/dl)

Classification

PSU/ICC REVIEW

INST: PBSP

STATE OF CALIFORNIA

DEPARTMENT OF CORRECTIONS

Page 2

CDC-128G (Rev. 12/91)

Angeles County, subsequent to conviction for Robbery 2nd, for which he received a total term of 13 years. S was received at PBSP on 07/10/97 from Corcoran. S is serving a Security Housing Unit Minimum Eligible Release Date (04/03/98) due to Assault On An Inmate With Force Likely To Produce Serious Bodily Injury. S has no holds, escapes, arsons or sex offenses. CDC 812 lists enemies and the Confidential file is noted.. Gang/TIP: "West Side Crip". Disciplinary history: Assault On Inmate With Weapon Or Force Likely To Induce Serious Bodily Injury, Refused To Work, Battery On Inmate (2 Counts), Mutual Combat (4 Counts), Violation Of Cell Standards. Criminal History: Battery On Person, Receiving Stolen Property, Robbery 2nd. Medical status: Full duty with Psychiatric concerns of Enhanced Out Patient Program. TB code 32. IQ is not listed. GPL is 7.6. Work skills: Salvage Worker. Registration/Notification/Testing requirements: None noted. Restitution noted. Substance use: Cocaine. Due to SHU status, S is not eligible for work furlough consideration. S does not meet 270 design criteria due to SHU placement during the last three(3) years. THOMPSON has been advised of Committee's action and his right to appeal. D2 effective 10/03/96 due to 115 of 10/03/96 for entire Security Housing Unit term per PC 2933.6 Penal code sections 2930 & 2933 have been complied with. Next scheduled Committee appearance will be on 02/03/98 for PRE MERD.

COMMITTEE MEMBERS: CHAIRMAN:  J. MCGRATH, AWRECORDER:  S. UPTON, CCII B. JOHNSON, CCI T. JOURDEN, FC

T. ROY, PHD

Exhibits in Support of Petition

DATE: **11/26/97**

(JOHNSON/dl)

Classification 34 PSU/ICC REVIEW

INST: PBSP

EXHIBIT M

CDCR Mental Health Interdisciplinary
Treatment Team notes, 1/4/2019

RJD - RJ Donovan Correctional FacilityPatient: **THOMPSON, EUGENE**

DOB/Age/Sex: 6/28/1965 / 57 years / Male

CDCR: E44409

Mental Health IDTT MPage Forms

Illness Comment :	IP states he has worked on this in the past	started while in prison
	Mondell-Cook, Suzanne Social Worker - 1/4/2019 10:39 PST	Mondell-Cook, Suzanne Social Worker - 1/4/2019 10:39 PST

Risk of Violence Toward Others

History of violence toward others : Yes

Index crime violent crime toward others : Yes

History of alcohol or substance abuse : Yes

History noncompliance with supervision : Yes

Personality disorder : No

Young age at first violence : Yes

Significant psychiatric disorder : Yes

Evidence of poor impulse control : Yes

History of violence in prison/jail : Yes

Poor insight motivation for treatment : No

Age less than 31 : No

Sexual Misconduct : No

IEX : No

Mondell-Cook, Suzanne Social Worker - 1/4/2019 10:39 PST

Suicide and Self-Harm Summary

Suicide and Self-Harm History : Yes

Suicide and Self-Harm History Narrative : IP reported one attempt in 2004 after his mother passed away, he stated "I saved up some psych meds and took an overdose" and stated he saved them up for about a few weeks. IP reported he lost his eyesight for about 24 hours and was taken to the hospital then he went to MHCB. [11/14/18] "Whatever the meds was that I took, when I woke up, I couldn't see." IP reported that it was not his own meds he had been hoarding, they belonged to someone else. During this interview, IP denied the jumping event below.

IP previously reported 2 attempts, one he executed his plan (overdose), the other (jumping from the 2nd tier), he was on the edge and was restrained/talked out of it. He has had SI's on other occasions, related to the death of his mother, then the death of his father, and then a disappointment related to not having an expected parole board hearing.

Mondell-Cook, Suzanne Social Worker - 1/4/2019 10:39 PST

Suicide History Grid

	Suicide Attempt #1	Suicide Attempt #2
Suicide Attempt Date :	6/15/1997 PDT	3/18/2004 PST
Intent to Die :	Yes	Yes
Suicide Method :	Jumping	Pills/Overdose

Report Request ID: 58691236

Print Date/Time: 8/10/2022 13:21 PDT

WARNING: This report contains confidential, proprietary, and/or legally privileged information intended for the recipient only.

EXHIBIT N

CDCR Mental Health Interdisciplinary
Treatment Team notes, 9/5/2017

SATF - California Substance Abuse Treatment Facility

Patient: **THOMPSON, EUGENE**

DOB/Age/Sex: 6/28/1965 / 57 years / Male

CDCR: E44409

Mental Health IDTT MPage Forms

MHLowerRationale : I/P is symptomatic, on multiple psychotropic medications, & wishes to receive EOP LOC- Maintain at Modified EOP LOC until transfer to EOP yard.

Riffle, Jeffrey Psychologist - 9/5/2017 15:42 PDT

EOP Functional Evaluation

FE ability to understand instructions FE ability to understand instructions : I/P has proven capable of understanding, remembering, and carrying out simple instructions/basic tasks without difficulty.

FE ability to respond to coworkers : I/P appears to respond appropriately to others.

FE ability to be around objects : I/P does display psychosis and there may be some risk associated with being around potentially dangerous equipment and/or sharp objects.

FE ability to respond to work situations : I/P works as an ADA Caregiver and appears to function well.

FE ability to work in hot weather : I/P is currently on heat meds and that needs to be taken into consideration.

FE ability to work in large groups : No apparent problem. I/P functions on yard (socializes & exercises).

FE ability to deal with changes : No apparent problems. I/P has job, seems to function without difficulty.

FE any other MH limitations : None at this time.

FE activities/tasks the IP can still do : I/P appears to function well as a Caregiver.

Riffle, Jeffrey Psychologist - 9/5/2017 15:42 PDT

Clinical Summary & Case Formulation

Clinical Summary : 51 y/o, AA, Male sentenced to LWP for multiple robberies & an attempted carjacking-3rd Striker. I/P raised by his biological parents with 9 siblings; Denied a HX of childhood/adult trauma; Substance Use (PCP & Alcohol- Both Daily from 15 years of age, onward; Claims to be clean/sober for 15 years; Denies cravings; & No Hx of positive drug tests in prison). Enrolled in 12th Grade/Dropped Out/Did not graduate; Never married; 1 son- deceased; Worked in roofing/demolition (6 year Hx); Denied Community MH Tx or DSH placement; MHCB X 13; EOP placements X 8 (Most recent in 2010); CCCMS since 9/23/2011. I/P began hearing voices once he was incarcerated (1996). The I/P endorsed a depressed mood, feelings of worthlessness, anxiety, and difficulty managing his stress/anxiety. He denied any significant weight changes, fatigue, a diminished interest in activities, or panic attacks. I/P denied any history of current or past manic episodes. I/P reported No problems with sleep or appetite. I/P reports that he is attending to his ADL's and feels safe on the yard. I/P first began having depressive symptoms in 2004 after his mother's death. I/P keeps busy by exercising and reading. I/P currently prescribed psychotropic medications (Zyprexa & Zoloft), reports compliance, saw psychiatry last week, and had his previous anti-psychotic medication (Geodon) replaced with Zyprexa. On the Subjective Units of Distress Scale (SUDS), Symptoms are rated by patients 1-10; 10 being the worst. I/P rated his depressive symptoms as 7/10 (Same as Previous Rating). He rated his anxiety symptoms as 6/10 (Same as Previous Rating). I/P denied any further symptoms.

I/P highly symptomatic, on multiple psychotropic medications, recent MHCB admission, & wishes to have additional MH Services - Maintain on Modified EOP.

Predisposing Factors : Substance Abuse & High School Drop Out.

MH Perpetuating Factors : Multiple Incarcerations/Poor Distress Tolerance.

Precipitating Factors : Poor Distress Tolerance & Death of His Mother.

Maintaining Factors : Family Contact, Religious Beliefs, & Exercising

MH Case Formulation : I/P with early drug usage has developed maladaptive/minimal coping skills to allow him to manage his various challenges.

Riffle, Jeffrey Psychologist - 9/5/2017 15:42 PDT

Goal Setting with Patient

Contributed to goals and plan : Yes

Aware of plan content : Yes

Present at team meeting : Yes

Report Request ID: 58697840

Print Date/Time: 8/10/2022 13:41 PDT

WARNING: This report contains confidential, proprietary, and/or legally privileged information intended for the recipient only.

Exhibits in Support of Petition

EXHIBIT O

Notes re: prior suicide attempts

Regarding suicidality, he reported one attempt in 2004 following the passing of his mother. He overdosed on pills and subsequently fell asleep. He woke up and reported being unable to see or open his eyes. He was taken to the hospital where his stomach was pumped and was kept there for three weeks. When he returned, he was admitted to EOP. He does not remember what triggered the other incident when he experienced suicidal thoughts nor does he remember when this occurred. Previous documentation reveals a second attempt in 1997 where he attempted to jump off the tier but was restrained and talked out of it. He has also reported other incidences of suicidal ideation following the death of his father and disappointment at not attending a BPH.

EXHIBIT P

Excerpt, psychiatric treatment notes,
2/20/2019

Clinical Summary & Case Formulation

Clinical Summary : IP has returned from AdSeg. He reports doing well and does not have concerns at this time. IP reported his AH is currently manageable (whispers).

