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Dear Recipient;

I would first like to thank you for your thoughtful and generous gift package. You are the only ones who reached out and conveyed your compassion for those less fortunate in these strange times. You are appreciated. Thank you.

You also asked for comments and thoughts from those here on death row. Without knowing what type of programs and services you already provide, it is difficult to offer useful suggestions. What type of curriculum do you offer to San Quentin condemned prisoners? I would suggest a paralegal course, if you do not already offer such as a course.

There's also mention of a bulletin board where we could post information. A small group of condemned prisoners have been working tirelessly to abolish capital punishment over the past ten years. This effort revolves around "Policies Regarding Cases Arising from Judgements of Death," which are "bootleg" illegal/unauthorized procedures and processes, promulgated by the California Supreme Court in 1989. These policies were never approved by the California legislators, or the California electorate. They do not conform to statute or constitutional principles, and actually involve serious deprivation of rights, and criminal acts perpetrated by those who accept appointments to capital cases.

In short, appellate counsel (direct/automatic appeal) is required to remove all potentially meritorious habeas corpus (constitutional violations) from the trial court record, and then re-certify that record as "accurate and complete." This process can take as long as ten years. The statute provides that the trial court certify the trial court record within 90 days of sentence for accuracy and completeness. This fabrication of the trial court record then permits the California Supreme Court to affirm 100% of all direct appeals. Over 1,000 cases reviewed, 12 cases reversed for juror misconduct over the past 36 years.

By affirming all capital appeals, the California Supreme Court then uses this "final judgement" ruling as a means to eliminate collateral attack/habeas corpus from the post-trial appellate process. Counsel appointed for "executive clemency/habeas corpus, is limited to penalty phase challenges only. The list of potentially meritorious habeas corpus claims is discarded. Some prisoners have waited as long as twenty-five years for the appointment of counsel for executive clemency/habeas corpus challenges. And because the meritorious habeas (constitutional violations) are excluded from the direct appeal, they will not be reviewed by the federal court because of the Dixon Rule default.

"Any claim not included in the direct appeal cannot be raised for the first in a federal habeas petition. This results in these type of claims being returned from federal court to state court for exhaustion. This can cause an additional 11 to 22 year delay.

Once the California Supreme Court affirms the judgement/conviction, appellate counsel is required to file a writ of Certiorari to the United States Supreme Court. This writ is generally used to argue that the prisoners constitutional rights have been violated by the state. However, because the record contains no constitutional violations, 100% of all Cert. petitions are denied. The real purpose is to "federalize the state court record." This fabricated state court record will never be expanded and will be reviewed by the federal court 30 to 40 years later. The federal standard requires that the federal court cannot overturn a state court judgement unless it violates well established federal law.

But the most devastating aspect of the policies is the elimination of post-trial funding for investigation and collateral attack/habeas corpus. Collateral attack is a post-trial investigation of trial counsel's effectiveness. Testing for DNA. Looking for new witnesses. And developing strategies that question the fairness and evidence of the prosecutions case to the jury. This aspect of appellate law is essential to determining whether or not a trial was fair, and whether or not trial counsel's performance was effective, based upon a thorough investigation. Without this insurance, and with nothing more than a fabricated trial court record that supports the judgement, there can be no confidence in the jury's verdict.

Allow me to share with you facts surrounding my own case which support this summary. My trial counsel committed fraud on me and the court to engineer his appointment to this case. He was under investigation for murder, arson and fraud by the same prosecutor's office that was prosecuting me. Despite these conclusions the California Supreme Court (1998) affirmed the judgement, but reversed the penalty, only...

During a pre-penalty trial investigation my innocence was established in 1999. The superior court would not permit it into evidence. Penalty phase, not guilt phase. In 2008 the California Supreme Court reversed this and ordered yet a third penalty trial. Leaving my innocence evidence unheard. IN 2011 both sides agreed to ask the court to hear the innocence claim and in 2015 I presented that overwhelming exculpatory evidence. Rather than hear and adjudicate my innocence claim, the California Supreme Court heard a ineffective assistance of trial counsel claim and reversed the judgement after 37 years. On February 13, 2020.

The problem with this reversal is that it permits the state the right to re-try the case. They can lie, cheat and deceive another jury with the same impunity they enjoyed before. Here's why...

The original trial court had no jurisdiction to try me for the murder of officer, Paul Verna. I declared a conflict of interest with counsel and the trial court failed to conduct the mandatory inquiry, effectively striping me of counsel before trial. The trial court had NO jurisdiction/authority. The preliminary examination is void. The trial is Void, and the California Supreme Courts four separate adjudications are all void.

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When the trial court lacks jurisdiction the ensuing commitment (incarceration) is ILLEGAL. All parties act without judicial immunity even if they acted in good faith. So, they prevented me from raising a challenge to their authority/jurisdiction for 37 years, and now want to subject me to another trial to cover-up their past illegal acts. This is the true definition of modern day slavery.

To add insult to injury the California Electorate went to the polls three years ago and passed (51%) Proposition 66. This initiative restored collateral attack Section Six, 1509, and provided provisions for innocence claims. Appointment of habeas corpus counsel for collateral attack. The California legislature has refused to approve funding for this very expensive proposition. So, the California Supreme Court continues to practice policies. No new attorneys have signed up to participate. No superior court judges can appoint counsel. And nothing has been implemented.

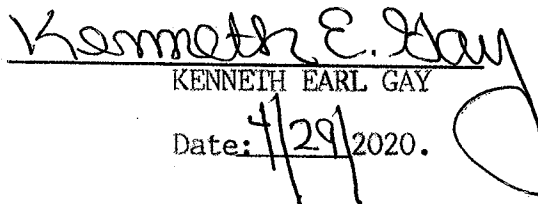
The affect of the Governor's moratorium is to place "in Limbo" all condemned prisoners rights indefinitely. Policies provide no rights. Proposition 66 never implemented. 800 human beings, some innocent, will never be afforded the rights our forefathers fought, died, and sacrificed to bring forth a greater nation than the one they left behind in England.

Imagine what would happen if superior courts began hearing constitutional violations and innocence claims that have been foreclosed by the state's high court for three and a half decades? 30 to 40 year old cases being overturned by lower courts. The California Supreme Court's unjust and illegal rulings would be exposed. Innocent men and women would sue the state. Lawyers from both sides of the aisle would lose their licenses. Now imagine it is you who is accused, arrested and convicted unjustly. Oops, you should have acted when you had the chance.

You want to help us, post this, and ask for more... I'd be happy to provide additional facts and information supporting this illegal and unconstitutional judicial apparatus.

Thanks again for the gifts. I enjoyed them. Stay safe and let us pray for better days ahead...

God Bless.

  
KENNETH EARL GAY  
Date: 7/29/2020.