Previous Documentation:

IP has been incarcerated since 1989 after committing robbery in order to (reportedly) get money for drugs. IP reported that in approximately 1996/1997 he began experiencing MH sxs in the form of major depression and auditory hallucinations. IP reported that he does not currently hear the voices and that it happens mostly when he is unable to sleep. IP reported that in 2004 the depression began to get worse, following the death of his mother. IP reported having lost his father, sister, brother, and son since this time and that his recent cancer diagnosis triggered a significant MDE in 2017, during which he was placed into the EOP program. IP has had 12 MHCB admissions since the time of his incarceration and has been EOP many times as well. He currently presents stable, with good insight and motivation for treatment.

EXHIBIT Q

Excerpt, psychiatric evaluation, 4/13/2017

A. For the purpose of this evaluation, Inmate's EUHR was reviewed on: 4/13/17

Mental Health History: CCCMS LOC; RX of Geodon, Zoloft; MHCB placement 12/16/16-1/3/17 (after informed his board date was 2020, not December 2016); current diagnosis of Schizoaffective Disorder, depressive type; PC 3/20/17: "I'm doing alright." Endorsed mildly depressed mood. Keeps busy with working in dining hall, exercising, reading. Assessed as calm, polite, cooperative, normal psychomotor activity, coherent, no evidence of responding to IS, cognitions intact, insight/judgment WNL, no bizarre thought content, oriented, currently stable; Psychiatry 3/16/17: cooperative, comfortable, polite, appropriately groomed, alert, oriented, appropriate behavior, fair attention/concentration, no signs of current psychosis, described mood as "good, not depressed or anything, more upbeat," appears to be adjusting ok since his arrival to the yard; MH clinicians opine the IP is able to seek out services through self referral process as needed; seen by medical on 4/11/17 for intoxication-released back to custody, observed in clinic 2 hours, answers all questions appropriate; 7362 to MH 3/15/17 (filed under 3/27/17): request time change for medication administration; 7447 3/20/17: low acute risk of suicide, significant amount of protective factors including regular exercise, family support, religious support, future orientation, job assignment, insight, sense of optimism, active & motivated in psych treatment

EXHIBIT R

CDCR Classification Committee notes,
5/25/2022

Clinician Comments

None

Committee Action Summary

Revision Requested

ANNUAL REVIEW: Retain Medium A Custody & WG/PG A1/A EFF 01/19/2019; Retain in Facility A; CPP; Dorm eligible; Double-cell approved; RECLASSIFICATION SCORESHEET HAS BEEN COMPLETED.

Committee Comments

Revision Requested

Subject's case was reviewed in absentia (per Subject's request) before the Main Line, Unit Classification Committee (UCC) for an Annual Review.

Subject has a TABE score of 09.0 dated 06/10/2015 and a verified 1980 High School Diploma. Subject is a participant in the CCCMS MHLOC. Subject is a participant in the CCCMS MHLOC. Subject was queried and a determination was made that Subject did not require a staff assistant. Subject was able to reiterate in his own words what was explained and was able to ask and provide appropriate substantive questions and responses to the satisfaction of this CCI regarding this UCC action without accommodations; therefore there are no barriers to effective communication.

ANNUAL REVIEW:
This annual review covers (2) full periods from 05/01/2021 to 04/30/2022. Subject remained disciplinary free during the rating period. Subject remains unassigned as of 12/20/2021 due to non-adverse transfer. Subject's CDC-101, Work Supervisor's Reports dated 05/01/2021 and 08/10/2021 note satisfactory, above average, and exceptional work performance.

Subject's Preliminary Score (PS) decreased from 33 points to 21 points based on (2) qualifying disciplinary free periods and (2) qualifying positive work performance periods. Subject has a mandatory minimum score of 19 due LIF Administrative Determinant (AD).

Subject's Notification in Case of Inmate Death, Serious Injury, or Serious Illness form, Confidential and NON-Confidential Offender Separation Alerts, Reclassification score sheet, and SPS have been reviewed and updated as appropriate. Subject was reviewed for single-cell status per DOM # 54046.8 and does not meet the criteria for 'S' suffix. Subject's Initial Housing Review was completed at San Quentin on 12/21/2021. Subject's Integrated Housing Code was reviewed and is appropriate at Racially Eligible (RE). Subject is double-cell clear. All other case factors are noted on CDC-128G dated 12/29/2021.

PC2933: Ineligible. **Threat Assessment:** Refer to 128B dated 07/20/2015. **Foreign Prisoner Transfer Treaty Program:** Not applicable. **HWD:** Clear. **CSRA score of 1.**

Subject has been reviewed for Minimum Custody review and is not eligible to LIF. COMPAS Core Men's v.4 Needs Assessment has been completed on 11/25/2019. Subject has not attended his Initial Board of Parole Hearings (BPH); therefore, he will not be placed on Transitions waiting list. Subject was reviewed for a positive or negative AD to increase his access to Rehabilitative programs. Subject is denied an AD that would lower his security level based on LIF. Subject is denied an AD that would raise his security level based on TIM/LIF/lack of disciplinary/inmate request.

Medical Classification Chrono (MCC) dated **12/10/2021** denotes permanent: OP; Infrequent Basic Consultation; Full Duty; High Risk; Basic Nursing. Restricted to Cocci Area 2. **Housing Restrictions:** Accommodation Chrono dated 05/19/2022 notes temporary with expiration date of 07/19/2022. **Physical Limitations to Job/Other:** None.

Rehabilitative Case Plan (RCP):
The recommended programs, RCP timelines, and available programs provided at the institution (facility) were discussed with Subject. Subject agreed with the proposed waitlist recommendations. Refer to RCPS - 2038 dated 05/20/2022 for Subject's rehabilitation plan and objectives. Subject stated he is trying to obtain his business license.

Non-designated Programming Facilities (NDPF):
Subject was notified that the department is converting to NDPF. This would be facilities that do not identify as Sensitive Needs Yard or General Population. The focus of the PFs is to provide an environment for inmates demonstrating positive programming efforts and a desire to not get involved in the destructive cycles of violence. Refer to 128G Classification Chrono dated 12/29/2021, Subject stated he understands the programming expectations of the PFs and is willing to continue to program in a NDPF.

PREA/GIQ:
Subject received his copy of the PREA booklet and/or the PREA Brochure; refer to 128B dated 12/21/2021. Subject's PREA Screening completed on 12/21/2021. Subject has no additional information to provide. Subject feels housing placement and programming are appropriate at this time. Gender Identity questionnaire was completed on 10/27/2021. Subject is in agreement with current housing program.

Subject attended his Consultation BPH on 11/08/2019 and his Initial BPH no later date is 03/10/2026.

Inmate Involvement in Hearing

Actual Hearing Date: 05/25/2022
Attendance: In Absentia
Staff Assistant Name: N/A.
Agrees with Recommendations: Yes

Actual Hearing Time: 12:25:00
72 Hour Notice Waiver: No

Informed of Appeal Rights: Yes

Inmate Comments

During a pre-UCC, Subject requested to continue present program. Subject agrees with program placement.

Outcome

Continue Present Program: Yes
ASU Extension Request: No

Implement Changes: Yes
ASU Extension Days: 0

Extension Reason:

Review Status: Finalized
Refer to: N/A
Next Review Date: 05/25/2023

As of: 05/25/2022
Reason: N/A
Next Committee Type: UCC

Committee Members (1 - 3 of 3)

Staff Name	Title	Chair-Person	Recorder	Dissenting Comments
Pham, Vuong [PHVU001]	CCI	<input type="checkbox"/>	<input checked="" type="checkbox"/>	

EXHIBIT S

CDCR Medical Records Assessment forms
– medications, 12/20/2021

RJD - RJ Donovan Correctional Facility

Patient: **THOMPSON, EUGENE**

DOB/Age/Sex: 6/28/1965 / 57 years / Male

CDCR: E44409

Assessment Forms

Urgent/ Emergent health care needs : No

Laseige, Maria RN - 12/20/2021 5:33 PST

Is this screening being performed immediately prior to transportation : Yes

Laseige, Maria RN - 12/20/2021 7:05 PST

~~{ [No] — previously charted by Laseige, Maria RN at 12/20/2021 5:33 PST };~~
(As Of: 12/20/2021 07:06:59 PST)

Problems(Active)

CKD (chronic kidney disease) (SNOMED CT :3036750018) Name of Problem: CKD (chronic kidney disease) ; Recorder: Sedighi, Fred P&S; Confirmation: Confirmed ; Classification: Medical ; Code: 3036750018 ; Contributor System: PowerChart ; Last Updated: 9/20/2021 12:44 PDT ; Life Cycle Status: Active ; Responsible Provider: Sedighi, Fred P&S; Vocabulary: SNOMED CT

Depression (SNOMED CT :59212011) Name of Problem: Depression ; Recorder: Kokor, Winfred P&S; Confirmation: Confirmed ; Classification: Medical ; Code: 59212011 ; Contributor System: PowerChart ; Last Updated: 4/14/2018 10:35 PDT ; Life Cycle Date: 04/14/18 ; Life Cycle Status: Active ; Responsible Provider: Kokor, Winfred P&S; Vocabulary: SNOMED CT

Healthcare maintenance (SNOMED CT :447501012) Name of Problem: Healthcare maintenance ; Recorder: Sedighi, Fred P&S; Confirmation: Confirmed ; Classification: Medical ; Code: 447501012 ; Contributor System: PowerChart ; Last Updated: 4/27/2020 08:56 PDT ; Life Cycle Status: Active ; Responsible Provider: Sedighi, Fred P&S; Vocabulary: SNOMED CT

History of PCP abuse (SNOMED CT :1210093012) Name of Problem: History of PCP abuse ; Recorder: Barenchi, Ryan CP&S; Confirmation: Confirmed ; Classification: Medical ; Code: 1210093012 ; Contributor System: PowerChart ; Last Updated: 4/25/2019 14:04 PDT ; Life Cycle Date: 04/25/19 ; Life Cycle Status: Active ; Responsible Provider: Barenchi, Ryan CP&S; Vocabulary: SNOMED CT

Hx of cocaine abuse (SNOMED CT :1210093012) Name of Problem: Hx of cocaine abuse ; Recorder: Barenchi, Ryan CP&S; Confirmation: Confirmed ; Classification: Medical ; Code: 1210093012 ; Contributor System: PowerChart ; Last Updated: 4/25/2019 14:04 PDT ; Life Cycle Date: 04/25/19 ; Life Cycle Status: Active ; Responsible Provider: Barenchi, Ryan CP&S; Vocabulary: SNOMED CT

Hyperlipidemia (SNOMED CT :92826017) Name of Problem: Hyperlipidemia ; Recorder: Sedighi, Fred P&S; Confirmation: Confirmed ; Classification: Medical ; Code: 92826017 ; Contributor System: PowerChart ; Last

Report Request ID: 58690009

Print Date/Time: 8/10/2022 13:15 PDT

WARNING: This report contains confidential, proprietary, and/or legally privileged information intended for the recipient only.

RJD - RJ Donovan Correctional Facility

Patient: **THOMPSON, EUGENE**

DOB/Age/Sex: 6/28/1965 / 57 years / Male

CDCR: E44409

Assessment Forms

Updated: 4/27/2020 12:36 PDT ; Life Cycle Status: Active ;
Responsible Provider: Sedighi, Fred P&S; Vocabulary:
SNOMED CT

Obesity (BMI 30-39.9)
(SNOMED CT
:2535065012)

Name of Problem: Obesity (BMI 30-39.9) ; Recorder: Kokor,
Winfred P&S; Confirmation: Confirmed ; Classification:
Medical ; Code: 2535065012 ; Contributor System:
PowerChart ; Last Updated: 4/14/2018 10:36 PDT ; Life Cycle
Date: 04/14/18 ; Life Cycle Status: Active ; Responsible
Provider: Kokor, Winfred P&S; Vocabulary: SNOMED CT

Schizoaffective disorder,
Depressive type (DSM5
:F25.1)

Name of Problem: Schizoaffective disorder, Depressive type ;
Recorder: Chmiel, Renee Sr Psych Spec; Confirmation:
Confirmed ; Classification: Mental Health ; Code: F25.1 ;
Contributor System: PowerChart ; Last Updated: 5/30/2020
14:32 PDT ; Life Cycle Status: Active ; Responsible Provider:
Chmiel, Renee Sr Psych Spec; Vocabulary: DSM5

Squamous cell cancer of
tongue (SNOMED CT
:413333011)

Name of Problem: Squamous cell cancer of tongue ; Recorder:
Guldseth, David P&S; Confirmation: Confirmed ;
Classification: Medical ; Code: 413333011 ; Contributor
System: PowerChart ; Last Updated: 11/27/2018 08:58 PST ;
Life Cycle Status: Active ; Responsible Provider: Guldseth,
David P&S; Vocabulary: SNOMED CT

Substance use disorder
(SNOMED CT
:145651014)

Name of Problem: Substance use disorder ; Recorder:
Sedighi, Fred P&S; Confirmation: Confirmed ; Classification:
Medical ; Code: 145651014 ; Contributor System: PowerChart
; Last Updated: 8/27/2020 13:42 PDT ; Life Cycle Status:
Active ; Responsible Provider: Sedighi, Fred P&S; Vocabulary:
SNOMED CT

Supraglottic stenosis
(SNOMED CT
:372199014)

Name of Problem: Supraglottic stenosis ; Recorder: Guldseth,
David P&S; Confirmation: Confirmed ; Classification: Medical
; Code: 372199014 ; Contributor System: PowerChart ; Last
Updated: 3/27/2019 10:38 PDT ; Life Cycle Date: 03/27/19 ;
Life Cycle Status: Active ; Responsible Provider: Guldseth,
David P&S; Vocabulary: SNOMED CT

Diagnoses(Active)

Anemia

Date: 9/20/2021 ; Diagnosis Type: Discharge ; Confirmation:
Confirmed ; Clinical Dx: Anemia ; Classification: Medical ;
Clinical Service: Non-Specified ; Code: ICD-10-CM ;
Probability: 0 ; Diagnosis Code: D64.9

Report Request ID: 58690009

Print Date/Time: 8/10/2022 13:15 PDT

WARNING: This report contains confidential, proprietary, and/or legally privileged
information intended for the recipient only.

RJD - RJ Donovan Correctional Facility

Patient: **THOMPSON, EUGENE**

DOB/Age/Sex: 6/28/1965 / 57 years / Male

CDCR: E44409

Assessment Forms

CKD (chronic kidney disease)	Date: 9/20/2021 ; Diagnosis Type: Discharge ; Confirmation: Confirmed ; Clinical Dx: CKD (chronic kidney disease) ; Classification: Medical ; Clinical Service: Non-Specified ; Code: ICD-10-CM ; Probability: 0 ; Diagnosis Code: N18.9
Health care maintenance	Date: 9/4/2020 ; Diagnosis Type: Discharge ; Confirmation: Confirmed ; Clinical Dx: Health care maintenance ; Classification: Medical ; Clinical Service: Non-Specified ; Code: ICD-10-CM ; Probability: 0 ; Diagnosis Code: Z00.00
Hyperlipidemia	Date: 10/14/2020 ; Diagnosis Type: Discharge ; Confirmation: Confirmed ; Clinical Dx: Hyperlipidemia ; Classification: Medical ; Clinical Service: Non-Specified ; Code: ICD-10-CM ; Probability: 0 ; Diagnosis Code: E78.5
Obesity (BMI 30-39.9)	Date: 10/14/2020 ; Diagnosis Type: Discharge ; Confirmation: Confirmed ; Clinical Dx: Obesity (BMI 30-39.9) ; Classification: Medical ; Clinical Service: Non-Specified ; Code: ICD-10-CM ; Probability: 0 ; Diagnosis Code: E66.9
Squamous cell cancer of tongue	Date: 9/30/2020 ; Diagnosis Type: Discharge ; Confirmation: Confirmed ; Clinical Dx: Squamous cell cancer of tongue ; Classification: Medical ; Clinical Service: Non-Specified ; Code: ICD-10-CM ; Probability: 0 ; Diagnosis Code: C02.9
Substance use disorder	Date: 10/14/2020 ; Diagnosis Type: Discharge ; Confirmation: Confirmed ; Clinical Dx: Substance use disorder ; Classification: Medical ; Clinical Service: Non-Specified ; Code: ICD-10-CM ; Probability: 0 ; Diagnosis Code: F19.90
Supraglottic stenosis	Date: 10/14/2020 ; Diagnosis Type: Discharge ; Confirmation: Confirmed ; Clinical Dx: Supraglottic stenosis ; Classification: Medical ; Clinical Service: Non-Specified ; Code: ICD-10-CM ; Probability: 0 ; Diagnosis Code: J38.6

DME-Healthcare Appliances/Devices/Equipment pre-boarding

Transfer PowerForm - DME order smart template : DME/Supplies

Eyeglass Frames Permanent (Frames, Eyeglasses Permanent) - Ordered IP has this DME on person

-- Other/Unknown, Do Not Dispense, Patient Already Has

Transfer PowerForm- 7536 DTA Pull template : 7536 DME Receipt

No DME Receipt submitted for the current patient.

Laseige, Maria RN - 12/20/2021 7:05 PST

Medications-pre-boarding

List of Med not arrived with patient : colcae and magic mouth wash

Laseige, Maria RN - 12/20/2021 7:05 PST

5 Day Supply : No

If no, intervention: : Other: IP states biotene and multivitamin are in property. magic mouthwash, colace not used

Laseige, Maria RN - 12/20/2021 5:33 PST

Medication List

(As Of: 12/20/2021 07:06:59 PST)

Normal Order

Report Request ID: 58690009

Print Date/Time: 8/10/2022 13:15 PDT

WARNING: This report contains confidential, proprietary, and/or legally privileged information intended for the recipient only.

EXHIBIT T

CDCR Medical Records, Progress Notes,
12/21/2021



HEALTH CARE SERVICES

SQ - San Quentin State Prison

1 Main St.

San Quentin, CA 94964-

Patient: THOMPSON, EUGENE

DOB/Age/Sex: 6/28/1965 57 years Male

Encounter Date: 12/21/2021

Attending: David,Clarene P&S

CDCR #: E44409

PID #: 11520631

Referring:

Progress Notes

Document Type:	Outpatient Progress Note
Document Subject:	Office Visit Note
Service Date/Time:	5/19/2022 09:12 PDT
Result Status:	Modified
Perform Information:	David,Clarene P&S (5/24/2022 07:45 PDT); David,Clarene P&S (5/19/2022 09:33 PDT)
Sign Information:	David,Clarene P&S (5/24/2022 07:45 PDT); David,Clarene P&S (5/19/2022 09:33 PDT)
Authentication Information:	David,Clarene P&S (5/24/2022 07:45 PDT); David,Clarene P&S (5/19/2022 09:33 PDT)

Addendum by David, Clarene P&S on May 24, 2022 07:43:28 PDT

Health care Screening

A1C: < 4.0 06/17/2021

Lipids: 06/17/2021 cholesterol 190 HDL 46 LDL 121 triglycerides 118

HAab: 05/23/2022 non reactive

HBsAg: 05/23/2022 non reactive

HBsAb:

HBcAb:05/23/2022 non reactive

HCV: 05/23/2022 non reactive

HIV:

RPR:05/23/2022 non reactive

Quantiferon:

Varicella:05/23/2022 >4000 immune.

Cancer screening

Colon ca @ age 45: 01/12/2022 FIT positive-pending EGD colonoscopy

Prostate ca (review at age 50 average risk. Review age 40-45 Black/family history):

Lung CA at age 55:

AAA (Screen at age 65):

Chief Complaint

chro requesting

History of Present Illness

56-year-old here for evaluation from 7362 request for low bunk ground-floor Chrono. Patient reports for the last 2 to 3 years he has been having problems with shortness of breath. He thinks it started after his radiation and he feels that sometimes his breath does not go to into his lungs. Often times he also reports he gets wheezing and chest burning sensation. This only occurs with exertion especially going up stairs. Reports he also has trouble going down the stairs to lower yard here at San Quentin. He transferred from RJ

Problem List/Past Medical History

Ongoing

CKD (chronic kidney disease)

Depression

Healthcare maintenance

History of PCP abuse

Hx of cocaine abuse

Hyperlipidemia

Obesity (BMI 30-39.9)

Psychosis

Report Request ID: 58691933

Print Date/Time: 8/10/2022 13:15 PDT

WARNING: This report contains confidential, proprietary, and/or legally privileged information intended for the recipient only.

Exhibits in Support of Petition

SQ - San Quentin State Prison

Patient: **THOMPSON, EUGENE**

DOB/Age/Sex: 6/28/1965 / 57 years / Male

CDCR: E44409

Progress Notes

Donovan 6 months ago. Reports that RJ Donovan they had no real stairs and relatively level terrain. He was always housed on the first floor. He states he has been having trouble for a while but never thought to mention it until recently when he tried to become more active. He is not sure how far he could walk on level terrain before getting short of breath. He is able to walk from Alpine unit to clinic area but gets short of breath along the way. Denies any chest pain or shortness of breath at rest. Reports sometimes he has wheezing if he is sick also. Denies any cough. He smoked 1 to 2 packs/day for 20 years and stopped smoking at 40.

Physical Exam

Vitals & Measurements

T: 36.3 °C (Temporal Artery) **HR:** 74 (Peripheral) **RR:** 20 **BP:** 136/72 **SpO2:** 95%
WT: 141 kg

GENERAL: Awake alert oriented gentleman in no apparent distress. **HEENT:** Tympanic membranes pearly gray and intact oral cavity benign. **NECK:** Supple no adenopathy, no accessory muscles used for breathing. **LUNGS:** Clear to auscultation bilaterally with good breath sounds all lung fields. No crackles wheezes or rhonchi. **HEART:** Regular rate rhythm no gallops rubs or murmurs normal S1 normal S2. **ABDOMEN:** Soft, nondistended, nontender, bowel sounds positive, no hepatosplenomegaly. **EXTREMITIES:** No cyanosis clubbing or edema.

Assessment/Plan

1. DOE (dyspnea on exertion)

Patient with complaints of dyspnea on exertion. May be cardiac or may be due to pulmonary problem. Will refer for cardiology consultation. We will also refer for echocardiogram to evaluate cardiac function. He had a previous abnormal EKG and was seen by cardiology for consultation 01/18/2019 they recommended stress test and echocardiogram. I am unable to find those records. He does not recall having an echo or stress test in the past.

He seems to think some of the problem is due to restriction in his throat area. He has been seen by ENT with his last exam November 2021. No masses had some edematous changes but nothing serious or obstructing. He has been referred to ENT for follow-up and has a appointment tentatively scheduled fairly soon.

Patient requesting that he be assigned for level terrain and low bunk. I gave him a low bunk Chrono temporarily. We will reevaluate after he is use his inhalers. If he continues to have significant mobility restriction can consider 1845 disability but for now would like to see his response to inhalers.

2. Wheezing

Given history of smoking may have component of COPD with reactive airway disease. We will give him a trial of inhalers. Patient educated on use but I will have him meet with RN in 1 week for inhaler education and review. Will refer for pulmonary function test.

Ordered:

levalbuterol, 90 mcg = 2 puff, Oral, Aerosol, q6hr-KOP, PRN shortness of breath or wheezing, Administration Type KOP, Medication Indication FOR ASTHMA, Order Duration: 90 day, First Dose: 05/19/22 14:00:00 PDT, Stop Date: 08/17/22 13:59:00 PDT, 05/19/22 14:00:00 PDT

mometasone-formoterol, 2 puff, Oral, Aerosol, BID-KOP, Administration Type KOP, Medication Indication For ASTHMA/COPD Maintenance, Order Duration: 90 day, First Dose: 05/19/22 14:00:00 PDT, Stop Date: 08/17/22 13:59:00 PDT, 05/19/22 14:00:00 PDT

Squamous cell cancer of tongue
Substance use disorder
Supraglottic stenosis
Historical
Abscessed tooth
Adjustment disorder with mixed anxiety and depressed mood
Fever
Leukocytosis
Lymphadenopathy of left cervical region
Nausea
Port-a-cath in place
Sore throat

Procedure/Surgical History

PET/CT scan (10/24/2017), Flexible endoscopy examination (nose and throat) (09/27/2017), BIOPSY LEFT NECK MASS (09/06/2017), CT neck - March 2017.

Medications

Active Medications:

ARIPIprazole 5 mg 1 tab Oral q8hr NA PRN: auditory hallucinations
1-Multivitamin Tab (Multiple Vitamins) 1 tab Oral Daily-KOP KOP
1-Multivitamin Tab (Multiple Vitamins) 1 tab Oral Daily-KOP KOP
COVID-19 Vaccine (Moderna) (0273-99) (Moderna COVID-19 Vaccine) 50 mcg 0.25 mL Intramuscular As Indicated NA
docusate 100 mg 1 cap Oral BID-KOP KOP PRN: constipation
hepatitis B adult vaccine (Heplisav-B) 20 mcg/0.5 mL Soln Prefilled Syringe (0003-05) (hepatitis B adult vaccine 20 mcg/0.5 mL intramuscular solution (Heplisav-B)) 20 mcg 0.5 mL Intramuscular As Indicated NA
levalbuterol 45 mcg/puff Aerosol 15 gm (levalbuterol CFC free 45 mcg/inh inhalation aerosol) 90 mcg 2 puff Oral q6hr-KOP KOP PRN: shortness of breath or wheezing
Magic Mouthwash #1 (Maalox/viscous lidocaine 2:1) (Magic Mouthwash #1 (Maalox/viscous lidocaine 2:1)) 5 mL Oral q2hr-KOP KOP PRN: pain
magnesium citrate 296 mL Oral As Indicated NA
mirtazapine 15 mg 1 tab Oral qPM NA
formoterol-mometasone 5-100 mcg/inh Aerosol 120 Puffs (Dulera 100 mcg-5 mcg/inh inhalation aerosol) 2 puff Oral

Report Request ID: 58691933

Print Date/Time: 8/10/2022 13:15 PDT

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SQ - San Quentin State Prison

Patient: **THOMPSON, EUGENE**

DOB/Age/Sex: 6/28/1965 / 57 years / Male

CDCR: E44409

Progress Notes

3. Squamous cell cancer of tongue
Oncology and felt that he was doing well. He does have a follow-up ENT evaluation pending.
4. Positive FIT (fecal immunochemical test)
Pending EGD and colonoscopy.
5. Healthcare maintenance
Review of chronic care visits

Orders:
EKG POC
Follow-up in 3 to 4 weeks.

BID-KOP KOP
PEG 3350 with electrolytes 4000 mL
(0302-01) (GoLYTELY oral powder for reconstitution) 4,000 mL Oral As Indicated
NA
Biotene Dry Mouth Soln-Oral 473 mL
(0003-30) (Biotene Mouthwash oral solution) 15 mL Oral Daily-KOP KOP PRN: dryness
1-sertraline 100 mg Tab (Zoloft) 100 mg 1 tab Oral qAM-KOP KOP

Allergies

penicillin

Social History

Alcohol

Former, Beer, Wine, Started age 20 Years.

Previous treatment: Alcoholics Anonymous.

Employment/School

Previous employment/school: Worked at a fast food place through high school, then after high school at a roofing company, and as a press operator at a steel refinery. Stopped working at age 22 when he started using drugs which led to his case.. Highest education level: Some High School. Behavioral Problems in School Yes. Special Education Classes No. Work History Periodic.

Exercise

Exercise duration: 60. Exercise frequency: 1-2 times/week. Exercise type: Walking.

Home/Environment

Living situation prior to incarceration:

Home/Independent. Alcohol abuse in

household: No. Substance abuse in

household: No. Smoker in household: Yes.

Nutrition/Health

Type of diet: Regular.

Sexual

History of sexual abuse: No. First active at age: 14 Years. Orientation Heterosexual.

Substance Abuse

Former, Cocaine, Marijuana, PCP, Daily, Started age 22 Years. Stopped age 25 Years. IV drug use: No.

Tobacco

Former, Cigarettes, Use Type: Packs. 1.5 per day. 1.5 year(s). Total pack years: 30. Started age 20 Years. Stopped age 40 Years.

Report Request ID: 58691933

Print Date/Time: 8/10/2022 13:15 PDT

WARNING: This report contains confidential, proprietary, and/or legally privileged information intended for the recipient only.

EXHIBIT U

CDCR Certificates of Achievement,
Substance Abuse Course, Narcotics
Anonymous

CERTIFICATE OF COMPLETION

State of California
Department of Corrections and Rehabilitation
Salinas Valley State Prison

Would like to acknowledge that Inmate

EUGENE THOMPSON, E44409

Completed **SUBSTANCE ABUSE** as evidenced by successfully passing the exam.

Anderson, MSW
L. Anderson, MSW

Date: July 1, 2009

CERTIFICATE OF COMPLETION

State of California
Department of Corrections and Rehabilitation
Salinas Valley State Prison
EOP Program

Would like to acknowledge that Inmate

Eugene Thompson E44409

Successfully participated in

NARCOTICS ANONYMOUS GROUP

Anderson, MSW
L. Anderson, MSW

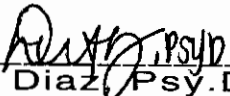
Date: April, 2009

EXHIBIT V

CDCR Chrono: Lifeskills Course, 5/18/2020

NAME: Thompson, Eugene CDCR #: E44409 Housing: A-5-125

On 5/18/20, Inmate Thompson successfully completed the ACCI Substance Abuse Lifeskills Course. Mr. Thompson thoughtfully, insightfully, and diligently completed the course. Mr. Thompson accomplished the goals of this workbook to improve skills related to changing his thinking and behavior in regards to his substance use history. Mr. Thompson is commended for his continual work and interest on his self- improvement.



M. Diaz, Psy.D.
Postdoctoral Intern

5/22/20

MEDICAL-PSYCHIATRIC-DENTAL

C-FILE
eUHR

EXHIBIT W

CDCR Chrono: EOP Notes, Peer Support
11/10/2010

NAME: Thompson, Eugene

CDC #: E44409

Current Housing: D4-107U

This is to recognize Mr. Thompson for his efforts in providing support to his peers during difficult periods. His support is evidenced by organizing memorials for inmate peers on the yard who have passed away, as well as to commemorate the deaths of inmate peers' family members. Specifically, Mr. Thompson has prepared memorial pages, and informed other inmates of approved memorial services to be held in the chapel. Further, he has written music to be shared during such services. I have supervised him while preparing and witnessed his participation in these memorials. I believe that his involvement is genuine and truly provides a valuable service to inmate peers when in distress.

Signature: S. Olivera

S. Olivera, LPT

Copies to:

CCI/C-File (Pink)

Unit Health Record (Blue)

Date: November 19, 2010

EXHIBIT X

Notice of Motion to Strike Prior Conviction(s)
Pursuant to PC 1385 (Romero), Case no.
YA045468, 2/26/2001

000091

LAW OFFICES OF THE PUBLIC DEFENDER
Jacques K. Cain, Deputy Public Defender
3655 Torrance Boulevard, Suite 200
Torrance, CA 90503
Telephone: 310-543-4322
Attorney for Defendant

FILED
LOS ANGELES SUPERIOR COURT

FEB 26 2001

JOHN A. CLARKE, CLERK
M. M. Holcomb
BY M. HOLCOMB, DEPUTY

SUPERIOR COURT OF LOS ANGELES COUNTY
STATE OF CALIFORNIA

THE PEOPLE OF THE STATE OF CALIFORNIA,)

Plaintiff,)

v.)

EUGENE THOMPSON,)

Defendant.)

YA045468

NOTICE OF MOTION
TO STRIKE PRIOR
CONVICTION(S)
PURSUANT TO
PC 1385, (ROMERO)

DATE: ~~2/26/01~~

03-22-2001

TO STEVE COOLEY, DISTRICT ATTORNEY FOR THE COUNTY OF LOS ANGELES, AND/OR HIS REPRESENTATIVE:

PLEASE TAKE NOTICE that on the 26TH day of FEBRUARY, 2001, in Department F of the above-entitled court, at 8:30 a.m., or as soon thereafter as counsel can be heard, defendant will seek to have the strike prior convictions of robbery, in the Los Angeles County Superior Court, Case Nos. A922903, TA002154, NA007942 stricken pursuant to penal code section 1385.

Said motion will be based upon the attached Points and Authorities, the pre-plea report dated 11-3-00, and such other evidence as may be presented at a hearing on this motion.

Dated this 9th day of February, 2001.

Respectfully submitted,
MICHAEL JUDGE, PUBLIC DEFENDER

By *[Signature]*
Jacques K. Cain
Deputy Public Defender

MOTION TO STRIKE PRIOR CONVICTION

STATEMENT OF FACTS

The defendant has been convicted after jury trial of a violation of Penal Code sections 211 and 664/211. The victim testified at trial that the defendant got inside her car while she was getting gas at a gas station on September 10, 2000. The defendant attempted to take her car keys and eventually ran from the gas station with her purse.

The police located the defendant in a nearby back yard. The victim's purse was also located in another rear yard.

POINTS AND AUTHORITIES

I

THIS COURT HAS THE DISCRETION TO STRIKE
PRIOR FELONY CONVICTIONS IN THIS CASE
PURSUANT TO PENAL CODE SECTION 1385.

Penal code section 1170.12 (a) through(d) and 667 (b through (I) (the Three Strikes Law) provide for certain sentence enhancements if a defendant has prior felony convictions that are either serious or violent.

Penal code section 1385 (a) permits a court on its own motion to strike prior felony conviction allegations in cases brought under the Three Strikes law. Superior Court v. Romero (1996) 13 c4th 497.

In Romero, supra, the defendant was charged with possession of .13 grams of cocaine base, in violation of Health and Safety Code section 11350(a). The defendant was also accused of having been previously convicted of two prior serious felonies making him eligible for a life sentence under the Three Strikes Law. After the defendant pled guilty, the trial court struck both prior serious felony conviction allegations against the defendant and imposed a sentence of six years in state prison. (Upper term for possession of a controlled substance plus three

MOTION TO STRIKE PRIOR CONVICTION

consecutive one-year enhancements for defendant's prior felony convictions pursuant to penal code section 667.5 (b))

The California Supreme Court in Romero, supra, held that a trial court may dismiss prior felony conviction allegations in furtherance of justice pursuant to penal code section 1385 on its own motion in a case brought under the Three Strikes Law. The Romero court held that trial courts can look to factors such as "the defendant's background", the nature of his present offense and "other individualized considerations" in determining whether to exercise its penal code section 1385 discretion and dismiss a felony prior conviction in the interest of justice.

In examining the factors the Romero court indicated trial courts may consider in determining whether to dismiss prior felony conviction allegations, this court should exercise its discretion pursuant to penal code section 1385 and dismiss the prior felony conviction in this case.

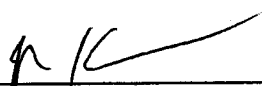
The defendant in this case does have prior felony criminal history for violent conduct. However, that conduct seems to be the result of a serious drug problem. The defendant testified at trial that he unintentionally smoked what may have been a PCP cigarette which led to his getting inside the victim's car and taking her purse. Addressing the defendant's drug problem will address the criminal conduct the defendant has found himself involved in.

Furthermore, the defendant in this case is a 35 year old male who could certainly be sufficiently punished at sentencing if this court were to strike the prior conviction under the strike law since the defendant's maximum sentence is approximately 32 years 8 months without regard to the strike conviction.

CONCLUSION

Therefore, for the reasons stated above, this court should strike the strike prior in this case pursuant to Penal Code Section 1385.

Respectfully submitted,



Jacques K. Cain
Deputy Public Defender

EXHIBIT Y

RT Excerpt, Oral *Romero* Motion, Case no.
YA045468

1 250-POUND-FIVE-11 MAN. AND I COULDN'T STOP HER. AND THE
2 KEYS WERE IN THE CAR, YOUR HONOR. IF I WASN'T UNDER THE
3 INFLUENCE, WHAT WAS I? CRAZY?

4 I'M ASKING YOU PLEASE BE LENIENT, YOUR HONOR.
5 GIVE ME A REHABILITATION. DON'T TAKE MY LIFE AWAY FROM ME.

6 THE COURT: MR. CAIN.

7 MR. CAIN: YOUR HONOR, JUST TO SUPPLEMENT THE
8 COMMENTS THAT MR. THOMPSON AND HIS FAMILY MADE ON HIS
9 BEHALF, I WOULD HAVE THE COURT NOTE THAT IN THE 969(B)
10 PACKET, THERE WERE NO ALLEGATIONS THAT ANY SORT OF WEAPON
11 WAS USED, WHICH WOULD SUBSTANTIATE MR. THOMAS'S POINT THAT
12 THE ROBBERIES APPARENTLY WERE ALL STRONG-ARM ROBBERIES.
13 SO-CALLED STRONG-ARM ROBBERIES.

14 I UNDERSTAND THAT ASKING THIS COURT TO STRIKE
15 PRIOR CONVICTIONS PURSUANT TO ROMERO IS ASKING AN AWFUL
16 LOT, WITH MR. THOMPSON'S RECORD.

17 HOWEVER, IF THE COURT WERE TO STRIKE THOSE
18 ALLEGED PRIORS UNDER THE ROMERO DECISION, THE COURT WOULD
19 STILL HAVE AT ITS DISPOSAL THE FIVE-YEAR PRIOR SENTENCING
20 OPTION UNDER 667(A).

21 SO IF THE COURT WERE INCLINED TO STRIKE THE
22 PRIORS UNDER ROMERO, MR. THOMPSON COULD STILL BE PUNISHED
23 WITH A FAIRLY SUBSTANTIAL PRISON SENTENCE. SOMETHING LESS
24 THAN A LIFE TERM. THAT'S WHAT I'M ASKING THIS COURT TO DO.

25 MR. THOMPSON APPARENTLY HAS A VERY SERIOUS
26 DRUG PROBLEM. I WOULD ASK THE COURT NOT TO IN ESSENCE,
27 THROW THE BOOK AT HIM, SO TO SPEAK; TO GIVE HIM AN
28 OPPORTUNITY AFTER A PRISON SENTENCE FOR HIS CONVICTION IN

1 THIS CASE, TO IN EFFECT REHABILITATE HIMSELF, AND LEAD A
2 LAW-ABIDING LIFE.

3 SO IN CLOSING, YOUR HONOR, IF THE COURT WOULD
4 GRANT THE DEFENSE MOTION TO STRIKE THE STRIKE PRIORS, AND
5 SENTENCE MR. THOMPSON TO A SENTENCE OTHER THAN LIFE IN
6 PRISON.

7 IF THE COURT WERE SO INCLINED, WITH THE THREE
8 FIVE-YEAR PRIORS -- MR. THOMPSON'S FACING ACTUALLY 15 YEARS
9 JUST WITH THE 667(A) (1) PRIORS.

10 AND THAT I BELIEVE WOULD CERTAINLY BE IN THE
11 RANGE OF A SUFFICIENT PRISON SENTENCE FOR THIS OFFENSE.

12 I'LL SUBMIT IT.

13 THE COURT: MISS CHEN.

14 MS. CHEN: THANK YOU, YOUR HONOR.

15 AS THE COURT IS WELL-AWARE, UNDER THE ROMERO
16 CASE AND ITS CASE LAW PROGENY, ALTHOUGH THE COURT DOES HAVE
17 JUDICIAL DISCRETION TO STRIKE STRIKES, UNDER THE ROMERO
18 CASE, THAT DISCRETION IS LIMITED. AND IT IS NOT ABSOLUTE
19 DISCRETION.

20 MY READING OF ROMERO AND WILLIAMS IS THAT WHEN
21 THE COURT DECIDES WHETHER OR NOT TO STRIKE ANY STRIKES, THE
22 COURT MUST LOOK AT, ONE, THE FACTS OF THE CASE, THE INSTANT
23 CASE BEFORE IT; TWO, THE COURT CONSIDERS THE DEFENDANT'S
24 PRIORS, HISTORY; FINALLY, CONSIDERS THE PROSPECTS OF THE
25 DEFENDANT.

26 AS THE COURT HAS ALREADY OUTLINED IN ITS
27 SUMMARY, THE COURT DID HEAR THE FACTS OF THIS CASE. AND
28 THE FACTS ARE EXTREMELY AGGRAVATED.

EXHIBIT Z

RT Excerpt, Sentencing, Case no. YA045468

1 STATION ON SEPTEMBER 10TH. FORTUNATELY, THERE WERE POLICE
2 NEARBY.

3 SHE HAD SOME SPUNK. SHE DECIDED TO FIGHT
4 BACK. FORTUNATELY, SHE WAS NOT SEVERELY INJURED. BUT THE
5 POTENTIAL IN THIS CASE WAS VERY SERIOUS.

6 I HAVE CONSIDERED THE NATURE OF THE CURRENT
7 OFFENSE.

EXHIBIT AA

Probation Officer's Report, Case no. TA002154,
12/29/1989

BKDs DENTON *GEROME*

313

SUPERIOR COURT OF CALIFORNIA
COUNTY OF LOS ANGELES

PROBATION OFFICER'S REPORT

REPORT SEQUENCE NO. 1

DEFENDANT'S NAME(S) GEROME DENTON AKA: MAURICE RAYNARD ROYAL T/N: EUGENE THOMPSON				COURT SC-K	JUDGE PITTS	COURT CASE NO. TA002154
ADDRESS (PRESENT/RELEASE) 1502 W. 152ND STREET COMPTON, CA 90220 602-9978				HEARING DATE 1-2-90	DEFENSE ATTY. FREIDMAN, PD	PROSECUTOR WRIGHT
BIRTHDATE 6-28-65	AGE 24	SEX M	RACE BLACK	DPO LAMOTHE	AREA OFFICE S. CENTRAL	PHONE NO. 603-7938
CITIZENSHIP STATUS NATIVE		DRIVER'S LICENSE/EXP. DATE NONE		TYPE REPORT <input checked="" type="checkbox"/> Probation and sentence <input type="checkbox"/> Pre-Conviction (131.3 CCP) <input type="checkbox"/> Post sentence <input type="checkbox"/> Diversion (Specify) _____		
PROBATION NO. X-	CII NO.	BOOKING NO. 1729918				
DAYS IN JAIL THIS CASE <input checked="" type="checkbox"/> ESTIMATED <input type="checkbox"/> VERIFIED 31		CUSTODY STATUS/RELEASE DATE LA COUNTY JAIL				

PRESENT OFFENSE: LEGAL HISTORY

CHARGED with the crimes of (INCLUDE PRIORS, ENHANCEMENTS OR SPECIAL CIRCUMSTANCES)

211 PC (ROBBERY-2ND DEGREE), COUNTS I & II
W/SPECIAL ALLEGATION 12022.7 PC (GBI)
211 PC (ROBBERY-2ND DEGREE), COUNT III

FILED

DEC 23 1989

FRANK S. ZOLN, COUNTY CLERK
BY *[Signature]* DEPUTY

CONVICTED of the crimes of (INCLUDE PRIORS, ENHANCEMENTS OR SPECIAL CIRCUMSTANCES)

COUNTS I AND II

CONVICTED BY PLEA	DATE OF CONVICTION/ XXXXXX 12-18-89	COUNT(S) CONTINUED TO P & S FOR DISPOSITION COUNT III W/SPECIAL ALLEGATION 12022.7 PC
PROPOSED PLEA AGREEMENT		SOURCES OF INFORMATION
DATE(S) OF OFFENSE 10-19-89, 10-21-89		TIME(S)
DEFENDANT: <input checked="" type="checkbox"/> N/A <input type="checkbox"/> SENTENCED TO STATE PRISON/COUNTY JAIL ON CASE _____ (SEE PRIOR <input type="checkbox"/> ON PROBATION <input type="checkbox"/> PENDING PROBATION VIOLATION <input type="checkbox"/> PENDING NEW CASE RECORD <input type="checkbox"/> ON PAROLE-REMAINING TIME _____ SECTION)		HOLD/WARRANTS: <input type="checkbox"/> YES <input type="checkbox"/> NO

RECOMMENDATION:

☐ PROBATION ☒ DENIAL ☐ DIAGNOSTIC STUDY ☐ CYA ☐ OTHER _____
☐ COUNTY JAIL ☐ 707.2 WIC
☒ STATE PRISON ☐ 1203.03 PC

*3 yrs
mellon*

1 **PRESENT OFFENSE:**
2 **(CONTINUED)**

SOURCES OF INFORMATION (this page)

ARREST REPORT, D.A. INFO

ARREST DATE	TIME	BOOKED AS	OFFENSE	LOCATION OF ARREST	ARRESTING AGENCY
10-21-89	10:30 PM	GEROME DENTON	211 PC-2ND DEGREE-2 CTS.	154TH ST/CENTRAL AVE., COMPTON	COMPTON PD

CO-DEFENDANT(S)	CASE NO.	DISPOSITION
KIM LEON JONES	TA002154	

12 **ELEMENTS AND RELEVANT CIRCUMSTANCES OF THE OFFENSE:**

13 COUNT ONE: ON OCTOBER 19, 1989, CO-DEFENDANT KIM
14 JONES AND THE DEFENDANT APPROACHED VICTIM, MANUEL TORRES,
15 FORCIBLY TOOK HIS CAR KEYS, THEN TOOK HIS CAR.

16 DEFENDANT JONES APPROACHED VICTIM TORRES, WHO WAS
17 PARKED IN THE PARKING LOT OF A GROCERY MARKET, AS THE VICTIM WAS
18 SITTING IN HIS CAR. DEFENDANT JONES OPENED THE PASSENGER DOOR
19 AND ATTEMPTED TO TAKE THE VICTIM'S CAR KEYS FROM THE IGNITION.
20 WHEN THE VICTIM REMOVED THE KEYS AND EXITED THE CAR, THE
21 DEFENDANT GRABBED HIM FROM BEHIND, BENDING HIS ARM BEHIND HIS
22 BACK. DEFENDANT JONES THEN TOOK THE KEYS AND ENTERED THE
23 VICTIM'S VEHICLE. THE DEFENDANT RELEASED THE VICTIM, ENTERED THE
24 CAR, AND THEY BOTH DROVE AWAY.

25 COUNT TWO: ON OCTOBER 21, 1989, THE DEFENDANT
26 ENTERED THE VEHICLE OF VICTIM WARDIN CANNON, WHICH WAS PARKED AT
27 A SERVICE STATION, AND DROVE AWAY.

28 VICTIM WARDIN CANNON DROVE INTO THE TEXACO SERVICE

1 STATION AT 548 SOUTH CENTRAL AVENUE, PARKED IT AT A GAS PUMP, AND
2 EXITED TO PAY FOR GAS. THE DEFENDANT, THE PASSENGER IN THE REAR
3 SEAT OF A GRAY VEHICLE, RODE UP, EXITED HIS VEHICLE, AND JUMPED
4 INTO THE VICTIM'S CAR. SEEING THE SITUATION, VICTIM CANNON RAN
5 OVER AND STARTED TO PULL DEFENDANT OUT OF HIS CAR. THE
6 DEFENDANT FOUGHT AND OVERPOWERED THE VICTIM, CAUSING HIM TO FALL
7 TO THE GROUND. HE STARTED THE VICTIM'S VEHICLE AND DROVE AWAY.

8 OFFICERS KHOONTHAVONG AND LADD WERE ON PATROL IN
9 THE VICINITY OF 156TH AND CENTRAL AVENUES, WHEN THEY SAW THE
10 DEFENDANT AND COMPANION JONES. THE TWO WERE QUESTIONED AND TAKEN
11 INTO CUSTODY, AND SUBSEQUENTLY IDENTIFIED BY THE VICTIMS.

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-3- (DENTON)

EXHIBIT BB

RT Excerpt, description of circumstances of prior
conviction, Case no. YA045468

1 OTHER TWO GIRLS. AND -- THEY INTRODUCED ME TO COCAINE.

2 THIS IS HOW I GOT STARTED ON DRUGS, YOUR
3 HONOR. AND THE FIRST ROBBERY THAT I GOT, I WAS IN GARDENA
4 AT A DRUG HOUSE. AND I SPENT ALL MY MONEY. I SPENT ALL MY
5 MONEY EXCEPT FOR ABOUT TWO DOLLARS.

6 THERE WAS THIS OTHER GUY NAMED RAY WITH ME.
7 AND -- HE HAD ABOUT TWO DOLLARS. AND THERE WAS ANOTHER
8 GUY, HAD A DOLLAR. SO WE -- HE HAD A DOLLAR AND SOME
9 CHANGE.

10 SO WE -- DECIDED TO PUT OUR MONEY TOGETHER,
11 AND TRY TO GET A TEN-DOLLAR PIECE OF CRACK. WELL, THE DOPE
12 DEALER -- IT CAME UP TO ABOUT SEVEN DOLLARS. AND THE DOPE
13 DEALER TOLD US, TOLD ME, HE SAID -- NO. TEN DOLLARS OR
14 BETTER.

15 AND I GOT SO MAD, BECAUSE I HAD SPENT ALL MY
16 MONEY WITH HIM. I TOLD HIM, I SAID "MAN, I SPENT
17 EVERYTHING I HAD WITH YOU, MAN. YOU CAN'T LET ME SLIDE
18 WITH THREE DOLLARS?"

19 HE WAS LIKE NO, TEN DOLLARS OR BETTER. SO --
20 I GOT SO MAD, THAT I JUST WALKED OUT OF THE PLACE.

21 AND WHEN I GOT OUTSIDE, THE OTHER GUY THAT
22 GAVE ME THE DOLLAR, THAT GAVE ME THE DOLLAR, HE SAID "WELL,
23 DID YOU GET -- DID YOU GET THE DOPE?"

24 I SAID NO. I SAID THE DUDE SAID TEN DOLLARS
25 OR BETTER. AND -- HE SAID "WELL, GIVE ME MY MONEY BACK."

26 AND I GOT SO MAD, I JUST PUSHED HIM. I JUST
27 PUSHED HIM, LIKE MAN, GET OUT OF MY FACE. AND HE BROKE AND
28 RAN.

1 AND ME AND THE OTHER GUY NAMED RAY WAS SITTING
2 IN THE CAR. SITTING IN THE CAR FOR ABOUT 15 MINUTES. THE
3 POLICE CAME UP BEHIND US, AND THEY TOOK US TO JAIL.

4 THAT WAS WHAT -- MY FIRST ROBBERY FOR A DOLLAR
5 25. THAT'S WHAT MY FIRST ROBBERY WAS ABOUT.

6 WELL, HERE IN TORRANCE, THEY OFFERED ME A
7 THREE-YEAR DEAL. THEY SCARED ME. I WAS SO SCARED, I
8 DIDN'T KNOW WHAT TO DO. THEY OFFERED ME, THEY SAID "WELL,
9 TAKE THIS DEAL FOR THREE YEARS, AND -- WE'LL GIVE YOU
10 HALF-TIME. AND YOU'LL BE OUT IN ABOUT 16 OR 18 MONTHS."

11 SO I SAID "OKAY, I'LL TAKE THE DEAL."

12 WELL, WHILE I WAS HERE, THEY -- THEY CAME AND
13 SAID "WELL, YOU HAVE A ALIAS IN COMPTON, FOR MAURICE ROYAL,
14 SOMEONE THAT HAS A ROBBERY."

15 I SAID "MAN, I NEVER HEARD OF ANY MAURICE
16 ROYAL," OR SOMETHING LIKE THAT. WHOEVER IT WAS.

17 THEY SAID "WELL, WE'LL JUST RUN IT CONCURRENT.
18 WE'LL JUST RUN IT CONCURRENT WITH THE ROBBERY THAT YOU GOT
19 RIGHT NOW."

20 SO -- I TOLD HIM, I SAID "WELL, OKAY. WELL, I
21 HAVE TO DO ANY MORE TIME?"

22 THEY SAID "NO, YOU'LL JUST DO STILL THE 16.
23 JUST SIGN FOR IT, YOU WON'T HAVE TO GO TO COURT OR
24 ANYTHING."

25 SO I SIGNED. THAT'S HOW I GOT THE SECOND
26 ROBBERY, YOUR HONOR.

27 SO AFTER THE THREE YEARS CAME OUT, AFTER THE
28 THREE YEARS -- AFTER THE 18 MONTHS WAS UP, I WAS RELEASED

1 FROM PRISON. I WASN'T REHABILITATED. I WAS
2 INSTITUTIONALIZED.

3 I WAS PUT IN THE PRISON. WELL, WHEN I GOT OUT
4 OF PRISON THAT TIME, I STAYED OUT FOR -- ABOUT SIX DAYS.
5 AND MY -- I STARTED RIGHT BACK SMOKING DRUGS AGAIN.

6 MY SISTER RIGHT HERE, SHE ASKED ME SHE SAID --
7 SHE SAID "I DON'T LIKE THIS OVER HERE." SHE SAID "WHY
8 DON'T YOU COME STAY WITH ME?"

9 SHE WAS STAYING IN LONG BEACH AT THIS TIME.
10 AND -- OFF ATLANTIC AND OCEAN BOULEVARD. SAID "YOU NEED TO
11 GET AWAY FROM THE DRUGS AND STUFF. COME AND STAY WITH ME."

12 SO I WENT STAYED WITH HER. I WENT STAYED WITH
13 HER. SHE WERE WATCHING VIDEOS, AND TALKING. WE WERE
14 HAVING A GOOD TIME.

15 WELL, ONE NIGHT -- I WALKED ACROSS -- SHE
16 STAYED ACROSS THE STREET FROM THE OCEAN, SO I WAS WALKING
17 DOWN THE OCEAN. DOWN THE BEACH. AND I MET THIS WHITE GUY.

18 HE HAD DREADLOCKS. I NEVER SEEN A WHITE GUY
19 WITH DREADLOCKS BEFORE. SO I STOPPED HIM, AND I TALKED TO
20 HIM. LIKE "HOW YOU DOING, MAN? WHAT'S HAPPENING? I NEVER
21 SEEN NOBODY WITH -- WHITE GUY WITH DREADLOCKS."

22 SO WE KIND OF HIT IT OFF REAL GOOD. RIGHT.
23 WELL, WE WENT -- HE ASKED ME "YOU WANT TO DRINK SOME BEER?"

24 I SAID "YEAH."

25 SO WE WENT BACK TO HIS HOUSE. WE WERE
26 DRINKING BEER. AND HE INTRODUCED ME TO SOME MORE GUYS.
27 AND THIS OTHER GUYS NAMED FERNANDO. MEXICAN GUY.

28 WE WERE DRINKING BEER. HE SAID "HEY, MAN, YOU

1 GET HIGH?" I SAID "YEAH."

2 AND HE SAID "WELL, I GOT SOME DOPE."

3 SO I -- I FELL RIGHT BACK INTO IT AGAIN. ON
4 COINCIDENCE. WE STARTED SMOKING DOPE.

5 SO -- LATER THAT NIGHT, I WAS LEAVING -- I
6 LOST ALL MY MONEY, BUT -- I WAS -- LOOKING FOR SOME MORE
7 DOPE. SO I WAS WALKING, AND I SAW THE MEXICAN GUY NAMED
8 FERNANDO.

9 HE'S A GAY GUY, RIGHT. BUT HE OWNS A
10 BEAUTICIAN, A BEAUTY -- HAIR STYLING PLACE, OR SOMETHING
11 LIKE THAT.

12 SO WHILE I'M WALKING HOME, FERNANDO IS LIKE
13 "HEY, WHAT'S HAPPENING?" I SAID "WHAT'S UP, MAN?"

14 HE SAID "WHERE YOU GOING?"

15 I SAID "I'M GOING HOME."

16 HE SAID "WHY?"

17 I SAID "WELL -- SPENT ALL MY MONEY."

18 HE SAID YOU WANT TO DRINK SOME BEER?"

19 I SAID "YEAH."

20 SO HE SAID "LET'S GO TO MY PLACE. GO TO MY
21 HOUSE."

22 SO WE WENT TO HIS HOUSE. WE WERE DRINKING
23 BEER. AND -- WE WERE CONVERSATING. IN THE MIDDLE OF THE
24 CONVERSATION, HE JUST ASKED ME, "SO WHAT TYPE OF WOMEN DO
25 YOU LIKE?"

26 TOLD HIM "I LIKE ALL TYPE OF WOMEN."

27 HE SAID "WELL, YOU EVER TRY A MAN?"

28 I SAID "NO. I'D HAVE TO GET PAID FOR

1 SOMETHING LIKE THAT."

2 AND THE GUY SAID "WELL, I'LL GIVE YOU \$50 TO
3 SUCK YOUR -- YOUR THING."

4 AND THE ONLY THING I COULD THINK ABOUT WAS --
5 GETTING SOME MORE DRUGS. SO I TOLD HIM "YEAH, OKAY." AND
6 I DID -- I DID IT, YOUR HONOR.

7 AND -- AFTER I DID IT, I GOT SO INFURIATED, I
8 GOT SO MAD, WHEN I DID IT, I SOBERED UP. AND I GOT SO
9 INFURIATED, I TOLD HIM, I SAID "MAN, GIVE ME MY MONEY, LET
10 ME GO."

11 SO WE WERE WALKING OUTSIDE. AND HE SEEN HOW
12 MAD I WAS. HE STARTED SHAKING. WHEN HE -- WHEN HE WENT TO
13 PULL THE MONEY OUT, HE DROPPED THE MONEY ON THE GROUND.

14 I PICKED THE MONEY UP, AND WALKED AWAY WITH
15 IT. HE WAS LIKE "I TOLD YOU \$50, MAN. I TOLD YOU \$50."

16 I SAID "MAN, I'M WORTH MORE THAN THAT. FORGET
17 YOU." AND I WALKED AWAY FROM HIM. AND I WENT BOUGHT ME
18 SOME MORE DOPE.

19 WHILE I WAS BUYING THE DOPE -- AFTER I BOUGHT
20 THE DOPE, I WAS WALKING AWAY. AND THE POLICE PULLED UP
21 BESIDE ME, AND SAID "WE NEED TO TALK TO YOU."

22 WHAT I WAS THINKING, I JUST GOT OUT OF PRISON.
23 I'M ON PAROLE. AND I GOT DRUGS IN MY POCKET. GOT DOPE IN
24 MY POCKET.

25 SO I STARTED RUNNING. I TOOK OFF -- I STARTED
26 RUNNING. THE POLICE CAUGHT ME. BUT BEFORE THEY CAUGHT ME,
27 I HAD THREW THE DOPE AWAY.

28 THEY TOOK ME TO JAIL FOR ROBBERY. TOOK ME TO

1 JAIL FOR ROBBERY. AND -- AND -- WHEN I WENT TO COURT, I
2 LIED, BECAUSE I WAS EMBARRASSED ABOUT THE FACT OF WHAT I
3 HAD DID. THAT I HAD TURNED A TRICK WITH THIS GUY FOR
4 SOME -- SO I COULD GET SOME DRUGS.

5 SO I LIED, AND I TOLD THEM I NEVER SEEN
6 FERNANDO BEFORE. FERNANDO ESPINOZA. I LIED. I TOLD THEM
7 "MAN," I SAID "I NEVER SEEN THIS GUY BEFORE IN MY LIFE."

8 AND HE HAD A BEAUTY PARLOR, OR SOMETHING. HE
9 WAS TRYING TO COVER UP. AND HE LIED AS WELL. SAID HE
10 NEVER SEEN ME. HE SAID THAT I WALKED UP TO HIM AND SAID
11 "HI, GIVE ME YOUR MONEY."

12 AND HE WAS AFRAID, SO HE GAVE ME THE MONEY.

13 WELL, BOTH OF US LIED IN COURT, BUT --
14 UNFORTUNATE FOR ME, THE JURY TOOK HIS SIDE. AND THEY FOUND
15 ME GUILTY.

16 THAT WAS WHAT MY THIRD ROBBERY WAS, FOR YOUR
17 HONOR.

18 SO THAT WAS NO VIOLENCE IN ANY -- IN ANY OF
19 THESE ROBBERY, THERE WAS NO VIOLENCE, YOUR HONOR. THERE
20 WAS NEVER WAS A GUN. I NEVER HIT ANYONE. YOU KNOW.

21 I WAS -- AND THEY ALL WERE BEHIND DRUGS. AND
22 I WENT TO PRISON THIS TIME, AND I -- I CAME OUT, AND --
23 HERE I AM AGAIN BECAUSE OF DRUGS, YOUR HONOR.

24 I WAS INCARCERATED, BUT I WASN'T
25 REHABILITATED. YOUR HONOR, I'M NOT A BAD PERSON. I SING,
26 I PLAY MUSIC. I TO GO CHURCH.

27 I'M ASKING YOU PLEASE DON'T TAKE MY LIFE FROM
28 ME, YOUR HONOR. I'M 35 YEARS OLD. I'VE BEEN INCARCERATED

EXHIBIT CC

RT Excerpt, sentence pronounced, Case no.
YA045468

1 667(A) PRIORS. THE COURT WILL IMPOSE FIVE YEARS FOR EACH
2 PRIOR.

3 TOTAL TERM OF 15 YEARS.

4 THE COURT IS EXERCISING ITS DISCRETION UNDER
5 1385 OF THE PENAL CODE. I'M STRIKING THE PUNISHMENT FOR
6 THE 667.5(B) PRIORS.

7 THE COURT BELIEVES THE LENGTH OF THE SENTENCE
8 IS SUCH THAT THE PUBLIC WILL BE PROTECTED, AND THERE WILL
9 BE NO DANGER OF FUTURE HARM TO ANYONE BY THE COURT STRIKING
10 THE THREE ONE-YEAR PRIORS.

11 AS FAR AS THE CRIME ITSELF, THE CRIME IN
12 COUNT 2 CARRIES THE CRIME -- OR THE PENALTY PRESCRIBED BY
13 LAW. THE DEFENDANT HAS BEEN FOUND GUILTY OF ROBBERY, A
14 VIOLENT FELONY.

15 THE PEOPLE HAVE PROVED UP THREE PRIOR FELONY
16 CONVICTIONS UNDER 1170.12(A)-(D).

17 ACTUALLY PROVED UP FOUR.

18 AND SO THE COURT WILL IMPOSE THE TERM
19 PRESCRIBED BY LAW, WHICH IS LIFE IN PRISON WITH A MINIMUM
20 OF 25 YEARS.

21 THE DEFENDANT IS TO SERVE THE DETERMINATE
22 SENTENCE BEFORE HE STARTS SERVICE ON THE INDETERMINATE
23 SENTENCE.

24 ANYTHING FURTHER FROM THE PEOPLE?

25 MS. CHEN: NO, YOUR HONOR.

26 THE COURT: MR. CAIN.

27 MR. CAIN: SUBMITTED.

28 THE COURT: DEFENDANT IS REMANDED TO THE CUSTODY OF

EXHIBIT DD

California Court of Appeal, Second District, Order
denying Petition for Writ of Habeas Corpus, dated
April 19, 2024

IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA

SECOND APPELLATE DISTRICT

DIVISION FIVE

COURT OF APPEAL – SECOND DIST.

FILED

Apr 19, 2024

EVA McCLINTOCK, Clerk

B. Rosales

Deputy Clerk

In re EUGENE THOMPSON

on

Habeas Corpus.

B336633

(Super. Ct. No. YA045468)

(Hector Guzman, Judge)

ORDER

THE COURT:

The court has read and considered the petition for writ of habeas corpus filed April 16, 2024. The petition is denied. Petitioner’s argument concerning ineffective assistance of counsel could have been raised and addressed on appeal and he is foreclosed from raising it in this petition. (See *In re Harris* (1993) 5 Cal.4th 813, 829.) The argument is also not supported by an adequate record for review. (*People v. Duvall* (1995) 9 Cal.4th 464, 474.) Petitioner further fails to set forth a prima facie case that his sentence constitutes cruel and unusual punishment or that he has been denied equal protection under the law. Finally, defendants are not entitled to seek relief

pursuant to Penal Code section 1172.1 on their own behalf. (Pen. Code, section 1172.1, subd. (c).)

		
MOOR, Acting P.J.	KIM, J.	LEE, J.*

* Judge of the San Bernardino County Superior Court, assigned by the Chief Justice pursuant to article VI, section 6 of the California Constitution.

STATE OF CALIFORNIA
Supreme Court of California

PROOF OF SERVICE

STATE OF CALIFORNIA
Supreme Court of California

Case Name: **In re Eugene Thompson**
Case Number: **TEMP-HB53H87C**
Lower Court Case Number:

1. At the time of service I was at least 18 years of age and not a party to this legal action.
2. My email address used to e-serve: **schampion@law.stanford.edu**
3. I served by email a copy of the following document(s) indicated below:

Title(s) of papers e-served:

Filing Type	Document Title
ISI CASE INIT FORM DT	Case Initiation Form
PETITION FOR WRIT OF HABEAS CORPUS	3XP HC Ptn_CSC (Thompson)
EXHIBITS	[Exhibits_CSC (Thompson)]

Service Recipients:

Person Served	Email Address	Type	Date / Time
Susan Champion Three Strikes Project 295598	schampion@law.stanford.edu	e-Serve	5/13/2024 4:23:44 PM
Attorney General of Californai	docketinglaawt@doj.ca.gov	e-Serve	5/13/2024 4:23:44 PM
Danielle Richardson	drichardson@law.stanford.edu	e-Serve	5/13/2024 4:23:44 PM

This proof of service was automatically created, submitted and signed on my behalf through my agreements with TrueFiling and its contents are true to the best of my information, knowledge, and belief.

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

5/13/2024

Date

/s/Susan Champion

Signature

Champion, Susan (295598)

Last Name, First Name (PNum)

Three Strikes Project

Law Firm